



**State of New York
Andrew M. Cuomo
Governor**



**New York State Department of Civil Service (DCS)
on behalf of DCS
and its Customer Agencies**

REQUEST FOR PROPOSALS

"MEDICAL EXAMINATION SERVICES"

REFERENCE:

2014MES-1

RELEASE DATE:

January 9, 2014

PROPOSAL DUE DATE:

February 14, 2014, 3:00 p.m. ET

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is in effect for this Procurement and will remain in effect until State Comptroller approval of the resultant contract. During the Restricted Period, ALL communications must be directed, in writing, solely to the Procurement Manager ("Designated Contact") for this RFP as identified below, and shall be in compliance with the Procurement Lobbying Law and the NYS Department of Civil Service "Rules Governing Conduct of Competitive Procurement Process" (refer to RFP [§2.01](#)).

All inquires, questions, filings and submission of Proposals must be directed in writing to:

**NYS Department of Civil Service
Attn: Procurement Manager
55 Mohawk Street, Suite 201
Cohoes, New York 12047
*Fax: 518-233-3133
*E-mail: MES2014RFP@cs.ny.gov**

*** Proposals may not be submitted by e-mail or facsimile**

Jerry Boone
Commissioner
New York State Department of Civil Service

Maria C. Steinbach
Administrator
Employee Health Services

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SECTION 1 INTRODUCTION

§1.01 PURPOSE/OVERVIEW

§1.01.1 Purpose:

This Request for Proposals, entitled, “**Medical Examination Services**” (“RFP” or “Procurement”) is being issued by the New York State (“NYS”) Department of Civil Service (“Department” or “DCS”) for the benefit of the Department’s Employee Health Services (“EHS”) division and its Customer Agencies. The purpose of the RFP is to competitively secure the services of multiple qualified organizations, either directly or through subcontracts with qualified organizations, to perform medical consultation and examination services as specified by this RFP, said services collectively referred to as “Project Services.” Project Services shall mean the entire scope of medical consultation and examination services as described in [Section 3](#) of the RFP, to be provided by the successful Offerors in the Geographic Region(s) for which the award is made. For the purposes of this RFP, the use of the term Offeror will be understood to mean solo practitioners, medical group practices, or health care organizations.

Note: A procurement for medical examination services was recently completed and contracts were awarded to five vendors. However, in some regions of New York State, EHS did not receive proposals from a sufficient number of vendors. Six regions have fewer than the desired three vendors offering services. This is a problem when vendors cease providing services in a region or can not provide an appointment in a reasonable timeframe. Therefore, EHS is attempting to attract additional vendors in the following regions: New York City, Long Island, Central New York, Northeastern New York, Watertown and the Southern Tier. One vendor per region will receive a contract as a result of this procurement.

[Note: An overview of the Employee Health Services division and the services it performs is provided in RFP [§1.01.2](#), below and additional information is also available on the Department’s website at: <http://www.cs.ny.gov/ehs/>]

Note: A Glossary of terms used in the RFP and the resultant contracts can be found at RFP [Section 7](#).

In order to secure said Project Services, the Department seeks to contract with multiple Offerors, on a Geographic Region basis, in order to address the DCS’ need for expedient Project Services at many locations in the State of New York. As detailed in [§3.01](#) of the RFP, the Offerors selected in response to this RFP (“Contractor” or Contractors”) shall, under the contracts resultant from this RFP (“Contract” or “Contracts” or “Agreement” or “Agreements”) perform those Project Services in the Geographic Region for which the Offeror is selected.

Contract award will be made to those eligible responsive and responsible Offerors whose Proposals are determined to provide the “best value” to NYS in accordance with the evaluation and selection criteria set forth in [Section 5](#) of the RFP.

The Agreement between DCS and each of the Contractors shall substantially contain the terms and conditions set forth in RFP [Section 6](#); as well as the terms and conditions set forth in RFP Appendices A through D. (Note: [Appendix A](#) entitled, “[Standard Clauses for New York State Contracts](#)” is a compilation of statutory requirements applicable to all persons and entities contracting with NYS and therefore has been deemed to be non-negotiable by the Offices of the Attorney General and the State Comptroller. [Appendix B](#) entitled, “[Standard Clauses for All DCS Contracts](#)”, [Appendix C](#) entitled, “[Third Party Connection and Data Exchange](#)

[Agreement](#)” and [Appendix D](#) entitled, “[Participation by Minority Group Members and Women With Respect to State Contracts](#)” are compilations of standard clauses for DCS contracts and they, too, are non-negotiable.)

Offerors are strongly encouraged to conduct a thorough review of RFP [Section 6](#); as well as the terms and conditions set forth in RFP Appendices A through D and the requirements and specifications set forth in this RFP. Offerors **must** raise any potential exceptions to the terms and conditions, specifications, and requirements during the questions and answer phase of the Procurement (refer to RFP [§2.01.5](#)). Offerors submitting Proposals that contain material deviations to the terms and conditions, specifications, and/or requirements set forth throughout this RFP may be disqualified. Please see RFP [§2.01.8](#) for further discussion regarding Material Deviations.

The Contracts shall be subject to the approval of the NYS Attorney General’s Office (“AG”) and the NYS Office of the State Comptroller (“OSC”). Unless modified as provided below, the Contracts shall begin on July 1, 2014 and end on June 30, 2018. The State shall have the right to terminate Contracts early for convenience on June 30, 2016 and on each subsequent anniversary date of the Contract (except for the Contract expiration date), provided that the State has given written notice to the Contractor no later than ninety (90) days prior to the anniversary date.

(Note: The contracts entered into pursuant to the awards resulting from the RFP shall be multi-agency agreements, specifically, the contract type, per the State’s new Statewide Financial System (SFS), is “Corporate Contracts for Miscellaneous Services” which means “a contract for services or consulting awarded with the intention that multiple utilizing state agencies will use the contract through the issuance of purchase orders against the awarding agency’s contract.”)

The Department will only contract with the selected Offerors, which will be the sole contact with regard to all provisions of the selected Offerors’ Contract. If the Offeror’s Proposal includes Key Subcontractors, the Department will consider the Offeror the Prime Contractor, and the Offeror shall assume full responsibility for all aspects of the performance of Project Services. The Department reserves the right to approve (or disapprove) any or all Key Subcontractors.

§1.01.2 Overview of the Employee Health Services division

EHS provides to all NYS departments and agencies (Customer Agencies) medical examination services mandated or authorized by Civil Service Law. Occupational health examination, screening, and immunization services are also provided by EHS professionals. A full-time staff of physicians, physician assistants, registered nurses, and medical technicians conduct medical examinations and diagnostic testing in Cohoes. In addition, EHS currently operates part-time medical examination centers in Hauppauge, Brooklyn, Syracuse and Buffalo. Nursing stations providing workplace nursing services are currently operated at 22 locations throughout the State. In addition, EHS contracts with other medical providers for services which are not the subject of this RFP.

Authority for the conduct of EHS programs is derived from a number of sources. The primary authority is Article V, Section 6 of the NYS Constitution. More specifically, the following authorizations are specified in New York Civil Service Law:

Section 50.2	Competitive examinations; announced minimal qualifications
Section 50.4	Competitive examinations; failure to meet announced minimum qualifications
Section 55.b	Employment of the disabled
Section 55.c	Employment of disabled veterans
Section 71	Return to work from workers' compensation leave
Section 72	Involuntary leave for medical and mental disability
Section 73	Return to work from ordinary disability leave

Other authorities influencing EHS programs include the NYS Public Employees Health and Safety Act (PESH), the Federal Occupational Health and Safety Act (OSHA), the NYS Human Rights Law, and the NYS Flynn Act. In addition, policies, regulations, and pronouncements made in or by the following have an impact on EHS activities:

- Department of Civil Service
- Labor-Management Agreements
- NYS Division of the Budget
- Civil Service Commission;
- NYS Department of Health;
- NYS Courts

§1.01.3 Work Load Estimates

Listed below are estimates of the number and types of medical examinations expected to be ordered by EHS per year in the designated regions around the State. These estimates are based on the number of exams ordered in the previous calendar year. Excluded from these counts are examinations conducted for special one-time programs, such as the World Trade Center Program, that have occurred or may be currently in progress. The Geographic Regions are listed in the table below with the major cities identified in each region. A map has been provided in [ADDENDUM 14](#) to give Offerors a better understanding of the regions. This list is provided for informational purposes only and should not be considered a representation, warranty, or guarantee of the level of services that may result during the term of the contracts that result from this RFP.

Geographic Region	Occupational Health/ Mandatory Health and Preplacement Exams	Court Officer Preplacement Exams
Southern Tier – Region #2 (Binghamton and Elmira)	315	Included in Central NY/Syracuse
Central New York – Region #3 (Utica and Syracuse)	20	150 Pre-screens 75 Full meds
Northeastern New York – Region #4 (Albany, Cohoes, & Plattsburgh)	50 (Note 1)	400 Pre-screens 200 Full Meds
New York City – Region #6	10	3500 pre-screens 1800 full meds
Long Island – Region #7	10	Included in NYC
Watertown – Region #8	50	Included in Central NY/Syracuse

Note 1 - Examinations are located primarily in Plattsburgh and the Adirondack region.

§1.02 OFFEROR ELIGIBILITY

The DCS will accept proposals only from qualified Offerors. Offerors must meet all of the requirements of this [§1.02](#) of the RFP in order to be deemed eligible to respond to this RFP.

§1.02.1 Qualifications:

- (a) The Offeror must, at time of Proposal submission and throughout the term of the Contract, be authorized to conduct business in New York State, or, if the Offeror is not so authorized at time of Proposal submission, then the Offeror must, at time of Proposal submission, have filed an application for authority to do business in New York State with the New York State Secretary of State. Such application must be approved prior to Contract Award. (For details concerning this requirement, refer to:

http://www.dos.state.ny.us/cnsl/do_bus.html)

To register with the Secretary of State, contact:
<http://www.dos.state.ny.us/corp/corpspub.html>

The Contractor shall notify NYS immediately in the event that there is any change in the above corporate status.

- (b) The Offeror must, at time of Proposal submission and throughout the term of the Contract, possess the legal capacity to enter into a contract with the Department.

§1.02.2 Sufficiency, Capacity and Experience

- (a) The Offeror must represent and warrant that it possesses adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified in the RFP.
- (b) The Offeror must represent and warrant that it has actively and regularly been engaged, for at least the past three (3) years, in the delivery of comparable services to the Project Services covered by the RFP.

§1.03 TIMELINE/KEY EVENTS

The following is the estimated timetable of key events for this Procurement:

EVENT	DATE
RFP Release Date	January 9, 2014
<u>Offeror's Affirmation of Understanding and Agreement</u> *	*
<u>Notice of Bidding Intention Form</u>	January 29, 2014 5:00 p.m. ET (Same day as submission of Questions)
Deadline for Submission of Offeror Questions	January 29, 2014 5:00 p.m. ET
Issue Date of Official Responses to Offeror Questions	February 5, 2014
Proposal Due Date and Time	February 14, 2014 3:00 p.m. ET
Contract Start Date (Scheduled)	July 1, 2014

* To be provided prior to Offerors' initial contact with the Department, the Offeror must complete and submit the Procurement Lobbying Offeror's Affirmation of Understanding & Agreement form contained in Attachment 1 – Offeror's Affirmation of Understanding SFL 139, of the RFP to the Procurement Manager per RFP [§2.01.2](#).

SECTION 2 PROCUREMENT PROTOCOL AND PROCESS

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and the New York State ethics laws (New York State Public Officers Law, § 73 and 74).

§2.01 RULES GOVERNING CONDUCT OF COMPETITIVE PROCUREMENT PROCESS*§2.01.1* Department's Designated Contact for Inquiries and Submissions

A Registration Process has been established for prospective Offerors to stay informed as to the status of the RFP, including but not limited to possible amendments to the RFP, and the overall procurement process e.g., issuance of Official Response to Questions. Offerors intending to submit a Proposal or those entities who simply want to be kept informed during the procurement process may register by completing [Attachment 1](#) and submitting it by mail to the Procurement Manager or by e-mail to: MES2014RFP@cs.ny.gov

All inquiries, questions, filings and submission of Proposals in regard to the RFP must be directed, in writing, (by mail, facsimile or e-mail, as applicable) solely to the Procurement Manager, the Department's "Designated Contact" for this Procurement:

NYS Employee Health Service
Attn: Procurement Manager
55 Mohawk Street, Suite 201
Cohoes, New York 12047
*Fax: 518-233-3133
*E-mail: MES2014RFP@cs.ny.gov

* Proposals may **not** be submitted by e-mail or facsimile.

The Procurement Manager is the sole authorized contact for the Department for this RFP. From the RFP Release Date, until a determination is announced regarding the selection of a Proposal, all contacts concerning the RFP must be through the individual listed above. Any inquiries, questions, filings or submission of Proposals that are submitted to any other individual or physical address shall not be considered as official, binding or as having been received by the Department.

§2.01.2 Procurement Lobbying Limitations

a. Pursuant to State Finance Law §139-j and §139-k, this Procurement imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the Procurement's "Restricted Period" (from the issuance of the RFP until the date of the Contract's final approval by the OSC) to other than the Department's Designated Contact, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this [§2.01.2](#) of the RFP, "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids (i.e., Proposals) in response to the solicitation document (i.e., "RFP" or "Procurement"). Staff is required to obtain certain information from Offerors and others whenever there is a contact about the Procurement during the Restricted Period, and is required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection for contract award, and if an entity is subject to two non-responsibility findings within four years the entity also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding.

The Department's Policy and procedures are attached as [Appendix E](#) entitled "[Procurement Lobbying Policy: Restrictions on Contacts during the Procurement Process](#)" to the RFP. Further information about these requirements can be found at:

www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html.

- b. In order to ensure public confidence and integrity in the procurement process, the Department will strictly control all communications between any Offeror and participants in the evaluation process from the date the RFP is released until the Contract is approved by OSC. All contacts and inquiries concerning the Procurement must be directed solely to the attention of the Procurement Manager, the Department's Designated Contact for this Procurement. An Offeror's failure to comply with this requirement may result in the Offeror's disqualification from this Procurement.

Additionally, prospective Offerors and Offerors are strictly prohibited from making any contacts or inquiries concerning the Procurement with or to any member, officer or employee of any NYS governmental entity other than the Department's authorized contact from the date the RFP is released until the Contract is approved by OSC, subject only to the specific exceptions listed below. Further, any prospective Offeror or Offeror shall not attempt to influence this Procurement in any manner that would result in a violation or an attempted violation of Public Officers Law §73(5) or §74.

- c. The following contacts are exempted from the provisions of this section:
- (1) The submission of written Proposals in response to this RFP;
 - (2) The submission of written questions as set forth in this RFP when all written questions and responses are to be distributed to all prospective Offerors who have expressed an interest in the Procurement;
 - (3) Participation in the Pre-Proposal Conference, if any, as provided for in the RFP;
 - (4) A complaint by a prospective Offeror or an Offeror regarding the failure of the Procurement Manager to respond to an authorized contact, when such complaint is made in writing to the Department's Office of the General Counsel, provided that any such written complaint shall become a part of the procurement record;
 - (5) Communications by the selected Offeror who has been tentatively awarded a contract and is engaged in communications with the Department solely for the purpose of negotiating the terms of the agreement after having been notified of the tentative award;
 - (6) Contact by an Offeror to request a review of a proposed award when done in accordance with the procedure specified in the RFP;
 - (7)
 - (a) Contacts by an Offeror in protests, appeals or other review proceedings (including the apparent selected Offeror and its representatives) before the Department seeking a final administrative determination, or in a subsequent judicial proceeding; or
 - (b) Complaints of alleged improper conduct in the Procurement when such complaints are made to the NYS Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or

- (c) Written protests, appeals or complaints to OSC during the process of contract approval, where the approval of the OSC is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to State Finance Law §163.
- d. It is **Mandatory** that all prospective Offerors/offerors complete **Part 1** of **Attachment 2** entitled “**Offeror’s Affirmation of Understanding and Agreement**”, affirming their understanding of and agreement to comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed **Offeror’s Affirmation of Understanding and Agreement** form must be submitted to the Procurement Manager prior to a prospective Offeror making its initial contact with the Department (e.g., submission of a Notice of Bidding Intention Form, submission of questions, etc.) or concurrent with an Offeror’s submission of its Proposal, whichever should occur first.

Offerors are advised that, whenever any of the Offeror’s officers, employees, agents or consultants contact the Department, they should be prepared to provide their name, address, telephone number, place of principal employment, occupation, and whether they were retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regard to this Procurement. To that end and to streamline the process, Offerors are requested to complete and submit RFP **Attachment 2 – Part 2** entitled, “**Designated Offeror Contact**” for each officer, employee, agent or consultant authorized by the Offeror to appear before or contact the Department in regard to this Procurement before appearing or before or at the time such contact is initiated.

Additionally, at the time a Proposal is submitted to the Department, the Offeror is required to provide a completed “**Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k(5)**” form (see **Exhibit K**) in its Administrative Proposal as stipulated in **§4.02.9** of the RFP.

§2.01.3 Submission of Errors or Omissions in this RFP Document

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, prospective Offerors and Offerors agree to be bound by its terms, including, but not limited to, this process by which a prospective Offeror may submit errors or omissions for consideration. In the event that a prospective Offeror believes there is an error or omission in this RFP, the prospective Offeror may raise such issue according to the provisions set forth in **Appendix F** entitled, “**Submission of Errors or Omission**”

§2.01.4 Notice of Bidding Intention Deadline

Filing of this notice is **not** mandatory; however, to assist the Department in better managing the procurement process, prospective Offerors, whether they intend to submit a Proposal in response to the RFP or not, are requested to complete **Attachment 3** entitled, “**Notice of Bidding Intention Form**” and submit it to the Procurement Manager on or before the Notice of Bidding Intention Due Date as set forth in **§1.03** of the RFP. The completed, signed form may be submitted either by hardcopy or electronically by email or facsimile, with hard copy to follow, to the address provided in RFP **§2.01.1**.

On the **Notice of Bidding Intention Form**, New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm’s contact information

be included on a list of M/WBE firms interested in serving as a subcontractor for this Procurement. The listing will be publicly posted on the Procurement webpage at: <http://www.cs.ny.gov/contract/medical-exam-svcs-rfp/> for reference by the bidding community. A firm requesting inclusion on this list should send a copy of its NYS M/WBE certification with its completed Notice of Bidding Intention Form. Nothing prohibits an M/WBE vendor from proposing as a prime contractor.

§2.01.5 Submission of Questions

In the event a prospective Offeror has any substantive or procedural questions concerning the content of the RFP document, including, but not limited to, any potential exceptions to the terms and conditions, specifications, and requirements of the RFP, such questions can be submitted, via hardcopy, facsimile and/or email, to the Procurement Manager at the addresses set forth in RFP [§2.01.1](#). The Department strongly urges prospective Offerors to submit the questions via e-mail. Each question should cite the particular RFP section, page number and paragraph number to which it refers.

Only those questions received prior to 5:00 p.m. Eastern Time (ET), on the Deadline for Submission of Offeror Questions as shown in [§1.03](#) of the RFP, will be accepted.

The Department has provided a question template form which prospective Offerors are requested to use in submitting questions regarding the RFP (see [Attachment 4](#) entitled "[Question Template](#)").

§2.01.6 Official Responses to Questions

Written Official Responses to all questions accepted by DCS will be posted to the Procurement webpage at: <http://www.cs.ny.gov/contract/medical-exam-svcs-rfp/> and sent to all of the prospective Offerors that completed the Registration Process as set forth in RFP [§2.01.1](#), excepting those questions where the asking party claims that the question is proprietary in nature and such claim is upheld by the Department. The Department will not provide information about processes or information proprietary to any prospective Offeror, including incumbent contractors, in its Official Responses.

§2.01.7 Submission of Proposals

a. Submission Requirements

The Offeror's Proposal must be organized in three (3) separate parts: Administrative Proposal; Technical Proposal, and Financial Proposal. Offerors must submit one (1) ORIGINAL, separately bound hard copy of each part.

To facilitate the evaluation process, Offerors are requested to also submit:

- Six (6) separately bound hard copies and one (1) electronic copy (CD) of the Offeror's **Administrative Proposal**;
- Six (6) separately bound hard copies and one (1) electronic copy (CD) of the Offeror's **Technical Proposal**; and
- Six (6) separately bound hard copies and one (1) electronic copy (CD) of the Offeror's **Financial Proposals**.

These eighteen (18) documents and three (3) disks are collectively hereafter referred to as "Submissions." (Note: Offerors are requested to enclose the

“Proposal - Requested Redactions” hard copy and CD as requested per RFP [§2.02.8](#), in the box/envelope containing the Offeror’s Administrative Proposal.)

The ORIGINAL hard copy of each part must be marked "ORIGINAL" and contain the original signature of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror’s signature. The remaining hard copies of each part may contain a copy of the official’s signature on all forms submitted that require the Offeror’s signature and should be numbered sequentially (e.g. Copy #1, Copy #2, etc). Please note that, for each of the three (3) parts, the hard copy marked “ORIGINAL” will be deemed controlling by the Department when viewing the Proposal.

Failure to comply with the above requirements and the Formatting Requirements set forth in (b) below, may result in the Proposal being deemed non-responsive and may result in rejection of the Proposal.

Proposals should be placed and packaged together, by part, in sealed boxes/envelopes (i.e., all of the Administrative Proposals together in one box; all the Technical Proposals together in a second box and all of the Financial Proposals in a third box). Each sealed box/envelope should contain a label on the outside of the container which contains the information below:

**New York State Department of Civil Service
Request for Proposals
RFP #2014MES-1
“MEDICAL EXAMINATION SERVICES”**

**OFFEROR NAME
OFFEROR ADDRESS**

Indicate content, as applicable:
ADMINISTRATIVE, TECHNICAL or FINANCIAL PROPOSALS

All Proposals must be mailed or hand-delivered to the Procurement Manager at the address set forth in [§2.01.1](#) of the RFP.

For those Offerors who plan to have the Proposal hand delivered to the Department, arrangements for acceptance of the package must be made in accordance with Department security procedures. To make such arrangements, the Department requests that the Offeror notify the Procurement Manager forty-eight (48) hours prior to delivery.

Offerors are solely responsible for timely delivery of their Proposal to DCS prior to the stated Proposal Due Date and Time Deadline as set forth in [§1.03](#) of the RFP. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of NYS, shall not excuse late bid submissions. If the Proposal is delivered by mail or courier, the Department recommends that it be sent "return receipt requested," so the Offeror obtains proof of timely delivery. Phone, facsimile and e-mail submission of Proposals and amendments to a Proposal will not be accepted for this RFP. Proposals accepted in response to this RFP will not be opened publicly. Any Proposal, and/or amendment to a Proposal, received at the specified location, set forth in RFP [§2.01.1](#), after the Proposal Due Date and Time Deadline as set forth in RFP [§1.03](#), will be

considered a late bid submission and shall not be deemed accepted by the Department or considered for contact award. No exceptions will be made for late submission or delays in delivery of the Proposal and /or an amendment(s) to a Proposal. A late bid submission may be returned, unopened to the sender.

The Department will accept amendments to an Offeror's Proposal if the amendment is received by the Department prior to the Proposal Due Date and Time. All amendments to an Offeror's Proposal must be submitted in writing and, if accepted by the Department, will be included as part of the Offeror's Proposal. Such amendments should be submitted in accordance with the format set forth in [§2.01.7.b](#) of the RFP

Offerors are cautioned to verify the contents of their Proposal before submission. Except for material received from an Offeror in response to a request by the Department, the Department will not accept amendments to a Proposal if such material is received after the specified Proposal Due Date and Time. Offerors are encouraged to complete and submit [Exhibit D](#) entitled, "[Proposal Submission Requirements Checklist](#)" in its Administrative Proposal submission, as stipulated in [§4.02.4](#) of the RFP, to facilitate verification of Proposal contents. An Offeror's request to withdraw a Proposal after the Proposal Due Date and Time may be considered at the sole discretion of the Department.

b. Formatting Requirements

The Administrative Proposal, Technical Proposal and Financial Proposal each should comply with the following formatting requirements (Failure to comply with the formatting requirements herein below may, but will not necessarily, result in the Proposal being deemed non-responsive and may, but will not necessarily, result in rejection of the Proposal):

- (1) **Binding of Proposals:** The Administrative, Technical and Financial Proposals must be separately bound. The official name of the Offeror and "Medical Examination Services" must appear on the outside front cover of each copy of the Offeror's Administrative, Technical and Financial Proposal. If the Proposals are submitted in loose-leaf binders, the official name(s) of the Offeror and "Medical Examination Services" must also appear on the spine of the binders;
- (2) **Table of Contents:** Each Proposal must include a table of contents;
- (3) **Index Tabs:** Each major section of the Proposal and each exhibit/attachment/appendix must be labeled with an index tab that completely identifies the title of the section, or exhibit, attachment or appendix as named in the table of contents; and
- (4) **Pagination:** Each page of each of the three (3) parts of the Offeror's Proposal must be dated and numbered consecutively from its beginning through all appended material.

[§2.01.8](#) Material Deviations

New York State Law prohibits NYS from awarding a contract based upon material deviation(s) from the specifications, terms, and/or conditions set forth in the RFP. Consequently, each Offeror's Proposal must conform to the specifications, terms, and conditions set forth in this RFP. and prospective Offerors are strongly advised to raise issues and/or concerns relating to this procurement during the question and answer phase rather than taking exceptions within their Proposals. **Material**

deviations from the specifications, terms, and conditions set forth in the RFP may render the Proposal non-responsive and may result in rejection of the Proposal.

In general, a material deviation is one that would (1) impair the interests of NYS, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original RFP, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a Proposal. For example, a deviation that would substantially shift liability (risk) from the Offeror to NYS or substantially shift financial responsibility from the Offeror to NYS would be considered material.

Offerors are advised that Offeror's standard, pre-printed material (including but not limited to: product literature, order forms, manufacturer's license agreements, standard contracts or other pre-printed documents), which are physically attached or summarily referenced in the Offeror's Proposal, unless specifically required by the RFP to be submitted as part of the Offeror's Proposal, will not be considered as having been submitted with or intended to be incorporated as part of the official offer contained in the Proposal, but rather will be deemed by the State to have been included by Offeror for informational or promotional purposes only.

§2.01.9 Notification of Award

A proposed award notification letter will be sent to the selected Offeror indicating a conditional award subject to successful contract negotiations. The remaining Offerors will be notified of the conditional award. No public discussion or news releases relating to the RFP the associated procurement process, including but not limited to the bid solicitation, proposal evaluation and award and contract negotiation processes or the Agreement are to be made by any Offeror or their agent without the prior approval of the Department.

§2.01.10 Multi-Agency Use

The contracts entered into pursuant to the awards resulting from the RFP shall be multi-agency agreements, specifically, the contract type, per the State's new Statewide Financial System (SFS), is "Corporate Contracts for Miscellaneous Services" which means "a contract for services or consulting awarded with the intention that multiple utilizing state agencies will use the contract through the issuance of purchase orders against the awarding agency's contract."

§2.01.11 Debriefing

As stated in RFP [§2.01.9](#) above, proposed award notification letters will be sent to the selected and non-selected Offerors. At that time, Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made, dependent upon the nature of the Debriefing, i.e., pre-award or post-award. Debriefings are subject to the Department's Debriefing Guidelines which are set forth in [Appendix G](#) entitled, "[NYS Department of Civil Service Debriefing Guidelines](#)".

§2.01.12 Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to the RFP, all Offerors agree to be bound by its terms including, but not limited to, the process by which an Offeror may submit protests of the selection award for consideration. In the event that an Offeror decides to

protest the selection decision, the Offeror may raise such issue according to the provisions set forth in [Appendix H](#), entitled "[Submission of Award Protests](#)".

§2.01.13 Department of Civil Service Reservation of Rights

In addition to any rights articulated elsewhere in the RFP, the Department reserves the right to:

- a. Prior to the bid opening, amend the RFP. If the Department elects to amend any part of the RFP, the resultant amendment will be provided to all prospective Offerors who were sent a copy of the RFP;
- b. Withdraw the RFP, in whole or in part, at its sole discretion;
- c. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any mandatory requirements of the RFP;
- d. During the evaluation process, seek clarifying information from an Offeror(s) for the purpose of assuring the Department's full understanding of the Offeror's responsiveness to the RFP requirements. This clarifying information, if required in writing by the Department, must be submitted by the Offeror, in accordance with formats as prescribed by the Department at the time said information is requested and, if received by the due date set forth in the Department's request for clarification, shall be included as a formal part of the Offeror's Proposal. Clarifying information, if any, whether provided orally, visually or in writing will be considered in the proposal evaluation process. Failure to provide required information by its associated due date may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon DCS to seek or allow clarifications as provided for herein;
- e. Waive any requirements that are not material;
- f. Change any of the scheduled dates stated in the RFP;
- g. Modify, correct, and/or clarify stipulated requirements at any time during the Procurement, provided that any such modification/correction and/or clarification does not materially benefit or disadvantage any particular Offeror or materially disadvantage any non-Offeror;
- h. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Offerors;
- i. Use the following in the course of evaluation and selection under the RFP: (i) Proposals; (ii) information obtained through the Department's investigation of Offeror(s), including the Offeror's qualifications, experience and ability; (iii) Offeror's financial standing; (iv) any information pertinent to the bid evaluation which may be obtained or received by NYS; (v) any material or information submitted by the Offeror(s) in response to any DCS requests for clarifying information, if any and; may include (vi) Site Visits, if any and (vii) Management Interview(s), if any, including interviews of any or all individuals list in the Offeror's [Exhibit O](#), "[Medical and Technical Staff Roster](#)" submission;
- j. For the purpose of ensuring the completeness and comparability of Proposals, analyze submissions and make adjustments or normalize submissions in the Proposal(s), including the Offeror's technical assumptions, and underlying calculations and assumptions used to support the Offeror's computation of costs, or to apply such other methods as it deems necessary to make level comparisons across Proposals 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 RFP;
- k. Negotiate additional terms and conditions in the Contract which are to the State's advantage and which, as determined in the sole opinion of the Department, do not substantially alter the requirements of the RFP (Note: If, however, the scope or intent of the original RFP would be substantially altered by such negotiated changes, all Offerors will be given an opportunity to modify and resubmit their Proposals based on updated RFP specifications);
 - l. Set aside an originally selected Offeror(s) if it is subsequently determined by the Department that the Offeror(s) is non-responsible or non-responsive. The Department may then invite the next highest ranked Offeror(s) to enter into negotiations for purposes of executing an agreement;
 - m. Set aside the conditional award to a selected Offeror(s) should the Department be unsuccessful in negotiating an agreement with that/those Offeror/Offerors within a time frame acceptable to the Department; such time frame is to be determined solely by the Department based on the best interest of the State. If the Department determines that contract negotiations between the Department and a selected Offeror are unsuccessful, the Department may then invite the Offeror with the next highest ranked Offeror to enter into negotiations for purposes of executing an agreement;
 - n. Make the award under the RFP in whole or in part;
 - o. Utilize any and all ideas submitted in the Proposal(s) received; and
 - p. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 60 days from the bid opening.

§2.01.14 Limitation of Liability

The Department is not liable for any cost incurred by any Offeror prior to approval of the Contract by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any procurement related activities.

The Department has taken care in preparing the data accompanying the RFP; however, the Department does not warrant the accuracy of the data. The data, including numbers and statistics, which appear in the RFP are provided for informational purposes only and an Offeror's reliance on and use of such numbers or statistics, in preparing its Proposal, is at the Offeror's own risk. The numbers and statistics are not guarantees or representations of any levels of past or future performance or participation.

§2.02 Compliance With Applicable Rules, Laws, Regulation & Executive Orders

This Procurement is being conducted in accordance with, and is subject to, the competitive bidding laws of the State of New York (New York State Finance Law, Article 11) and it is governed by, at a minimum, the legal authorities referenced below. All Offerors must fully comply with the provisions set forth in this [§2.02](#) of the RFP. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions and whose Administrative Proposal contains the submission required hereunder.

§2.02.1 Public Officers Law

All Offerors and Offerors' employees and agents must be aware of and comply with the requirements of the New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former NYS employees. In signing its Proposal, each Offeror guarantees knowledge and full compliance with such provisions for purposes of the RFP and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the Contract, and criminal proceedings as may be required by law.

Per RFP [§4.02.3](#), Offerors must submit an affirmative statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror because of prior, current, or proposed contracts, engagements, or affiliations, by submitting a completed [Exhibit C](#) entitled "[Compliance with Public Officers Law Requirements](#)" as part of the Offeror's Administrative Proposal.

§2.02.2 Omnibus Procurement Act of 1994 and its 2000 amendments

Offerors are hereby notified that, if their principal place of business is located in a foreign or domestic jurisdiction that penalizes New York State vendors, and if the goods or services they offer would be produced or performed substantially outside New York State, the Omnibus Procurement Act of 1994 and its 2000 amendments require that they be denied contracts which they otherwise could obtain.

The list of jurisdictions subject to this provision is set forth in Article 21 of [Appendix A](#).

§2.02.3 Participation by Minority Group Members and Women With Respect to State Contracts

Contractor Requirements and Procedures for Business Participation Opportunities for NYS Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities ("EEO") for Minority Group Members and Women:

New York State Law:

The State of New York and the Department actively support and encourage the participation of certified minority and women-owned business enterprises and equal employment opportunities for minorities and women on State contracts. Pursuant to New York State Executive Law Article 15-A, the Department recognizes its obligation under the law 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 the Departments. Accordingly, it is the policy of the Department to foster and promote the participation of such individuals and business firms. By submitting a Proposal in response to this Procurement, the Offeror agrees to comply with the provisions of the RFP, including but not limited to [Appendix D](#), entitled "[Participation by Minority Group Members and Women With Respect to State Contracts](#)" and the requirements set forth herein.

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" (the "Disparity Study"). The Disparity Study can be accessed at:

http://www.esd.ny.gov/MWBE/Data/NERA_NYS_Disparity_Study_Final_NEW.pdf

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 the Department establishes 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 Procurement, the Department hereby establishes an overall goal of 20% for MWBE participation, 11% for Minority-Owned Business Enterprises (“MBE”) participation and 9% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). The Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that the Department may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.nylovesmwbe.ny.gov/cf/search.cfm>. In addition, a listing of certified M/WBE firms that have expressed a specific interest in this RFP will be posted to the Department’s web page for this Procurement at: <http://www.cs.ny.gov/contract/medical-exam-svcs-rfp/>

For guidance on how the Department will determine the Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Offeror/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Department may withhold payment from the Contractor as liquidated damages.

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

By submitting a Proposal, the Offeror/Contractor agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Offerors are required to submit a [MWBE Utilization Plan \(form MWBE-100\)](#) (RFP [Exhibit G](#)) and a [Certification of Good Faith Efforts \(form MWBE-104\)](#) (RFP [Exhibit F](#)) with their Proposal. Any modifications or changes to the Utilization Plan after contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department.
- B. The Department will review the submitted MWBE Utilization Plan and advise the Offeror of the Department’s acceptance or issue a notice of deficiency within thirty (30) Days of receipt.

- C. If a notice of deficiency is issued, the Offeror agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Procurement Manager, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Offeror and direct the Offeror to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form MWBE-101 entitled "Request for Waiver Form" available at:

<http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

- D. The Department may disqualify an Offeror as being non-responsive under the following circumstances:
- i. If an Offeror fails to submit a MWBE Utilization Plan;
 - ii. If an Offeror fails to submit a written remedy to a notice of deficiency;
 - iii. If an Offeror fails to submit a request for waiver; or
 - iv. If the Department determines that the Offeror has failed to document good faith efforts.

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

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance Reports - Form MWBE-103 to the Department's Contract Manager, at the address set forth in the Contract, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract. Form MWBE-103 is available at:

<http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>

Equal Employment Opportunity Requirements:

By submission of a Proposal in response to this Procurement, the Offeror/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.

Offeror/Contractor further agrees to submit with its Proposal a [EEO Staffing Plan \(form EEO-100\)](#) (RFP [Exhibit E](#)) identifying the anticipated work force to be utilized on

the project and if awarded the contract, will, upon request, submit to the Department, 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 any subcontractors 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.

Per RFP [§4.02.5](#), executed copies of [Exhibit E](#) entitled "[EEO Staffing Plan \(form EEO-100\)](#)", [Exhibit F](#) entitled, "[Certification of Good Faith Efforts \(form MWBE-104\)](#)" and [Exhibit G](#) entitled, "[MWBE Utilization Plan \(form MWBE-100\)](#)" must be submitted as part of the Offeror's Administrative Proposal.

§2.02.4 Americans With Disabilities Act

The Contractor must assure its compliance with the Americans With Disabilities Act (42 USC§12101 et seq.), in that any services and programs provided during the course of performance of the Contract shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act by submitting, as required per RFP [§4.02.6](#), a completed [Exhibit H](#) entitled, "[Compliance with Americans with Disabilities Act](#)" form as part of the Offeror's Administrative Proposal.

§2.02.5 MacBride Fair Employment Principles Act & Non-Collusive Bidding Certification

In accordance with Chapter 807 of the Laws of 1992, Offerors must certify whether they or any individual or legal entity in which the Offeror holds a ten percent (10%) or greater ownership interest, or any individual or legal entity that holds a ten percent (10%) or greater ownership in the Offeror have business operations in Northern Ireland. If an Offeror does have business operations in Northern Ireland, they must certify that they are taking lawful steps in good faith to conduct such business operations in accordance with the MacBride Fair Employment Opportunity Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such principles.

The Department also requires that Offerors certify that prices in their Proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition with any other Offeror or competitor. In addition, that unless required by law, the prices quoted in the Offeror's Proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly, indirectly, to any other Offeror or to any competitor. Offerors must also certify that no attempt has been made or will be made by the Offeror to induce any person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition. Per RFP [§4.02.7](#),

an executed copy of [Exhibit I](#) entitled, “[MacBride and Non-Collusive Bidding Certification](#)” form must be submitted as part of the Offeror’s Administrative Proposal.

§2.02.6 Vendor Responsibility Requirements – State Finance Law §163 and Vendor ID

A. *Vendor Responsibility Requirements:*

New York State Finance Law §163 requires that contracts for services and commodities be awarded on the basis of lowest price or best value “to a responsive and responsible Offeror.” Furthermore, §163(9)f requires the Department to make a determination of responsibility of the proposed contractor prior to making an award.

To assist the Department in evaluating the responsibility of Offerors, per RFP [§4.02.8](#), a completed [Exhibit J](#) entitled; “[New York State Standard Vendor Responsibility Questionnaire](#)” (hereinafter “Questionnaire”) must be submitted as part of the Offeror’s Administrative Proposal. This version of the Questionnaire is used when the solicitation is for a non-construction contract and it is designed to provide information to assess an Offeror’s responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history.

By submitting a Proposal, the Offeror agrees to fully and accurately complete the Questionnaire. The Offeror acknowledges that the State’s execution of the Contract will be contingent upon the State’s determination that the Offeror is responsible, and that the State will be relying upon the Offeror’s responses to the Questionnaire when making its responsibility determination. The Offeror agrees that if it is found by the State that the Offeror’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

To the extent that the Contractor is proposing the use of “Key Subcontractors” (i.e., part of the Offeror’s proposed Project Management Team), the Offeror must also submit a completed [Exhibit J](#) for each Key Subcontractor completed by a person legally authorized to represent the Key Subcontractor.

The Department recommends that Offerors file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at OSC’s website at:

http://www.osc.state.ny.us/vendrep/vendor_index.htm or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Please note that a Vendor ID is required to enroll in the VendRep System. Please see section B below for information on how to obtain a Vendor ID. Note: OSC requests that vendors allow up to four (4) business days to accommodate the verification process associated with assigning a Vendor ID and updating the OSC Online Services portal to allow a vendor to enroll to use the VendRep System. OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbus.htm>.

Offerors opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at:

http://www.osc.state.ny.us/vendrep/forms_vendor.htm or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form. The paper form is also included in the RFP as **Exhibit J "New York State Standard Vendor Responsibility Questionnaire."** A person legally authorized to represent the Offeror or Key Subcontractor, if applicable, must execute the Questionnaire.

B. Vendor ID:

Prior to being awarded a contract pursuant to this RFP, the Offeror must be registered in the New York State Vendor File (Vendor File). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage certain vendor information in one central location for all transactions related to the State of New York.

If the Offeror is already registered in the Vendor File, the vendor must enter the vendor's ten-digit Vendor ID on the Formal Offer Letter in the place indicated.

If the Offeror is not currently registered in the Vendor File, the Offeror must request assignment of a Vendor ID number from the Department. Complete the OSC Substitute W-9 Form available at:

http://www.osc.state.ny.us/vendors/forms/ac3237_fe.pdf) and submit the form with the Offeror's Proposal as an attachment to the Offeror's Formal Offer Letter included in the Offeror's Administrative Proposal. The Department will initiate the vendor registration process for the Offeror by submitting the form to the New York State Office of the State Comptroller (OSC) on the vendor's behalf. Once the process is initiated, registrants will receive an e-mail identifying their unique ten-digit Vendor ID and instructions on how to enroll in the online Vendor Self-Service application. For more information on the Vendor File please visit the following website:

http://www.osc.state.ny.us/vendor_management/

§2.02.7 Procurement Lobbying Compliance

It is **Mandatory** that all potential Offerors complete RFP **Attachment 2** entitled, "**Offeror's Affirmation of Understanding and Agreement**", affirming their understanding of and agreement to comply with the procurement lobbying requirements set forth in State Finance Law §139-k and §139-j. A completed **Attachment 2** must be submitted to the Procurement Manager prior to a prospective Offeror making its initial contact with the Department (e.g., submission of questions, etc.) or concurrent with an Offeror's submission of its Proposal, whichever should occur first.

Additionally, at the time of Proposal submission, the Offeror is required to complete and must submit, per RFP **§4.02.9, Exhibit K** entitled, "**Offeror's Certification of Compliance Pursuant to State Finance Law §139-k(5)**" as part of the Offeror's Administrative Proposal.

§2.02.8 Disclosure Of Proposal Contents – Freedom Of Information Law (“FOIL”)

NOTICE TO OFFEROR’S LEGAL COUNSEL

All materials submitted by an Offeror in response to this RFP shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. Offerors may anticipate that Proposals will be evaluated by staff and may be evaluated by staff of other State agencies interested in the provision of the subject services including, but not limited to, the Division of the Budget, and may also be evaluated by consultants retained by the Department unless otherwise expressly indicated in this RFP. The Department has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to this RFP.

To request that materials be protected from New York State Freedom of Information Law, Article 6 of the Public Officers Law (“FOIL”) disclosure, the Offeror must follow the procedures below. If an Offeror believes that any information in its Proposal and/or supplemental submission (s) constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to FOIL, the Offeror must make that assertion by completing [Exhibit L](#) entitled “[Freedom of Information Law – Request for Redactions Chart](#)”. The Offeror must complete the form specifically identifying by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of [Exhibit L](#) contains information regarding appropriate justification for protection from FOIL disclosure. Vague, non-specific, summary allegations that material is proprietary or trade-secret are inadequate and will not result in protection from FOIL disclosure.

Per RFP [§4.02.10](#), the completed [Exhibit L](#) should be submitted as part of the Offeror’s Administrative Proposal. (Note: Offerors are advised that [Exhibit L](#), as a part of the Offeror’s Proposal, is subject to disclosure under FOIL. Offerors should also highlight any parts of [Exhibit L](#) which the Offeror wishes to protect from FOIL disclosure.)

If the Offeror chooses not to assert that any proposal material and/or supplemental submission should be protected from FOIL disclosure, the Offeror should so advise the Department by checking the applicable box on [Exhibit L](#) and including the completed form in the Offeror’s Administrative Proposal or with the supplemental submission, as applicable. If a completed [Exhibit L](#) form is not contained in the Offeror’s Proposal or enclosed with a supplemental submission, the Department will assume that the Offeror chooses not to assert that any proposal material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein [§2.02.8](#) will not be considered part of the Offeror’s Proposal and will not be reviewed as a part of the Procurement’s evaluation process.

Requested Redactions CD and Hard Copy

At the time of Proposal submission, the Offeror is requested to submit 1) a hard copy, and 2) an electronic copy of the Offeror’s Administrative Proposal, Technical Proposal, and Cost Proposal (three (3) documents), on CD in Adobe Acrobat, noting each specific item requested to be protected from FOIL disclosure by highlighting in yellow each item in a manner such that the material remains visible. No security should be applied

to the consolidated Adobe Acrobat files. Both the hard copy and CD should be clearly labeled "**Proposal - Requested Redactions**", and dated.

If, after the Proposal Due Date, the Offeror makes any supplemental submission(s) during the procurement process that it wishes to protect from FOIL disclosure, the Offeror should include with such submission(s) a completed [Exhibit L](#) in hardcopy and on a CD in Adobe Acrobat noting each specific item requested to be protected from FOIL disclosure by highlighting in yellow each item in a manner such that the material remains visible. No security should be applied to the Adobe Acrobat files. The hardcopy should be separately bound, if applicable and both the hard copy and CD clearly labeled "Supplemental Submission #x- Requested Redactions", dated and sequentially numbered (e.g., Supplemental Submission #1 - Requested Redactions", dated XX/XX/20XX).

Upon OSC approval of the contract resulting from this RFP, a copy of the redacted contract and a redacted copy of each Offeror's Proposal, with approved redactions to each permanently blacked out by the Department, may, at the sole discretion of the Department, be posted to the Department's procurement website.

In the event any material is requested pursuant to FOIL, the Department will address each party's interests fully, in accordance with the procedures required by Article 6 of the Public Officers Law.

§2.02.9 Tax Law Section 5-A Certification Regarding Sales And Compensating Use Taxes

Section 5-a of the New York Tax Law requires that any contract valued at more than \$100,000 entered into by a NYS agency shall not be valid, effective, or binding against the agency unless the Contractor certifies to the Tax Department that it is registered to collect New York State and local sales and compensating use taxes, if the contractor made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, the contractor must certify to the Tax Department that each affiliate and Key Subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. For the purpose of this requirement, "affiliate" means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent. The contractor also must certify to the procuring state entity that it filed the certification with the Tax Department and that the certification is correct and complete. Accordingly, in the event the value of the Contract exceeds \$100,000, the Contractor must file a properly completed [Appendix I](#) entitled, "[ST-220-CA – Contractor Certification to Covered Agency](#)" with the Department and a properly completed [Appendix J](#) entitled, "[ST-220-TD – Contractor Certification Pursuant Section 5-A of the Tax Law](#)" with the Department of Taxation & Finance before the Contract may take effect. In addition, after the Contract has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if the Contract's term is renewed. Further, a new Form ST-220-TD must be filed with the Department of Taxation & Finance if no ST-220-TD has been filed by the Contractor or if a previously filed Form ST-220-TD is no longer correct and complete.

Submission of these forms (ST-220-CA and ST-220-TD) is **not** required at time of Proposal submission, however, the selected Offeror will be required to complete and

submit these forms as a condition of contract award. These forms may also be found at: http://www.tax.ny.gov/forms/sales_cur_forms.htm.

§2.02.10 Compliance with New York State Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the Department, the selected Offeror and Key Subcontractor(s), if any, will be required to verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in [Appendix M – Compliance with NYS Workers' Compensation Law](#). Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at 518-486-6307. You may also find useful information at their website <http://www.wcb.ny.gov>

Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Contract is ready to be executed may be grounds for disqualification of an otherwise successful Proposal. Although submission of the insurance verification information is **not** required at the time of submission, the Department would prefer the Offeror append this insurance verification information to the Offeror's Administrative Proposal, if possible.

To the extent that the Contractor is proposing the use of Key Subcontractor(s) (i.e., part of the Offeror's proposed Project Management Team), the Offeror must verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that the Key Subcontractor(s) is/are properly insured or are otherwise in compliance with the insurance provisions of the WCL.

§2.02.11 Consultant Disclosure Requirements

Chapter 10 of the Laws of 2006 requires State contractors to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked, and the amount paid to the Contractor by NYS as compensation for work performed by those employees. This includes information on any persons working under any subcontracts with the Contractor. The law defines contracts for consulting services to include any contract entered into by a State agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services. For further information about this requirement, please refer to OSC Bulletin No. G-226 (Issued 6/19/2006 and updated 8/8/07). This Bulletin can be found at: <http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

If applicable, the Contractor will be required to provide a completed [Appendix K](#) entitled, "[State Consultant Services "Form A" \(Full Contract Term\) \(Adm-985\)](#)" (hereinafter "Form A") at the time the Contract is executed. The completed form must include information for all employees providing such services under the Contract whether employed by the Contractor or a subcontractor. Please note that the form captures the necessary planned employment information prospectively from the start date of the Contract through the end of the contract term.

Further, if applicable, the Contractor will be required to report annually to the Department and to OSC the employment information described above, including work

performed by subcontractors. The Contractor shall submit a completed [Appendix L](#) entitled, "[State Consultant Services "Form B" \(Annual Submission\) \(Adm-986\)](#)" (hereinafter "Form B") for each State Fiscal Year during the term of the Contract. During the term of the Contract, such report shall be due no later than May 15 of each year following the end of NYS Fiscal Year being reported.

Submission of these forms (Form A and Form B) is **not** required at the time of Proposal submission; however, the selected Offeror will be required to complete and submit Form A as a condition of contract award.

§2.02.12 Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York

As a result of the Iran Divestment Act of 2012 (for purposes of this section only hereinafter referred to as "Act"), Chapter 1 of the 2012 Laws of New York, a new 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") will be developing 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 is expected to be issued no later than one hundred and twenty (120) days after the Act's effective date, at which time it will be posted on the OGS website.

By submitting a Proposal in response to this Solicitation or by assuming the responsibility of a contract awarded hereunder ("Agreement"), Offeror/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on the Agreement any persons that are identified on the prohibited entities list. Additionally, once the list is posted on the OGS website, any entity seeking to renew or extend a contract or assume the responsibility of a contract awarded in response to a solicitation, must certify at the time the contract is renewed, extended or assigned that said entity is not included on the prohibited entities list.

During the term of the Agreement, should the Department receive information that a person is in violation of the above-referenced certification, the Department 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 ninety (90) days after the determination of such violation, then the Department 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.

The Department reserves the right to reject any Proposal or request for assignment of 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.

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SECTION 3 PROJECT SCOPE

§3.01 PROJECT SERVICES

During the term of the Contract, the Contractor will be responsible for the performance of those services/tasks as described in [Section 3](#) of the RFP (“Project Services”). The types of medical procedures and tests to be performed by Contractors receiving an award under this RFP include, but are not limited to, 1) occupational health examinations, 2) preplacement examinations for other than Court Officer Candidates, 3) preplacement examinations for Court Officer Candidates, 4) mandatory health examinations, and 5) diagnostic testing and laboratory studies. For purposes of submitting a Proposal, an Offeror must be capable of providing Project Services as follows:

All of the following testing and examination services:

- Occupational Health Examinations,
- Preplacement Examinations,
- Preplacement Examinations for Court Officer Candidates,
- Mandatory Health Examinations, and
- Diagnostic Testing and Laboratory Studies; or

Descriptions of the service are contained in below.

§3.02 SERVICE CATEGORIES DESCRIPTIONS

§3.02.1 Occupational Health Examinations

Medical monitoring of employees who may be exposed to chemical, biological and/or physical hazards is conducted for employees in a variety of job titles and for many types of hazard exposures including: solvents, lead, heavy metals, asbestos, HIV, TB, rabies, hepatitis, noise, and radiation. Examinations to determine an individual worker's ability to wear personal protective equipment, such as a respirator, are also conducted. Typical examinations may include a medical/occupational history, complete physical examination, routine blood and urine tests, electrocardiogram, vision and hearing tests and pulmonary function tests.

The Contractor's medical examiner will determine whether the employee has developed an occupationally related illness, and make recommendations for further evaluation and/or remediation. Completion of Form EHS-701.3 is required. (see RFP [ADDENDUM 1](#) for a copy of the form.)

§3.02.2 Preplacement Examinations

Preplacement physical examinations are conducted for candidates who are being considered for appointment to a competitive class job for which there are predetermined and announced medical and physical standards. See RFP [ADDENDUM 2](#) for an example of an announced medical job standard. The EHS will notify the Contractor of the type of testing to be performed. Typical examinations include similar testing as for occupational health exams and may also include drug testing.

The Contractor's medical examiner will make a determination as to whether the candidate meets the announced standards and thus can perform the duties of the position. Completion of a qualification form (form EHS-13) is required (see RFP [ADDENDUM 3](#) for a copy of the form).

§3.02.3 Preplacement Examinations for Court Security Candidates

The Office of Court Administration (OCA) provides administrative support and services to the New York State Unified Court System (UCS) which employs individuals in Judicial and Non-Judicial occupations. OCA has the responsibility for evaluating the merit and fitness of eligible candidates for certain positions within the UCS (i.e., NYS Court Officer-Trainee candidates). NYS Court Officer-Trainee candidates are "Peace Officers" and may perform the following security and administrative functions:

- Provide court security and maintain order by standing in the courtroom and patrolling the courthouse vicinity (includes navigating stairs).
- Escort judges, juries, witnesses and prisoners to and from the courtroom.
- Guard felons and persons accused of crimes, while they are in the courtroom and escort them to and from detention pens.
- Physically restrain unruly individuals.
- Use established search procedures to assure no weapons, electronic or photographic equipment, or contraband are brought into the courthouse.
- Administer first-aid and provide assistance in emergency situations.
- Provide general information to visitors on premises.
- Maintain and update court records, and prepare incident reports.
- Display and safeguard exhibits in the courtroom.
- Carry law enforcement equipment including handcuffs, baton and mace.
- Arrest individuals according to established procedures, and may carry firearms, if authorized.

A summary of the medical standards and the physical ability tests to be performed by the Contractor are described in RFP [ADDENDUM 11](#), entitled "Summary of Medical Standards for NYS Court Officer – Trainee Program". The UCS has also developed, with the assistance of expert consultants, a Physician's manual. This manual will be made available to the selected Contractor(s).

§3.02.4 Mandatory Health Examinations

Employees may be examined to determine if they are medically able to perform the duties of special programs such as firefighters, truck drivers, rescue teams and crisis intervention teams. The Contractor will be provided with the specific duties of these programs and the Contractor's examining physician must determine if the individual is medically and/or mentally able to perform such duties. Completion of a certification form (such as the Commercial Driver Fitness Determination - [ADDENDUM 5](#)) may be required.

§3.02.5 Diagnostic Testing and Laboratory Studies

EHS may request as part of an occupational health, mandatory health or pre-employment examination those types of laboratory procedures and diagnostic tests as set forth in [ADDENDUM 12](#).

- a. The Contractor must be able to provide all of the Diagnostic Tests and Laboratory Studies designated as "Mandatory" in [ADDENDUM 12](#). (Note: An Offeror's inability to provide those services designated as "Mandatory" will result in rejection of the Offeror's Proposal.)
- b. The Contractor may be requested, but it is not mandatory, to provide those Diagnostic Tests and Laboratory Studies designated as "Optional" in

ADDENDUM 12. (Note: An Offeror will not be penalized if the Offeror does not propose any or all of those services designated as "Optional.")

§3.02.6 Additional Services

EHS may occasionally need the Contractor to provide Additional Services as described below:

- Immunizations and Skin Tests – a list of these services is included on the "**Medical Examinations and Tests Services Quotation – Form 1**" contained in **Exhibit S** of the RFP.

[Note: Offerors will not be penalized if the Offeror does not propose to provide any or all of the above Additional Services.]

§3.03 OTHER SERVICE REQUIREMENTS

§3.03.1 Identification of Individuals for Evaluation The evaluations performed under the Contract may have significant implications for the administrative decisions which may be made based upon the Contractor's examining physician's report. It is imperative that reasonable steps be taken by the Contractor to accurately identify the individuals presenting themselves for evaluation. In confirming the identity of individuals to be examined, EHS considers the following to be acceptable forms identification documentation to be used by the Contractor for such purposes:

- United States passport;
- Certificate of United States citizenship;
- Unexpired foreign passport;
- State-issued driver's license or I.D. card with a photograph or information, including name, sex, date of birth, height, weight, and color of eyes;
- US military card;
- Alien Registration Receipt Card INS Form I-551;
- Temporary Resident Card, INS Form I-688;
- School identification card with photograph;
- Voter's registration card;
- Identification card issued by federal, state, or local government agencies;
- Military dependent's identification card; or
- United States Coast Guard Merchant Mariner card.

§3.03.2 Provision of Medical Reports

The report of the medical evaluation by the Contractor's medical examiner to the designated EHS physician must at a minimum contain the following elements for the types of examinations listed below:

- (1) All Examinations (Occupational Health Examinations; Mandatory Health Examinations; Preplacement Examinations; and OCA Preplacement Examinations)
 - a) All results of the history, examination, ancillary tests, discussions and conclusions must be submitted to EHS or OCA and must conform to accepted professional standards and practices.

- b) Included on every form, test report and any other material must be the name and an identifying number, either EHS account or social security number, of the examined individual.
- c) All reports must be personally reviewed and signed by the Contractor's medical examiner who actually performed the examination. This attests to the fact that the examiner who conducted the examination is solely responsible for the report contents and for the conclusions, explanations or comments provided with respect to the history, examination and evaluation of diagnostic test results. The Contractor's medical examiner's signature on a report annotated "not proofed" or "dictated but not read" is not acceptable. The examiner's rubber stamp signature or a signature entered by another examiner, nurse, or any other person is not acceptable. The Contractor's examiner's name must be typed at the end of the report below the signature.

Reports of preplacement examinations that were not performed by a physician must be countersigned by the Contractor's physician assuming responsibility for the evaluation's accuracy, completeness and conformance with the requirements stated in this RFP and accepted medical practices.

- d) The Contractor's examiner performing the examinations must be available during the Contractor's normal working hours for telephone discussions to clarify or to answer any question regarding the report. Written responses must be received within 48 hours of the EHS inquiry.
- e) Complete confidentiality of each individual's information must be maintained. Reports and test results must not under any circumstances be released to the individual or his or her employer except with the prior written direction of EHS, except as noted below.
- f) It is the responsibility of the Contractor's examiner to notify the examined individual of all significant abnormalities either at the time of the examination or subsequently. The examiner must also advise the examined individual of any need for follow-up care (for most abnormalities that are not related to the individual's work, the individual is referred to his/her physician for follow-up). A copy of any abnormal ancillary test should be provided to the individual.
- g) The examined individual should not be advised of (1) whether s/he meets the medical standard for preplacement exams; (2) whether s/he meets the certification requirements for a mandatory health or occupational health exam; and (3) the examiner's opinion regarding the individual's fitness to work for an agency.
- h) The Contractor shall not provide any reports, test results or opinions to the referring State agency unless specifically directed by the EHS to do so. Any requests for information from the referring State agency should be directed to the EHS.

(2) Occupational Health Examinations

- a) If a History and Physical is ordered, then a complete occupational and medical history and complete physical examination report must be provided by the Contractor. The Contractor may use EHS form EHS-728A,

Medical History Questionnaire for Occupational Health Examination (see RFP [ADDENDUM 6](#) for a copy of the form).

- b) A copy of all ancillary tests performed must be provided by the Contractor including:
 - i. ECG with interpretation;
 - ii. PFTs with interpretation, comparison to previous PFTs performed on the individual by the Contractor and completion of the EHS form EHS-781, Respirator Questionnaire (see RFP [ADDENDUM 7](#) for a copy of the form);
 - iii. X-ray reports including completion of the Public Health Service Roentgenographic Interpretation Form OMB No. 0920-0020, Interpretation of X-ray (see RFP [ADDENDUM 8](#) for a copy of the form), or an equivalent form, if a B-reading chest x-ray is ordered;
 - iv. Vision tests;
 - v. Audiograms with completion of an audiologic history; and
 - vi. Bloodwork, urinalysis, drug screens, and any other laboratory tests.
- c) A completed copy of any required OSHA forms such as the lead, asbestos, or respirator questionnaires must be provided by the Contractor.
- d) A copy of form EHS-701.3, Employer Medical Examination Report (see RFP [ADDENDUM 1](#) for a copy of the form) must be provided by the Contractor. All sections pertinent to the particular examination must be completed. The medical examiner must identify any abnormalities that may be the result of the employee's exposure to physical, chemical and/or biologic agents. The examiner must also indicate their recommendations for further evaluation and/or remediation for every such abnormality noted. The medical examiner must not place any medical information concerning the examined individual on this form unless the abnormality is related to the individual's workplace exposures.

(3) Mandatory Health Examinations

- a) The same information will be required as for Occupational Health Examinations. In addition, the medical examiner may be required to certify whether the examined individual is fit to perform the duties required of their position; in such cases, completion of a certification form such as [ADDENDUM 5](#) will be required.

(4) Preplacement Examinations

- a) The Contractor's medical examiner must provide a completed medical history and physical examination report. The EHS form EHS-728B, Medical History Questionnaire for Preplacement and Referral Examinations (see RFP [ADDENDUM 9](#) for a copy of the form), may be used for this purpose.
- b) A copy of all ancillary test reports must be provided by the Contractor.
- c) A copy of all consent forms signed by the individual must be provided by the Contractor.
- d) The Contractor's medical examiner's opinion as to whether the candidate meets the announced medical and physical standards established for the

position must be provided by the Contractor. If the examiner determines a candidate does not meet the standards, he/she must specifically indicate what standard is not met, the medical reasons why the standard is not met, and what action the candidate must take to attempt to meet the standard. The examiner must complete a qualification form such as EHS-13 (See RFP [ADDENDUM 3](#) for a copy of the form).

(5) Preplacement Examinations for Office of Court Administration (OCA) Court Officer Candidates:

- a) The Contractor's medical examiner must provide a completed medical history and physical examination report.
- b) A copy of all ancillary test reports must be provided by the Contractor.
- c) A copy of all consent forms signed by the individual must be provided by the Contractor.
- d) The Contractor will be required to certify in writing, whether on the day of the medical examination, the eligible candidate is authorized to participate in a follow-up physical ability examination. It is understood that eligible candidates cleared to participate may ultimately be rejected in accordance with the results of laboratory tests for blood chemistry and urinalysis. (See [ADDENDUM 13](#) for a copy of the form to be used by the Contractor.)
- e) Final written determination of an eligible candidate's medical qualification, including results of the aforementioned laboratory tests, shall be reported by the Contractor to the Office of Court Administration Personnel Office within ten (10) working days of the medical examination. The composition of the report shall be in a format agreed upon by OCA and the Contractor.
- f) In cases where a candidate is disqualified, the report provided by the Contractor shall indicate:
 - i. All disqualifying factors;
 - ii. Where appropriate, specific actions required by the eligible candidate to correct the condition, and
 - iii. The specific type of medical examination required to verify that the condition(s) have been corrected.

§3.03.3 Time Frame for Reports

Final reports are to be received by EHS or OCA within the specified time frames as specified below:

- (1) Occupational Health Examinations Final Report Due Date: COB 14 Calendar Days from the date of the exam
- (2) Mandatory Health Examinations Final Report Due Date: COB 14 Calendar Days from the date of the exam
- (3) Preplacement Examinations Final Report Due Date: COB 7 Calendar Days from the date of the exam⁽¹⁾
- (4) For OCA Preplacement Examinations Final Report Due Date: COB 10 Business Days from date of the exam

⁽¹⁾ Whenever possible, reports for preplacement exams should be faxed to EHS or OCA. If a final report cannot be made available to EHS or OCA

within the specified time frame, EHS or OCA must be notified as to why and as to when the final report will be provided. The list of acceptable reasons for not meeting the required time frame include (a) examiner waiting for medical records from the individual's physician; (b) examiner waiting for results of a subspecialty exam scheduled after the initial exam; and (c) the individual needs to return for retesting. Other acceptable reasons are to be determined on a case-by-case basis at the sole discretion of EHS or OCA.

§3.03.4 Release and Disclosure of Medical Information

(1) Medical information and records obtained or created by the Contractor can only be released to EHS or OCA or the examined individual as described in [§3.03.4](#) of the RFP and the terms and conditions of the Contract. The Contractor may not release information to the individual's employing agency. Release of medical information generated pursuant to the Contract to third parties is subject to the Department's regulations at 4 NYCRR, Part 82, which prohibits the release of such information except in the following circumstances:

- a) Upon written authorization of the subject of the records on a form prepared by the Department (see * below);
- b) When required by law or court order, provided that notification is made to the subject of the record prior to such disclosure, unless such notification is prohibited by law; and
- c) Under no circumstances shall medical records or their contents be released directly to a State agency (other than EHS or OCA) unless such release is mandated by statute.

(* It is the Contractor's responsibility to obtain the signature of all individuals referred by EHS on an EHS-742.4 - Authorization for Release and Disclosure of Medical Information to a State Agency form (See RFP [ADDENDUM 4](#) for a copy of the form). Without the signed authorization from these individuals, EHS cannot release information back to the employee's agency or to other State agencies, such as the State Insurance Fund, who may need access to this information. Therefore, if an individual refuses to sign the authorization form, the Contractor is instructed not to conduct the examination. If an examination is conducted without obtaining the proper authorization, the Contractor will **not** be reimbursed for the service.)

- (2) Additionally, the use and disclosure of personal health information by the Contractor will be subject to the Health Insurance Portability and Accountability Act (HIPAA) requirements.
- (3) All requests for release of medical information to third parties (i.e., the examined individual's doctor or lawyer) must be forwarded to EHS, immediately upon receipt, for EHS review and authorization prior to the release of said information.

§3.03.5 Appointment Scheduling

- (1) All occupational health, mandatory health and preplacement examinations, with the exception of Court Officer preplacement examinations, will be scheduled with the Contractor by EHS. The Contractor shall not schedule examinations directly for a Customer Agency, with the exception of the

Office of Court Administration as regards Court Officer preplacement examinations.

- (2) The Contractor shall schedule and conduct occupational health, mandatory health and preplacement examinations, including OCA preplacement examinations, within seven (7) Business Days from receipt of notification from EHS that a given examination is required, unless a different date is agreed to by EHS on a case-by-case basis.
- (3) All appointments shall be scheduled by the Contractor so that adequate time is spent by the examiner to provide a complete examination according to standard medical practices. Appointments must be scheduled to minimize waiting time for individuals referred to the Contractor by EHS.
- (4) If practicable, ancillary testing must be scheduled to be performed on the same day as the physical examination and at the same site, except where otherwise specifically approved by EHS.
- (5) A Consultant Examination Request and Authorization Form (See RFP [ADDENDUM 10](#) for a copy of the form) signed by the designated EHS physician will be sent to the Contractor authorizing the Contractor to conduct a medical evaluation and specifying services expected to be included in the examination. The Contractor shall not conduct a medical evaluation unless said form is received by the Contractor from the designated EHS physician.
- (6) Authorization to perform any additional tests or consultations which the examiner feels are medically indicated (but which have not been ordered on the Consultant Examination Request and Authorization Form), must first be obtained from EHS by the Contractor. Failure to obtain this authorization may result in denial of payment for such additional tests or consultations.

§3.03.6 Conflict of Interest:

- (1) All appearances of possible conflicts of interest must be avoided. The Contractor, Contractor's agent or any other individual rendering a decision or opinion concerning an individual referred by EHS must not have any familial, financial, doctor/patient or other relationship to that individual. The Contractor or the Contractor's employees may not accept the referred individual as a patient or render health care for a work related problem except as indicated under "Occupational Health Examinations" in the paragraph below.

When an Occupational or Mandatory Health Examination and/or testing reveal health problems that are related to the job task, the abnormality shall be clearly documented and further investigation of the problem shall be initiated as directed by the condition and in accordance with EHS protocols with the Contractor. The individual shall have access to the referral physician of choice. However, in the event that the individual requests assistance in obtaining proper additional care, the Contractor's examining physician shall endeavor to assist the individual in obtaining an appropriate unbiased consultant. The Contractor or the Contractor's agent shall not provide follow-up treatment or other health care unless:

- (a) the Contractor is established as the individual's primary care provider prior to the discovery of a work-related health problem; or

- (b) the Contractor or the Contractor's agent is clearly the best health care provider to address the health issue and is the choice of the individual.

§3.03.7 Facility Requirements:

- (1) The Contractor shall provide facilities for EHS and OCA clients to be evaluated.
- (2) The Contractor's facilities must be accessible to disabled individuals in accordance with the Americans with Disabilities Act. Such facilities shall include the following requirements, at a minimum:
 - entrance to building usable by wheel-chaired persons;
 - toilet usable by disabled persons;
 - doors used by disabled persons must be at least 32" wide; and
 - elevators, if more than the first floor will be used by disabled persons.

All the Contractor's facilities must meet New York State and Federal regulations. All testing equipment must meet all New York State and Federal regulations for certification (including all x-ray and laboratory equipment).

§3.03.8 Staffing Requirements:

- (1) The Contractor must designate a single account executive ("Project Manager") accountable to the State and responsible for ensuring that the needs of the State are met, including scheduling clients, coordinating activities with EHS or OCA, and resolving contractual or administrative issues, including but not limited to billing and scheduling problems and notifying the Department of any actual or anticipated events impacting the delivery of Project Services and present options available to minimize or eliminate the impact of those events on the delivery of Project Services.
- (2) The Contractor's and Key Subcontractor's, if any, Medical staff assigned to perform Project Services under the Contract must have a professional, competent and comprehensive understanding of occupational medicine. All physicians, physician's assistants and nurse practitioners must be licensed in NYS. All subspecialty physicians must be board eligible or certified in that particular specialty.
- (3) The Contractor's and Key Subcontractor's, if any, Technical staff assigned to perform Project Services under the Contract must be 1) properly trained, 2) competent to perform the required testing and 3) meet all applicable New York State and Federal regulations.
- (4) The Contractor must make necessary Medical and Technical staff assigned to perform Project Services under the Contract available for occasional training by EHS at no additional cost to the DCS.

§3.03.9 Insurance Requirements

a. Workers' Compensation:

As of the start date of the Contract and through out its entire term, the Contractor, and its Key Subcontractor(s), if any, must have at least the minimum standard policy or policies covering the obligations of the Contractor and its Key Subcontractors required under the New York Workers' Compensation Law.

b. Medical Professional Liability or Malpractice Insurance:

As of the start date of the Contract and through out its entire term, the Contractor must have in effect, at a minimum, a standard policy of medical professional liability or malpractice insurance affording coverage for the Contractor and each Key Subcontractor, wherein the person(s) insured include any authorized individual of the named insured including all physicians, physician's assistants, nurse practitioners, nurses, technicians and other personnel employed on a full-time, part-time, per diem, contract or retainer basis, while acting in the scope of his or her duties, subject to a minimum limit of liability in the amount of \$1,000,000 each claim, with annual aggregate of \$3,000,000.

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SECTION 4 PROPOSAL SUBMISSION REQUIREMENTS**§4.01 OVERVIEW**

The Department will accept Proposals only from qualified Offerors and will consider for evaluation only those Proposals that it determines to be in compliance with the submission requirements set forth in the RFP, including the Proposal Submission Requirements set forth in this [Section 4](#) of the RFP.

Each Offeror's Proposal must be submitted in hard copy in accordance with the instructions in RFP [Section 2](#) and may not be submitted by phone, e-mail or facsimile. The Proposal must contain three (3) distinct parts as follows:

Administrative Proposal	(RFP §4.02 , below)
Technical Proposal	(RFP §4.03 , below)
Financial Proposal	(RFP §4.04 , below)

§4.02 ADMINISTRATIVE PROPOSAL

****DO NOT INCLUDE ANY COST DATA IN THE ADMINISTRATIVE PROPOSAL****

SUBMISSION INSTRUCTIONS:

The Offeror's Administrative Proposal must contain responses to all of the following items as set forth below (i.e., [§4.02.1](#) through [§4.02.11](#)) and should be in the order and format specified, using the forms set forth in RFP [Exhibit A](#) through [Exhibit L](#) and presented in the order enumerated below. (Note: Additional details pertaining to most of the required forms are found in RFP [§2.02](#) entitled, "[Compliance With Applicable Rules, Laws, Regulation & Executive Orders.](#)")

§4.02.1 Formal Offer Letter

At this part of its Administrative Proposal, the Offeror must submit a formal offer in the form of the "[Formal Offer Letter](#)" as set forth in RFP [Exhibit A](#). The formal offer must be signed and executed by an individual with the capacity and legal authority to bind the Offeror in its offer to NYS. The Offeror must accept substantially the terms and conditions as set forth in RFP [Section 6](#); as well as the terms and conditions set forth in RFP Appendices A through D, and agree to enter into a contractual agreement containing, at a minimum, the terms and conditions identified in the section and appendices as cited herein. If an Offeror proposes to include the services of any Key Subcontractor(s), the Offeror shall be required to assume responsibility for those services as "Prime Contractor." DCS will consider only the Prime Contractor in regard to contractual matters. **(The Offeror is further requested to enclose a copy of its [Formal Offer Letter](#) at the front of the Offeror's Technical and Financial Proposals.)**

§4.02.2 Offeror Qualification Certification

At this part of its Administrative Proposal, the Offeror must complete and submit an executed copy of RFP [Exhibit B](#), entitled "[Offeror Qualification Certification](#)", demonstrating that it meets or exceeds the criteria for eligibility to bid as set forth in [§1.02](#) of the RFP. A person legally authorized to represent the Offeror must execute this certification.

§4.02.3 Compliance with Public Officers Law Requirements

At this part of its Administrative Proposal, the Offeror must submit an executed copy of RFP [Exhibit C](#), entitled "[Compliance with Public Officers Law Requirements](#)". A person legally authorized to represent the Offeror must execute this affirmation.

§4.02.4 Proposal Submission Requirements Checklist

At this part of its Administrative Proposal, the Offeror should complete and submit RFP [Exhibit D](#), entitled “[Proposal Submission Requirements Checklist](#)”.

§4.02.5 Participation by Minority Group Members and Women With Respect to State Contracts

At this part of its Administrative Proposal, the Offeror must complete and submit the following forms:

- EEO Staffing Plan (form EEO-100) - [Exhibit E](#);
- Certification of Good Faith Efforts (form MWBE-104) - [Exhibit F](#); and
- MWBE Utilization Plan (form MWBE-100) - [Exhibit G](#)

§4.02.6 Compliance with Americans with Disabilities Act

At this part of its Administrative Proposal, the Offeror must submit an executed copy of RFP [Exhibit H](#), entitled “[Compliance with Americans with Disabilities Act](#)”. A person legally authorized to represent the Offeror must execute this certification.

§4.02.7 MacBride and Non-Collusive Bidding Certification

At this part of its Administrative Proposal, the Offeror must complete and submit an executed copy of RFP [Exhibit I](#), entitled “[MacBride and Non-Collusive Bidding Certification](#)”. A person legally authorized to represent the Offeror must execute this certification.

§4.02.8 New York State Standard Vendor Responsibility Questionnaire

At this part of its Administrative Proposal, the Offeror must complete and submit an executed copy of RFP [Exhibit J](#), entitled “[New York State Standard Vendor Responsibility Questionnaire](#)”. A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Offeror is proposing the use of “Key Subcontractors” (i.e., part of the Offeror’s proposed Project Management Team), the Offeror must submit completed [Exhibit J](#) for each Key Subcontractor executed by a person legally authorized to represent the subcontractor. For more information regard the Questionnaire, including electronic filing of the Questionnaire in OSC’s VendRep system see RFP [§2.02.6](#).

§4.02.9 Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k(5)

At this part of its Administrative Proposal, the Offeror must complete and submit RFP [Exhibit K](#), entitled “[Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k\(5\)](#)”. A person legally authorized to represent the Offeror must execute this affirmation.

§4.02.10 Financial Capacity

At this part of its Administrative Proposal, the Offeror must provide a bank reference to attest to the Offeror’s financial capacity. (Note: For purposes of this reference, the Offeror may not give as a reference a parent or subsidiary company, a partner or an affiliate organization. For the purpose of this requirement, “affiliate” means an organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another organization, is controlled by another organization, or is, along with another organization, under the control of a common

parent.) The letter must include the bank's name, address, contact person name and telephone number and it must address, at a minimum, the following items:

- a) a brief description of the business relationship between the parties (i.e., the Offeror and the bank), including the duration of the relationship and the Offeror's current standing with the bank. For example: "The Offeror is currently and has been for "x" number of years a client in good standing.";
- b) a description of any ownership/partner relationship that may exist between the parties, if any. (Note: One party cannot be the parent, partner or subsidiary of the other, nor can one party be an affiliate of the other); and
- c) any other facts or conclusions the bank may deem relevant to the State in regard to the bank's assessment of the Offeror's financial capacity, stability, and creditworthiness considering the nature and scope of the Project Services to be rendered and which are the subject matter of this RFP, and the parties' (i.e., DCS and the Offeror) contractual obligations assuming the Offeror were awarded a contract as a result of the RFP.

§4.02.11 Freedom of Information Law – Request for Redaction Chart

At this part of its Administrative Proposal, the Offeror should complete and submit RFP [Exhibit L](#), entitled "[Freedom of Information Law – Request for Redactions Chart](#)". If an Offeror believes that any information in its Proposal constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to FOIL, Article 6 of the Public Officers Law, the Offeror must make that assertion by completing RFP [Exhibit L](#). The Offeror must specifically identify by page number, line, or other appropriate designation, the specific information requested to be protected from FOIL disclosure and the specific reason why such information should not be disclosed. Page 2 of [Exhibit L](#) contains information regarding appropriate justification for protection from FOIL disclosure.

If the Offeror chooses not to assert that any information in its Proposal should be protected from FOIL disclosure, the Offeror should so advise the Department by checking the applicable box on RFP [Exhibit L](#) and enclosing the form at this part of the Offeror's Administrative Proposal.

§4.02.12 Requested Redactions CD and Hard Copy

The FOIL-related materials described in RFP [§2.02.8](#) (i.e., the **Requested Redactions CD and Hard Copy** labeled "Proposal - Requested Redactions") will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation process. Notwithstanding this, Offerors are requested to enclose the "Proposal - Requested Redactions" hard copy and CD requested per RFP [§2.02.8](#), in the box/envelope containing the Offeror's Administrative Proposal.)

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§4.03 TECHNICAL PROPOSAL****DO NOT INCLUDE ANY COST DATA IN THE TECHNICAL PROPOSAL******SUBMISSION INSTRUCTIONS:**

The Offeror's Technical Proposal should contain responses to all of the following sections as set forth below (i.e., [§4.03.1](#) through [§4.03.5](#)) in the formats as specified and, as applicable, using the forms set forth in RFP [Exhibit M](#) through [Exhibit R](#) and in the order enumerated below. (Offeror is requested to enclose a copy of its [Formal Offer Letter](#) at the front of the Offeror's Technical Proposal.)

§4.03.1 Organizational Overview

The Offeror must possess the administrative and organizational capacity, experience and expertise to provide the required Medical Examination Services; and, the administrative structure to oversee the billing, payment and processing of invoices to the Department for work performed under the Contract. To demonstrate that it meets or exceeds these requirements, at this part of its Technical Proposal, the Offeror should submit an Executive Summary that includes:

- (1) The name and address of the Offeror's main and branch offices and the name of the senior officer responsible for this account;
- (2) A statement as to which Geographic Region(s) the Offeror Proposal is for,
- (3) A succinct statement outlining corporate/business history including a general mission statement and other general information about the firm in support of the Offeror's representation that it has maintained an organization capable of performing the work specified in the RFP in continuous operation for at least the past three (3) years and that it has provided services comparable to the Project Services outlined in this RFP
- (4) A concise description of the Offeror's understanding of the requirements presented in the RFP and a detailed description as to how the Offeror proposes to meet the Contractor requirements as set forth in Section III of the RFP and perform the services set forth therein.
- (5) A succinct statement explaining previous experience providing the Medical Examination Services, to other organizations with services needs comparable in scope to those as set forth in this RFP. and detail how that experience, in general and specifically in regard to the clients given as Client References in response to RFP [§4.03.3](#) below, qualifies the Offeror and, if applicable, any subcontractors, to perform the required Project Services.
- (6) An explanation as to how the Offeror proposes to handle administrative responsibilities, such as the billing and invoicing of charges for services to the Department, including a description of how the Offeror will ensure that only accurate and complete billing of charges are submitted to the Department;

- (7) The Offeror shall provide a statement as to the existence of, absence of, or potential for conflict of interest on the part of the Offeror due to prior, current, or proposed contracts, engagements, or affiliations; and
- (8) The Offeror shall provide a statement attesting to its satisfaction of the Insurance Requirements set forth in the Section [§3.03.9](#) of this RFP.

§4.03.2 Key Subcontractors

At this part of the Offeror's Technical Proposal, the Offeror must identify all Key Subcontractors (as defined in RFP [Section 7](#)), if any, that the Offeror will be subcontracting with to provide Project Services. For each Key Subcontractor identified, the Offeror should complete and submit RFP [Exhibit M](#), entitled "[Key Subcontractors](#)" and indicate whether or not, as of the date of the Offeror's Proposal, a subcontract has been executed between the Offeror and the Key Subcontractor for services to be provided by such subcontractor relating to the RFP.

If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Offeror should provide a statement to that effect at this part of its Technical Proposal.

§4.03.3 Client References

At this part of the Offeror's Technical Proposal, the Offeror must provide information regarding two (2) references ("Client References") comprised of preferably one current and former client of the Offeror to substantiate that the Offeror has performed, in an acceptable manner, medical diagnostic and examination services comparable in scope and quantity to those as set forth in this RFP.

If the Offeror is proposing to use the services of a Key Subcontractor(s) to perform a portion(s) of the required Project Services, then the Offeror must, for each Key Subcontractor, provide information regarding two (2) Client References comprised of preferably one current and one former client of the Key Subcontractor to substantiate that the Key Subcontractor has performed, in an acceptable manner, services comparable in scope and quantity to those as set forth in this RFP. (At a minimum, one (1) of the two (2) Client References should be a former client of the Key Subcontractor.)

For each Offeror Client Reference and each Key Subcontractor, if any Client References provided, the Offeror should complete and submit RFP [Exhibit N](#), entitled "[Client References](#)". (Note: For each Client Reference, the Offeror shall be solely responsible for providing current and accurate contact information, including contact names, email addresses and phone numbers that are readily available to be contacted by NYS.)

§4.03.4 Project Services

At this part of the Offeror's Technical Proposal, the Offeror is to complete and submit:

- i. [Exhibit P](#) entitled, “[Biographical Sketch Form](#)” for the individual designated by the Offeror to serve as the Offeror’s Project Manager, as required per RFP [§3.03.8](#). The Offeror should also complete and submit, RFP [Exhibit P](#) entitled, “[Biographical Sketch Form](#)” for each Medical and Technical staff member listed in the [Medical and Technical Staff Roster](#) described below.
- ii. [Exhibit O](#) entitled, “[Medical and Technical Staff Roster](#)” listing the Offeror’s proposed Medical and Technical staff members, including Key Subcontractor provided Medical and Technical staff members, if any, as required per RFP [§3.03.8](#), that the Offeror is proposing to provide Project Services under the Contract.
- iii. At this part of its Technical Proposal, the Offeror should complete and submit [Exhibit Q](#) entitled “[Project Services Matrix](#)” detailing the Offeror’s compliance with and, as applicable providing descriptions of how the Offeror proposes to deliver Project Services as described in RFP. Please note that the exhibit provided in the RFP is an Adobe “pdf” file, a Microsoft Word Template version of the document is available upon request.

§4.03.5 Performance Guarantees

Offerors’ performance guarantee responses, including proposed penalty fee amounts for failure to meet the guarantee(s), are not considered to be cost information and. Therefore, should be stated in the Offeror’s Technical Proposal. At this part of its Technical Proposal, the Offeror must complete [Exhibit R](#), entitled “[Performance Guarantees](#)” stating the Offeror’s agreement to the following minimum guarantees and, if applicable, stipulated penalty amount or, if applicable, proposing penalty amount(s), expressed as a fixed per day dollar amount, for failure to meet the guarantee(s). Failure to agree to the following minimum guarantees and stipulated penalty amounts, if applicable or, if applicable, to propose an associated penalty fee amount(s), expressed as a fixed per day dollar for failure to meet the guarantee(s), may result in the Offeror being deemed non-responsive and eliminated from further consideration.

a. Appointment Scheduling Guarantee

Those Offerors proposing to provide Project Services are required to complete [Exhibit R Appointment Scheduling Guarantee](#) stating the Offeror’s agreement (or not) to meet the following Appointment Scheduling Guarantee and the stipulated penalty amounts for failure to meet the guarantee.

“The Contractor guarantees that each occupational health and preplacement examination, including OCA preplacement examinations, shall be scheduled and conducted within seven (7) Business Days from the date the Contractor is notified by EHS that a given examination is required, unless a different duration is agreed to by EHS on a case-by-case basis. For each Business Day that elapses, after the seventh (7th) Business Day from the date the Contractor is notified by EHS that a given examination is required, until the examination is scheduled and

conducted by the Contractor, the Contractor shall pay the Department one seventh of the contracted fee for the associated examination, up to an aggregate total penalty amount equal to the contracted fee for the associated examination. Said total aggregated penalty is based on the assumption that the examination is conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required. In those cases, if any, where the examination is not scheduled and conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required, the Department reserves the right to have the examination performed by third party, in which case the total aggregate penalty amount that the Contractor shall pay the Department shall be equal the sum of the cost incurred by the Department to have the examination performed by the third party, plus the amount of the contracted fee for the associated examination. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the appointment scheduling guarantee for a given appointment is attributable solely to the individual for whom the examination is to be performed e.g., examination is scheduled with an individual and the individual fails to show up for the appointment within a reasonable period from the appointed time.”

b. Time Frame for Reports Guarantee

Those Offerors proposing to provide Project Services are required to complete [Exhibit R Time Frame for Reports Guarantee](#) stating the Offeror’s willingness to guarantee (or not) that the Final Reports for the Occupational Health; Mandatory Health; Preplacement and OCA Preplacement Examinations shall be received by EHS or OCA, as applicable within their associated deadlines as set forth in RFP [§3.03.3.a](#). The Offeror must propose a penalty for failure to meet the above guarantee and the guarantee must be proposed in the following format:

“The Contractor guarantees that the Final Reports for the Occupational Health; Mandatory Health; Preplacement and OCA Preplacement Examinations shall be received by EHS, or OCA, as applicable within their associated deadlines as set forth in RFP [§3.03.3.a](#). For each twenty-four (24) hour period, or part thereof, that a Occupational Health; Mandatory Health; Preplacement or OCA Preplacement Examinations Final Report is not provided to EHS or OCA, as applicable by the report’s due date, the Contractor shall pay the Department \$___ per day, until such time that the report is provided to EHS, up to an aggregate total penalty amount of \$___ for each such occurrence of Contractor non-performance. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the performance guarantee for a given report is

due to the fact that the examiner is waiting for medical records from the individual's physician; the examiner is waiting for results of a subspecialty exam scheduled after the initial exam; the individual needs to return for retesting, or for other reasons as determined by Department on a case-by-case basis to be, in the Department's sole discretion, acceptable.

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§4.04 FINANCIAL PROPOSAL

SUBMISSION INSTRUCTIONS:

The Offeror's Financial Proposal must respond to all of the following mandatory sections as set forth below in the formats as specified and, as applicable, using the forms set forth in RFP [Exhibit S](#), in the order enumerated below. The Offeror's Financial Proposal must be based upon the Pricing Assumptions and the instructions as set forth in [§4.04](#). Offerors, in developing their Financial Proposal are to assume the following:

General Pricing Assumptions:

1. The Fixed Fees proposed by the Offeror must be inclusive of all direct and indirect costs, overhead and travel expenses, fees and profit.
2. The sole compensation for the Contractor under the Contract will be payments based on pricing indicated in the Contractor's Financial Proposal.
3. The Contractor shall invoice, in arrears, for Project Services rendered, together with full supporting detail(s) to the State's reasonable satisfaction.
4. OSC shall render payment for invoices under the Contract in accordance with ordinary State procedures and practices. The Contractor shall certify the accuracy of all Contractor invoices prior to their submission and the State will make best efforts to process all acceptable invoices within thirty (30) days of their receipt; however, failure to make payment within said timeframe shall not be considered a breach of contract. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law. Submission of an invoice and payment thereof shall not preclude the Department from reimbursement or demanding a price adjustment in any case where Project Services as delivered are found to deviate from the terms and conditions of the Contract.

The Financial Proposal must contain the following information, in the order enumerated below. **(Offeror is requested to enclose a copy of its [Formal Offer Letter](#) at the front of the Offeror's Financial Proposal.)**

§4.04.1 Medical Examination and Test Services Quotation Form

Those Offerors proposing to provide Project Services must complete and submit RFP [Exhibit S](#). The pricing structure is such that the Contractor must propose a fixed, all-inclusive fee for performing occupational health, mandatory health and preplacement examinations, including the cost of completing the appropriate occupational/medical history and the associated required forms. The fixed fee to perform an ancillary test(s) as ordered by EHS will be added to the cost of the basic examination performed. The fee proposed for OCA preplacement examinations must include the cost of all required diagnostic and laboratory procedures (i.e., inclusive of all the requirement and services contained in [ADDENDUM 11](#)).

For Offerors offering to perform Project Services in more than one Geographic Region, a separate "**Medical Examination and Test Services Quotation Form**" should be completed and submitted for each region, and the cost and availability of services in the region should be clearly indicated.

Fees should be quoted for each of the individual items listed for each of the five years. The Offeror must, at a minimum, quote a fixed fee for each service designated as "Mandatory" ("M") for each year of the five year term of the Contract for the delivery of Project Services as set forth the RFP [Section 3](#). If an Offeror is unable to provide a service designated as "Optional" ("O") indicate on the form that this service is not available by indicating "N/A" under the associated fee. While it is not necessary for an Offeror to provide all services, an Offeror's inability to offer those services designated as "Mandatory" will result in rejection of the Offeror's Proposal.

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SECTION 5 METHOD OF EVALUATION

§5.01 EVALUATION/SELECTION PROCESS

The Department intends to select those responsive and responsible Offerors whose Proposals offer the best value to the Department and NYS for the purpose of entering into negotiations for the execution of a Contract. The Department will evaluate Offerors' Proposals in accordance with the evaluation methods, procedures, and criteria as set forth in [Section 5](#) of the RFP. Pursuant to Article XI of the State Finance Law, the basis for award shall be on a "Best Value" basis. As defined in New York State Finance Law, Article 11, "Best Value" means the basis for awarding contracts to a responsible and responsive Offeror whose offer optimizes quality, cost and efficiency, and which is consistent with the best interests of the State of New York. The award shall be based on the objective and quantifiable analysis as described in [Section 5](#) of the RFP, with **sixty percent (60%)** of the overall award based on the Offeror's Technical Proposal and **forty percent (40%)** of the overall award based on the Offeror's Financial Proposal.

The Department shall evaluate Proposals in an objective, comprehensive manner designed to benefit both NYS and participating Offerors. Through this process, the Department shall identify those Offerors who best meet the Department's needs and in a cost-effective manner. The Department intends that all Proposals will be evaluated uniformly and consistently, providing Offerors an equal opportunity to be considered.

For the purpose of its evaluation, the Department may seek assistance from any person, other than one associated with a competing Offeror.

During the evaluation process, the Department may require clarifying information from an Offeror for the purpose of assuring the Department's full understanding of the Offeror's responsiveness to the RFP requirements. This clarifying information must be submitted in writing and in accordance with the formats set forth in [Section 2](#) of the RFP, and shall be included as a formal part of the Offeror's Proposal. Failure to provide any required information by the due date set forth in the Department's request for clarification may result in rejection of the Offeror's Proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon the Department to seek or allow clarifications provided for herein. The Department may, at its sole discretion, elect to perform Management Interviews, including interviews of any or all individuals list in the Offeror's [Exhibit O](#), "[Medical and Technical Staff Roster](#)" submission of any or all Offerors. The Department also may, at its sole discretion, elect to perform Site Visits with any or all Offerors. The Procurement Manager will coordinate the necessary scheduling of these events.

Proposals accepted in response to the RFP shall be evaluated and scored subject to the following evaluation process (Note: All scores will be calculated to the hundredth decimal place.):

1st Level: Pass /Fail Screening

Each Proposal will be screened on a pass/fail basis for completeness and conformance to the submission requirements stated in the RFP. Proposals that do not pass this 1st Level Pass/Fail Screening will be deemed non-responsive and removed from further consideration.

2nd Level: Technical Evaluation – 60% of Overall Score

The Technical Proposals of those Offerors who pass the 1st Level Pass/Fail Screening will be evaluated based on their content and responsiveness to the RFP requirements, including the Offeror's ability and willingness to deliver the Project Services described in

the RFP as bid by the Offeror and scored based on a weighted scoring system to calculate the Offeror's Technical Score by Geographic Region. The evaluation of the Offeror's Technical Proposal will be based on that Offeror's written Technical Proposal; responses to clarifying questions, if any; information obtained through reference checks, including its proposed subcontractors, if any; and may include Site Visits and Management Interviews of any or all of the individuals listed in the Offeror's [Exhibit O](#), "[Medical and Technical Staff Roster](#)" submission.

3rd Level: Cost Evaluation - 40% of Overall Score

The Financial Proposals of those Offerors who pass the 1st Level Pass/Fail Screening will be evaluated based on their content and responsiveness to the RFP's requirements and scored based on a weighted scoring system to calculate the Offeror's Cost Score. The evaluation of the Offeror's Financial Proposal will be based on that Offeror's written Financial Proposal and responses to clarifying questions, if any. The Offerors Financial Proposals will be scored by Geographic Region. If an Offeror provides Project Services in more than one Geographic Region, a separate Cost Score for each Geographic Region will be computed. The Department shall calculate a "**Total Projected Cost**" within a specific Geographic Region for each Offeror based upon the Offeror's rates as quoted over the entire four (4) year term of the Contract for a Geographic Region and predetermined work load estimates for the Geographic Region. Offerors' Cost Scores will be calculated based on the following formula, with the lowest "Total Projected Cost" amount per Geographic Region receiving the maximum points:

$$\text{Cost Score} = \frac{40 \times \text{Lowest Total Projected Cost for the Geographic Region}}{\text{Total Projected Cost for the Geographic Region of Proposal being Scored}}$$

The Medical Examination and Test Services Quotation Form (Form 1) requests pricing for a number of "Optional" services for which workload estimates will not be included in calculating the Offerors' Total Project Cost for each Geographic Region as these services are requested very infrequently by EHS. However, it is important for EHS to understand whether a Contractor offers a specific service, as such services will be considered in the Technical Proposal evaluation process, and what the cost of the service would be if purchased by EHS from the Contractor.

The results of the second and third level evaluations will be combined to calculate a Total Combined Score by Geographic Region for each Offeror.

Final Proposal Ranking

The Offerors' Total Combined Scores by Geographic Region will be ranked with the highest Total Combined Score by Geographic Region ranked first. For each Geographic Region, the successful Offerors will be the top ranked Offeror whose Proposals represent the best value to the Department and the State of New York. **One vendor per region will receive a contract as a result of this procurement.**

Subsequent to the award, work will be assigned to a Contractor in a Geographic Region based on the best value ranking addressing such factors as an agency's need for timeliness and other service requirements and their associated cost. **The successful Offerors from this procurement will be grouped with the successful Offerors from the previous Medical Examination Services procurement when determining the best value ranking by region.**

SECTION 6 DRAFT CONTRACTUAL PROVISIONS

(Note: Items in section that are highlighted and in bold italics need to be updated after contract award)

AGREEMENT NO. [enter assigned Contract Number: CMXXXXX]

THIS Agreement effective July 1, 2014, is entered into by and between New York State Department of Civil Service ("Department" or "DCS"), having its principal office at the Alfred E. Smith Office Building, Albany, NY, 12239 and [enter firm's name] ("Contractor"), a corporation authorized to do business in the State of New York with a principal place of business located at [enter address], and collectively hereinafter referred to as "the Parties."

WITNESSETH

WHEREAS, the Employee Health Service ("EHS") division of the Department, provides to all NYS departments and agencies ("Customer Agencies") medical examination services mandated by Civil Service Law; and

WHEREAS, on January 9, 2014, the Department, on behalf of EHS and its Customer Agencies, issued a Request for Proposal entitled, "Medical Examination Services" ("RFP") to secure the services of qualified organizations to perform medical consultation and examination services as specified by the RFP for the benefit of the Department's EHS division and its Customer Agencies via "Corporate Contracts for Miscellaneous Services" type contracts; and

WHEREAS, after thorough review and evaluation by the Department of Proposals accepted in response to the RFP, the Contractor's Proposal was selected as representing "best value" to NYS; and

WHEREAS, the Department, in reliance upon the expertise of the Contractor, desires to engage the Contractor to perform medical examination services in [enter applicable Geographic Region], in the manner set forth in the RFP and the Contractor's Proposal, pursuant to the terms and conditions set forth in the Contract;

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, the Parties agree as follows:

ARTICLE I: CONTRACTOR RESPONSIBILITIES AND QUALIFICATIONS

1.1.0 The Contractor is responsible for providing Project Services, in such a manner so as to be in compliance with the requirements as set forth in the Agreement and the RFP and for meeting all contractual obligations set forth in this Agreement, including all exhibits, and any subsequent amendments mutually agreed to in writing between the Parties. Contractor acknowledges that the Agreement is being entered into by DCS in reliance on Contractor's representations concerning the particular qualifications, experience, financial standing, management expertise and technical expertise of the Contractor and its staff assigned and subcontractors, if any, engaged to provide Project Services under this Agreement.

Throughout the term of this Agreement, in the event that there is a substantial or material change, as defined below, in the ownership or financial viability of the Contractor, its corporate affiliates, subsidiaries or divisions, the Contractor is required to provide notice and details of any such change to DCS via written notice immediately when such is first known by Contractor, its corporate affiliates, subsidiaries or divisions, or subcontractors.

“Substantial” or “material” change shall be defined to include, but not be limited to, sale, acquisitions, mergers or takeovers involving the Contractor, its corporate affiliates, subsidiaries or divisions or partners which result in a change in the controlling ownership or assets of such entity after the submission of the Proposal; or entry of an order for relief under Title 11 of the United States Code; the making of a general assignment for the benefit of creditors; the appointment of a general receiver or trustee in bankruptcy of Contractor’s, its corporate affiliates, subsidiaries or divisions, or partners’ business or property; or action by Contractor, its corporate affiliates, subsidiaries or divisions, or partners under any state insolvency or similar law for the purposes of its bankruptcy, reorganization or liquidation; or court ordered liquidation against Contractor, its corporate affiliates, subsidiaries or divisions, or partners. Upon DCS’ receipt of such notice, DCS shall review the information.

The Contractor may not transfer the Agreement among corporate affiliates, subsidiaries or divisions or partners without the consent of NYS. In addition to any other remedies available at law or equity, NYS shall have the right to prospectively cancel the Agreement, in whole or in part for cause if it finds that such change materially and adversely affects the delivery of Project Services solely determined by the DCS with reference to the best interests of the State.

ARTICLE II: AGREEMENT DURATION AND AMENDMENTS

- 2.1.0 The term of the Agreement shall be for a period of commencing on July 1, 2014, through and including June 30, 2018. The term of the Agreement shall be for four years with an option to terminate, at the sole discretion of the Department, on June 30, 2016 and June 30, 2017. This Agreement is subject to the approval by the New York State Attorney General’s Office (“AG”) and the New York State Office of the State Comptroller (“OSC”).
- 2.2.0 The Agreement is subject to amendment(s) only upon consent of the Parties, reduced to writing and approval by the AG and OSC.

ARTICLE III: DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

- 3.1.0 The Agreement shall be composed solely of the following documents which, in the event of an inconsistency or conflicting terms, shall be given precedence in the order indicated:
- 3.1.1. Appendix A (Standard Clauses for All NYS Contracts), dated December 2012;
 - 3.1.2. Appendices B (dated December 2013), C (dated April 2006) and D of the RFP;
 - 3.1.3. Any Amendments to the body of the Agreement;
 - 3.1.4. The body of the Agreement;
 - 3.1.5. The RFP, other than Appendices A, B, C and D, as amended via the Department’s Official Responses to Offerors’ Questions dated **[enter official responses release date(s)]**; and
 - 3.1.6. The Contractor’s Proposal dated **[enter proposal date] [if any clarifications responses are provided add reference to them here]**.
- 3.2.0 Only documents expressly enumerated above shall be deemed a part of the Agreement, and references contained in those documents to additional Contractor documents not enumerated above shall be of no force and effect.

- 3.3.0 All prior agreements, representations, statements, negotiations and undertakings are superseded. All statements made by the Department shall be deemed to be representations and not warranties.
- 3.4.0 Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, corporation, or other entity, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of the Agreement.
- 3.5.0 The terms, provisions, representations, and warranties contained in the Agreement shall survive performance hereunder.

ARTICLE IV: LEGAL AUTHORITY TO PERFORM

- 4.1.0 The Contractor represents that the Contractor possesses the legal authority to perform Project Services in accordance with the terms and conditions of the Agreement.
- 4.2.0 The Contractor shall maintain appropriate corporate and/or legal authority, which shall include but is not limited to the maintenance of an administrative organization capable of delivering Project Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which the Project Services are to be delivered.
- 4.3.0 The Contractor shall provide the Department with immediate notice in writing of the initiation of any legal action or suit which relates in any way to the Agreement or which may affect performance of the Contractor's duties under the Agreement.

ARTICLE V PROJECT SERVICES

- 5.1.0 During the term of the Agreement, the Contractor will be responsible for the performance of medical examination services in [enter applicable Geographic Region], in the manner set forth in the RFP and the Contractor's Proposal, pursuant to the terms and conditions set forth in the Agreement and any and all other services/tasks as set forth in the Agreement.

ARTICLE VI: PERFORMANCE GUARANTEES

- 6.1.0 The Parties agree that the following guarantees and the corresponding penalty(ies) for failure to meet the guarantee shall be implemented effective July 1, 2014. The Contractor acknowledges and agrees that failure to perform a task(s) in such a manner which either meets or exceeds any and/or all of the associated Performance Guarantee(s) as set forth in this Article VI of the Agreement and/or fails to make any payment(s) of any such penalty(ies) for such failure to meet any Performance Guarantee(s) does not relieve the Contractor of the performance of the activities, duties and obligations as otherwise set forth in the Agreement. Payment for failure to meet the Turnaround Guarantees shall take the form of a credit against the associated task for which payment was due.
- 6.1.1 Appointment Scheduling Guarantee
The Contractor guarantees that each occupational health and preplacement examination shall be scheduled and conducted within seven (7) Business Days from the date the Contractor is notified by EHS that a given examination is required, unless a different duration is agreed to by EHS on a case-by-case basis. For each Business Day that elapses, after the seventh (7th) Business Day from the date the

Contractor is notified by EHS that a given examination is required, until the examination is scheduled and conducted by the Contractor, the Contractor shall pay the Department one seventh of the contracted fee for the associated examination, up to an aggregate total penalty amount equal to the contracted fee for the associated examination. Said total aggregated penalty is based on the assumption that the examination is conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required. In those cases, if any, where the examination is not scheduled and conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required, the Department reserves the right to have the examination performed by a third party, in which case the total aggregate penalty amount that the Contractor shall pay the Department shall be equal to the sum of the cost incurred by the Department to have the examination performed by the third party, plus the amount of the contracted fee for the associated examination. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the appointment scheduling guarantee for a given appointment is attributable solely to the individual for whom the examination is to be performed e.g., examination is scheduled with an individual and the individual fails to show up for the appointment within a reasonable period from the appointed time.

6.1.2 Time Frame for Reports Guarantee

For each twenty-four (24) hour period, or part thereof, that an Occupational Health; Mandatory Health; Preplacement or OCA Preplacement Examinations Final Report is not provided to EHS or OCA, as applicable, by the report's due date, the Contractor shall pay the Department:

[\$**FILL-IN BLANK**] per day, until such time that the report is provided to EHS or OCA, as applicable, up to an aggregate total penalty amount of:

[\$**FILL-IN BLANK**] for each occurrence of Contractor non-performance. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the performance guarantee for a given report is due to the fact that the examiner is waiting for medical records from the individual's physician; the examiner is waiting for results of a subspecialty exam scheduled after the initial exam; the individual needs to return for retesting, or for other reasons as determined by Department on a case-by-case basis to be, in the Department's sole discretion, acceptable.

- 6.2.0 Performance penalty amounts due from the Contractor to the DCS for failure to perform any task at its associated guarantee level as set forth above, and audit credit amounts, as determined pursuant to Section 27 of Appendix B, entitled "Audit Authority", shall be made at the time and in such amounts as determined by the DCS to be final. Upon such determination, the DCS shall notify the Contractor, in writing, and the Contractor shall apply a credit for such amounts against the subsequent invoice(s), or if such amounts exceed the amounts of subsequent invoices, pay such amounts to DCS.

ARTICLE VII: PAYMENT FOR SERVICES

- 7.1.0 The Contractor will be reimbursed for Project Services rendered in accordance with the provisions of this Article VII and the RFP, in particular RFP, Section 4.04, and RFP, Exhibit R, at the Fixed Fees as proposed by the Contractor in its Financial Proposal, less any credits due to the State for Contractor non-performance. The Contractor is not on retainer. The Contractor shall invoice the Department/Customer Agency, as applicable, in accordance with the provisions set forth herein, for Project Services rendered, together with full supporting detail(s) to the State's satisfaction.
- 7.2.0 After the Department and/or the Customer Agency, as applicable has approved the Contractor's invoice, the Department or the Customer Agency, as applicable shall process the Contractor's invoice to OSC for payment. OSC shall render payment for invoices under the Agreement in accordance with ordinary State procedures and practices. The Contractor shall certify the accuracy of all Contractor invoices prior to their submission to the Department/Customer Agency, as applicable and the Department/Customer Agency, as applicable will make best efforts to process all acceptable invoices within thirty (30) days of their receipt; however, failure to make payment within said timeframe shall not be considered a breach of contract. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article XI-A of the State Finance Law. Submission of an invoice and payment thereof shall not preclude the Department/Customer Agency, as applicable from reimbursement or demanding a price adjustment in any case where Project Services as delivered are found to deviate from the terms and conditions of the Agreement.
- 7.2.1 The Contractor's invoices for payment for Project Services rendered shall be submitted to EHS at the time the Contractor submits the report of the medical examination or service. The invoice shall be reviewed and approved by EHS staff, forwarded to the appropriate Customer Agency and the Customer Agency will forward the invoice to OSC for payment. The Contractor will be paid only for the actual services performed. The Contractor will not be paid, under the Agreement, for any services ordered by, or consultations provided to any Customer Agency, unless such services are approved by EHS in advance.
- 7.3.0 The Contractor warrants that all of the prices, terms, warranties and benefits granted by the Contractor herein are comparable to or better than the equivalent terms being offered by the Contractor to other customers using similar scope and volume of services. If, during the course of this Agreement, the Contractor enters into arrangements with any other customers providing benefits which are equal to or greater than those benefits to be provided under this Agreement at more favorable terms, this Agreement shall thereupon be deemed amended to provide the same to the Department and its Customer Agencies.
- 7.4.0 The State of New York is not liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed Agreement by the AG and OSC.

ARTICLE VIII: RECORDS AND INFORMATION TO BE FURNISHED

- 8.1.0 The DCS and its Customer Agencies, as applicable, shall furnish to the Contractor all information which the Contractor may reasonably require with regard to any matters pertaining to the delivery of Project Services under this Agreement.

ARTICLE IX: MODIFICATION OF REQUIRED SERVICES

- 9.1.0 In the event that laws or regulations enacted by the federal government and/or the State of New York have an impact upon the conduct of this Agreement in such a manner that the DCS

determines that any requirements of the Agreement must be revised, the DCS shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.

- 9.2.0 In the event that NYS and its public employee unions enter into collective bargaining agreements that have an impact upon the conduct of this Agreement in such a manner that the DCS determines that any requirements of the Agreement must be revised, the DCS shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.
- 9.3.0 To the extent that any of the events as set forth in this Article IX of the Agreement shall take place and constitute a material and substantial change in the scope of Project Services which the Contractor is required to perform or deliver under the Agreement, the Contractor may submit a written request to the DCS to initiate review of the fee(s) received by the Contractor for Project Services provided under the terms of the Agreement, accompanied by appropriate documentation as may be required by the DCS. The DCS reserves the right to review such request within a reasonable period of time and in its sole discretion make a written determination as to whether such request shall be approved or rejected. Should the DCS approve the Contractor's request to modify the fee(s), such approval shall be subject to written amendment and approval by the AG and OSC.

ARTICLE X: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

- 10.1.0 For purpose of the Agreement, the term "Protected Health Information" (PHI) means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. Within the context of this Agreement, PHI may be received by the Contractor from DCS or may be created or received by the Contractor on behalf of DCS. All PHI received or created by the Contractor as a consequence of its performance under this Agreement is referred to herein as "DCS' PHI."
- 10.2.0 By signing the Agreement, the Contractor acknowledges that the Department has designated the EHS as a "covered entity" under HIPAA, and that EHS' operational arrangement with the medical professionals with whom it contracts for services has been designated as an Organized Health Care Arrangement (OHCA). Within this context, the Contractor's provision of services may involve access to or use of individually identifiable health information disclosed to the Contractor by EHS or from other parties on behalf of EHS, and also may involve the Contractor's disclosure to EHS of individually identifiable health information as a consequence of the services provided.
- 10.3.0 Permitted Uses and Disclosures of PHI. The Contractor may use and/or disclose PHI received from the EHS or developed for EHS pursuant to the Agreement, solely in accordance with the terms of the Agreement. In addition, the Contractor may use PHI to provide data aggregation services relating to the health care operations of EHS.
- 10.4.0 Nondisclosure of PHI. The Contractor shall not use or further disclose PHI otherwise than as permitted or required by the Agreement or as otherwise permitted or required by law. The Contractor shall limit its use of PHI to the minimum necessary to accomplish the intended purpose of the Contractor's access, use or disclosure of the PHI.

10.5.0 Safeguards. The Contractor shall use appropriate, documented safeguards to prevent the use or disclosure of PHI otherwise than as provided for by the Agreement. The Contractor shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities to reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that the Contractor creates, receives, maintains, or transmits to or on behalf of EHS pursuant to the Agreement.

10.6.0 Breach Notification.

10.6.1 Reporting: The Contractor shall report to the EHS any breach of unsecured PHI, including any use or disclosure of PHI otherwise than as provided for by the Agreement, of which the Contractor becomes aware. The Contractor also shall report to the EHS any "security incident" of which the Contractor becomes aware. "Security incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in an information system. The Contractor agrees that it shall notify the EHS within five (5) business days of the date the Contractor becomes aware of the event. "Security Incidents" do not include activity such as pings and other broadcast attacks on the Contractor's information system's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of electronic PHI.

10.6.2 Required Information: The Contractor shall provide the following information to the EHS within ten (10) business days of discovery except when, despite all reasonable efforts by the Contractor to obtain the information required, circumstances beyond its control necessitate additional time. Under such circumstances, the Contractor shall notify the EHS of the incident within ten (10) business days, and then provide to the EHS the following information as soon as possible and without unreasonable delay, but in no event later than thirty (30) calendar days from the date of discovery:

- i) the date of the breach incident;
- ii) the date of the discovery of the breach;
- iii) a brief description of what happened;
- iv) a description of the types of unsecured PHI that were involved;
- v) identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach;
- vi) a brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches; and
- vii) any other details necessary to complete an assessment of the risk of harm to the individual.

10.6.3 The EHS will be responsible to provide notification to individuals whose unsecured PHI has been or is reasonably believed to have been accessed, acquired or disclosed as a result of a breach, as well as the Secretary of the U.S. Department of Health and Human Services (hereinafter referred to as "the Secretary" for purposes of this Article) and the media, as required by 45 CFR Part 164.

10.6.4 The Contractor shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and shall provide a description of these procedures and the specific findings of the investigation to the EHS upon request.

10.6.5 The Contractor shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Contractor not permitted by the Agreement.

10.7.0 Contractor's Agents. The Contractor shall ensure that any agents or subcontractors to whom the Contractor provides PHI, whether received from EHS or created or received by the Contractor on behalf of EHS, agree to the same restrictions and conditions that apply to the Contractor with respect to PHI under the Agreement.

10.8.0 Availability of Information to EHS. The Contractor shall make available to EHS such information as EHS may require to fulfill its obligations to provide access to, provide a copy of, and account for disclosures of PHI in accordance with HIPAA and its implementing regulations.

10.9.0 Amendment of PHI. The Contractor shall make PHI available to EHS as EHS may require to satisfy its obligation to amend individuals' PHI pursuant to HIPAA and its implementing regulations. In addition, the Contractor shall, as directed by EHS, incorporate any amendments to PHI into any copies of PHI maintained by the Contractor.

10.10.0 Internal Practices. The Contractor shall make its practices, books, and records relating to the use and disclosure of PHI, whether received from EHS or created or received by the Contractor on behalf of EHS, available to EHS and/or the Secretary for purposes of determining EHS' compliance with HIPAA and its implementing regulations.

10.11.0 Disposition of PHI. At the time the Agreement is terminated, the Contractor shall, if feasible, return or destroy all PHI subject to the Agreement, whether received from EHS or created or received by the Contractor on behalf of EHS, that the Contractor maintains in any form and shall retain no copies of such information. Alternatively, if such return or destruction is not feasible, the Contractor shall provide the EHS with written notification of such, and shall extend indefinitely the protections of the Agreement to the information and shall limit any further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.

10.12.0 Termination under HIPAA. The Agreement may be terminated by DCS at its sole discretion if DCS determines that the Contractor has violated a material term of these HIPAA provisions or of the Agreement with respect to the Contractor's obligations under these provisions.

ARTICLE XI: NOTICE TO STATE

11.1.0 The Contractor shall immediately notify DCS upon learning of any situation that can reasonably be expected to adversely affect the delivery of Project Services under the Agreement. If such notification is verbal, the Contractor shall submit to DCS a written description of the situation and a recommendation for its resolution within seven (7) Business Days of learning of the situation.

ARTICLE XII: SUSPENSION OF WORK

12.1.0 DCS reserves the right to suspend any or all activities under the Agreement, at any time, in the best interests of the State. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such

suspension include, but are not limited to, a budget freeze on State spending, declaration of emergency, or other such circumstances. Upon issuance of such notice, the Contractor shall comply with the suspension order. Activity may resume at such time as DCS issues a formal written notice authorizing a resumption of work.

ARTICLE XIII: GENERAL PROVISION AS TO REMEDIES

13.1.0 The Parties may exercise their respective rights and remedies at any time, in any order, to any extent, and as often as deemed advisable, without regard to whether the exercise of one right or remedy precedes, concurs with or succeeds the exercise of another. A single or partial exercise of a remedy shall not preclude a further exercise of the right or remedy or the exercise of another right or remedy from time to time. No delay or omission in exercising a right or remedy, or delay, inaction, or waiver of any event of default, shall exhaust or impair the right or remedy or constitute a waiver of, or acquiescence to, an event otherwise constituting a breach or default under the Agreement.

13.2.0 In addition to any other remedies available to DCS under the Agreement, DCS has the following additional remedies which may include, but are not limited to, the following:

13.2.1 The right for DCS to withhold payment of some or all of the amounts due and owed under the Agreement until Contractor's performance is brought within the specified parameters.

13.2.2 The application of credits against amounts due and owed by DCS under the Agreement.

ARTICLE XIV: COOPERATION WITH INVESTIGATIONS AND AUDITS

14.1.0 In addition to the audit authority requirements specified in Appendices A and B to this Agreement, the Contractor agrees to cooperate with DCS, OSC, any other authorized State or Federal Department, and any law enforcement authority, in the investigation, documentation and litigation of any alleged illegal act, misconduct or unethical behavior related to the RFP and/or Agreement, or in connection with any audit.

ARTICLE XV: WARRANTIES

15.1.0 Where Contractor generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to DCS and the State. A breach of any provision of this Article XV shall be deemed a "material breach" for purposes of default under the Agreement. Contractor hereby warrants and represents:

15.1.1 Representations and Warranties. That Contractor assumes responsibility for the cost and timely accomplishment of all obligations and duties required by the Agreement whether or not the Contractor, or subcontractors, performs such obligations or duties. Project Services rendered by the Contractor shall be performed in accordance with all the terms and conditions, covenants, statements and representations contained in the Agreement, including all appendices.

15.1.2 Workmanship Warranty. That during the term of the Agreement, Contractor will provide the necessary levels of qualified personnel to ensure proper performance by Contractor of its obligations and responsibilities under the Agreement. Contractor

warrants that Project Services will be provided in a workmanlike manner, in accordance with highest applicable industry standards. For purposes of this Agreement, "highest applicable industry standards" shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing expertise in the subject area and acting in a like capacity would exercise in similar circumstances.

15.1.3 Contractor Compliance. To pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Agreement. Prior to award and during the Agreement term and any extension thereof, Contractor must establish to the satisfaction of DCS that it meets or exceeds all requirements of the Agreement and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for workman's compensation, and shall provide such proof as required by DCS. Failure to do so may constitute grounds for DCS to cancel or suspend the Agreement, in whole or in part, or to take any other action deemed necessary by DCS.

15.2.0 Survival of Warranties. All warranties contained in the Agreement shall survive the termination of the Agreement.

15.3.0 Limitations. THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE XVI: REPORTS OWNERSHIP & ERROR CORRECTIONS

16.1.0 In addition to ownership provisions set forth elsewhere in Appendices A and B, the Contractor agrees that information and documents developed pursuant to the Agreement are the property of the State of New York and that the Contractor will not discuss such information, documents and systems with a third party without the express written authorization of DCS.

16.2.0 The Contractor shall correct any and all errors in any reports, materials and/or documents provided or prepared by the Contractor pursuant to this Agreement provided the Department notifies the Contractor of such errors and, if required, furnishes to the Contractor data and information the Department may be required to provide in order for the Contractor to make such corrections after delivery of any such report, material, document or service. In regard to corrections required due solely to an error made by the Contractor, the Contractor will correct such errors at no cost to the Department. The correction of errors which are caused by the Department or NYS or another third party under contract to the NYS will be subject to reimbursement by the Department through the issuance of an *Error Correction Change Order* negotiated between the Parties; the pricing of which shall be based on the pricing set forth in the Agreement.

ARTICLE XVII: TERMINATION

In addition to the Termination of Agreement requirements specified in Appendices A and B and Article XXV of this Agreement, the following provisions shall apply:

17.1.0 The DCS retains the right to cancel the Agreement without cause and in its sole discretion, provided that the Department shall give written notice to the Contractor not less than thirty (30) Days prior to the date upon which termination shall become effective, such notice to be made

via registered or certified mail, return receipt requested or hand delivered. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of hand delivery. This provision should not be understood as waiving DCS' right to terminate the Agreement for cause or to stop work immediately for unsatisfactory work, but is supplementary to that provision. In the event of cancellation without cause by DCS, DCS agrees to negotiate a payment based on time, materials and other documented expenses directly attributable to the Agreement actually expended by Contractor;

17.2.0 If the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, DCS, in its sole discretion, may terminate the Agreement or may exercise such other remedies as shall be available under the Agreement, at law and/or equity;

17.3.0 No delay or omission to exercise any right, power or remedy accruing to NYS or DCS upon breach or default by the Contractor under the Agreement shall impair any such right, power or remedy, or shall be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing;

17.4.0 If, due to default that remains uncured for the period provided herein, a third party shall commence to perform Contractor's obligations under the Agreement, NYS shall thereafter be released from all obligations to Contractor hereunder, including any obligation to make payment to Contractor, provided however that NYS shall continue to be obliged to pay for any and all Project Services provided prior to any such date. If NYS employs a third party to perform Contractor's obligations under the Agreement, Contractor shall be liable for the payment of any cost differential that NYS incurs as a result of having to employ such third party to cure or resolve the issue;

17.5.0 In the event of the Contractor's default, in addition to availing itself of specific remedies set forth in the Agreement, NYS may pursue all legal and equitable remedies for breach. In addition to pursuing any other legal or equitable remedies, NYS shall have the right to take one or more of the following actions:

- 1) terminate the Agreement in whole or in part;
- 2) suspend, in whole or in part, payments due Contractor under the Agreement; and
- 3) pursue equitable remedies to compel Contractor to perform.

The Contractor shall be liable for any and all excess costs for remedies pursued by DCS or NYS, and for costs incurred by DCS or NYS in procuring alternate Services;

17.6.0 For Violation of Procurement Lobbying Law. DCS reserves the right to terminate the Agreement in the event it is determined by DCS in its sole discretion that the certification filed by the Contractor in accordance with §139-j and/or §139-k of the New York State Finance Law was intentionally false or intentionally incomplete. Upon such finding, DCS may, at its sole option, exercise its termination right by providing 10 days written notification to the Contractor, or providing notice in accordance with other written notification terms in the Agreement;

- 17.7.0 For Violation of Section 5-a of the Tax Law. DCS reserves the right to terminate the Agreement in the event that Contractor fails to file a certification pursuant to section 5-a of the Tax Law or the Tax Department or OFT discovers that the certification(s) filed by the Contractor pursuant to section 5-a of the Tax Law is/are false. Upon such finding(s), DCS may exercise its termination right by providing written notification to the Contractor;
- 17.8.0 Termination Notice. Notices required by this section shall be provided consistent with Appendix B, Section 9 of this Agreement; and
- 17.9.0 Mitigation of Costs. The Contractor shall not undertake any additional or new contractual obligations on or after the date of return receipt notice without the prior written approval of NYS. On or after the date of return receipt notice and during the termination notice period, the Contractor shall take all commercially reasonable and prudent actions to close out unnecessary outstanding, existing obligations as economically as possible for NYS.

ARTICLE XVIII: TRANSITION

- 18.1.0 DCS may require the Contractor to provide uninterrupted Project Services after Agreement termination/expiration as DCS deems reasonable and necessary and/or as necessary for DCS to comply with all legal requirements for establishing a new contract to continue the provision of Project Services ("Transition Period"). Transition Services, as defined below, shall be governed as follows:
- 18.2.0 Transition Period. The transition period shall be determined by DCS, and Contractor will be notified of the period in writing. The State shall consult with the Contractor prior to making such determination. The State reserves the right to subsequently amend the transition period upon thirty (30) days advance written notice to the Contractor.
- 18.3.0 No Interruption in Service. At all times during the transition period and unless directed otherwise in writing by DCSNYS, the Contractor shall continue all contractual obligations set forth in the Agreement until such time as DCS (i) has approved the Contractor's proposed transition plan, and (ii) an orderly transition to NYS, a third party, or the successor contractor has been completed pursuant to the approved transition plan. The Contractor shall be required to meet its contractual obligations pursuant to this paragraph notwithstanding the issuance of a termination for cause or convenience by DCS.
- 18.4.0 Transition Plan. Within fifteen (15) days of receipt of a notice of termination or three (3) months prior to the end of the term of the Agreement, whichever event occurs first, the Contractor shall provide for approval by DCS a detailed written plan for Transition ("Transition Plan") which outlines, at a minimum, the tasks, milestones and deliverables associated with the smooth transition of Services to DCS, a third party or the successor contractor. Contractor agrees to amend the Transition Plan to include all other information deemed necessary by DCS.
- 18.5.0 Contractor Transition Services. "Transition Services" shall be deemed to include Contractor's responsibility for all tasks and services outlined in the Agreement and for transferring in a planned manner specified in the Transition Plan all tasks and services to DCS, a third party or the successor contractor. It is expressly agreed between the Parties that the level of service during the transition period shall be maintained in accordance with and shall be subject to all the terms and conditions of the Agreement, provided, however, that where, during the Transition Period, tasks or services are transitioned to or assumed by DCS, a third party or the successor contractor, Contractor shall not be held responsible for the negligent acts or negligent omissions

of DCS, a third party or the successor contractor or for service degradation resulting from the negligent acts or negligent omissions of DCS, a third party or the successor contractor.

18.6.0 Compensation for Transition Services. Contractor shall be reimbursed for Transition Services performed during the Transition Period at the rates set forth in the Agreement.

18.7.0 State Responsibilities for Transition. The State shall assume responsibility for Transition project management. A project manager responsible for coordinating Transition activities, maintaining the transition task schedule, and approving transition deliverables shall be appointed.

ARTICLE XIX: CONTRACTOR QUALIFICATIONS AND KEY PERSONNEL

19.1.0 The Contractor warrants that all employees, subcontractors or agents performing work under the Agreement shall meet or exceed the technical or other qualifications set forth in the Agreement. Contractor acknowledges that the skill and experience of Contractor personnel proposed to be assigned to the scope of work set forth in the Agreement is a material element in executing the Agreement. Both Parties intend that key personnel initially assigned to the scope of work will continue through work completion. Key personnel will be identified in writing.

19.2.0 Once an individual designated as key personnel has been approved by DCS and assigned to provide services under the Agreement, such individual will not thereafter be removed by Contractor, or reassigned by Contractor to other duties involving comparable employment by Contractor while the services are in progress and for so long as there has been no voluntary suspension of services due to force majeure lasting for a period of longer than ten (10) Business Days.

19.3.0 Circumstances may arise, however, which necessitate personnel to be substituted during the provision of services due to delays in awarding the contract, suspensions for force majeure, or lack of funding, or other such State causes, or due to promotions, termination, sickness, vacation or other similar material change in the employment circumstance of the employee, at which time a replacement of comparable background and experience may be substituted by the Contractor, subject to approval of DCS.

19.4.0 The State may refuse access to or require replacement of any individual if such individual renders, in the sole judgment of DCS, inadequate or unacceptable performance of services, or for any other reason DCS finds such individual does not meet its security or responsibility requirements of DCS.

ARTICLE XX: SECURITY RESPONSIBILITIES AND FEDERAL OR STATE DISCLOSURE PROHIBITIONS

20.1.0 The Contractor shall maintain the security, nondisclosure and confidentiality of all information in accordance with the following clauses in performance of its activities under the Agreement. Contractor shall ensure that its personnel, agents, officers and subcontractors, if any are fully aware of the obligations arising under this section and shall take all commercially reasonable steps to ensure compliance. The Agreement may be terminated by NYS for cause for a material breach of this Article XX.

20.1.1 Security Responsibilities:

Contractor warrants, covenants and represents that it shall comply fully with all security procedures and policies of NYS, which procedures and policies are communicated to the Contractor by DCS during the performance of the Agreement, including but not

limited to Article X of this Agreement and Department's Information Security Policy (See RFP, Appendix N). Contractor shall hold DCS or NYS harmless from any loss or damage to DCS or NYS resulting from the violation by the Contractor, its officers, agents, employees, and subcontractors, if any of such security procedures or policies resulting from any criminal acts committed by such officers, agents, employees, and subcontractors, while performing services under the Agreement.

20.1.2 Federal or State Disclosure Prohibitions:

In the event that it becomes necessary for Contractor to receive Confidential Information, which Federal or State statute or regulation prohibits from disclosure, Contractor hereby agrees to return or destroy all such Confidential Information that has been received from DCS or NYS when the purpose that necessitated its receipt by Contractor has been completed. In addition, Contractor agrees not to retain any Confidential Information which Federal or State statute or regulation prohibits from disclosure after termination of the Agreement.

Notwithstanding the foregoing, if the return or destruction of the Confidential Information is not feasible, Contractor agrees to extend the protections of the Agreement for as long as necessary to protect the Confidential Information and to limit any further use or disclosure of that Confidential Information. If Contractor elects to destroy Confidential Information, it shall use reasonable efforts to achieve the same and notify NYS accordingly. Contractor agrees that it will use all appropriate safeguards to prevent any unauthorized use or unauthorized disclosure of Confidential Information, which Federal or State statute or regulation prohibits from disclosure.

Contractor agrees that it shall immediately report to the Department the discovery of any unauthorized use or unauthorized disclosure of such Confidential Information. The State may terminate the Agreement if it determines that Contractor has violated a material term of this Article XX. The terms of this Article XX shall apply equally to Contractor, its agents and subcontractors, if any. Contractor agrees that all subcontractors, if any and agents shall be made aware of and shall agree to the terms of this Article XX.

ARTICLE XXI: ALL LEGAL PROVISIONS DEEMED INCLUDED

21.1.0 It is the intent and understanding of the Parties to the Agreement that each and every provision of law required to be inserted in the Agreement shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then the Agreement shall forthwith upon the application of either Party be amended by such insertion so as to comply strictly with the law without prejudice to the rights of either Party hereunder.

ARTICLE XXII: NOTICES

22.1.0 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 Civil Service

Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

[Contractor Name]
Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

- 22.2.0 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.
- 22.3.0 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 representatives 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.

ARTICLE XXIII: CONFIDENTIALITY

- 23.1.0 Individually identifiable information relating to any participant shall be held confidential and shall not be disclosed by the Contractor, its officers, agent and employees or subcontractors, without the prior written approval of the applicant, the President of the Commission or his agent, or except as permitted, or as required, by federal or State law.
- 23.2.0 The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of the services under the Agreement, including any information provided by the Department, except as required by subcontractors or agents solely for the purpose of carrying out obligations under the Agreement or as required by law.
- 23.3.0 The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, agents and employees or applicable subcontractors contains a provision that strictly conforms to the provisions of this Article.

ARTICLE XXIV: MERGERS/ACQUISITIONS

24.1.0 The Contractor's obligations to perform under the Agreement shall not be affected or impaired by any reorganization, consolidation or merger to which the Contractor is, or may become, a party. In any such event, the Contractor shall continue to be bound by, and shall perform under, all terms and conditions set forth herein.

ARTICLE XXV: VENDOR RESPONSIBILITY

25.1.0 In addition to stipulating to the requirements set forth in Section 39 of Appendix B to this Agreement, the Contractor represents that it has, to the best of its knowledge, truthfully and thoroughly completed Contractor's Vendor Responsibility Questionnaire (hereinafter "Vendor Responsibility Questionnaire") provided to the Contractor by the Department prior to execution of the Agreement. The Contractor further stipulates that as of the date of execution of the Agreement, there are no material events, omissions, changes, or corrections to such document requiring an amendment to the Vendor Responsibility Questionnaire.

25.4.0 The Department reserves the right to make a final determination of Contractor's non-responsibility (hereinafter "Determination of Non-responsibility") at any time during the term of the Agreement based on (i) any information provided in the Vendor Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (iii) the Department's discovery of any other material information which pertains to Contractor's responsibility.

ARTICLE XXVI: ENTIRE AGREEMENT

26.1.0 The Agreement and the appendices, exhibits and attachments hereto constitute the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. The Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the Parties hereto.

ARTICLE XXVII: ADDITIONAL TERMS APPLICABLE TO THE DISCLOSURE OF MEDICAL INFORMATION AND MEDICAL RECORDS

28.1.0 In addition to any other requirements set forth in this Agreement, the disclosure of any medical information and medical records, including PHI, generated pursuant to this Agreement is subject to 4 NYCRR Part 82, which prohibits the release of such information except in the following circumstances:

28.1.1 Upon written authorization of the subject of the records on a form prepared by DCS;

28.1.2 When required by law or court order, provided that notification is made to the subject of the record prior to such disclosure, unless such notification is prohibited by law; and

28.1.3 Medical information and records obtained or created by the Contractor may be released only to DCS. The Contractor may not release information to the State agency (other than DCS) where an individual is employed or is a candidate for employment unless such disclosure is mandated by statute.

IN WITNESS WHEREOF, the Parties hereto have hereunto signed this AGREEMENT on the day and year appearing opposite their respective signatures.

Agency Code: 08000

Contract Number: [enter assigned Contract Number: CCXXXXX]

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

**NEW YORK STATE
DEPARTMENT OF CIVIL SERVICE**

[CONTRACTOR]

Name: _____

Name: _____

Title: _____

Title: _____

By: _____

By: _____

Date: _____

Date: _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
 : **SS.:**
COUNTY OF _____ }

On the ____ day of _____ in the year 2014, before me personally appeared:

_____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he resides at

_____, Town of _____,

County of _____, State of _____; and further that:

[Check One]

(**If a corporation**): he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(**If a partnership**): he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

Approved as to form: Approved:

Eric T. Schneiderman
ATTORNEY GENERAL

Thomas P. DiNapoli
STATE COMPTROLLER

By: _____

By: _____

Date: _____

Date: _____

SECTION 7 GLOSSARY

Term	Definition
§	means Section.
AG	means the New York State Attorney General's Office.
Best Value	means the basis for awarding a contract for services to a responsible and responsive Offeror, who can best <i>optimize quality, cost and efficiency</i> .
Business Day	means Monday through Friday, excluding NYS Holidays that fall on a weekday.
Contract or Agreement	means the agreement entered into between the Parties resultant from this RFP.
Contract Effective Date	means the date that the Contract is approved by the New York State Office of the State Comptroller.
Commissioner	means the Commissioner of the New York State Department of Civil Service or Acting Commissioner if there is no current Commissioner.
Contractor	means the successful Offeror selected as a result of the evaluation of Offerors' Proposals submitted in response to this RFP and who executes a contract with the Department to provide Project Services.
CSL	means New York State Civil Service Law.
Customer Agency(ies)	means those NYS departments and agencies to whom EHS provides medical examination services mandated or authorized by Civil Service Law, as well as occupational health examination, screening, diagnostic testing and immunization services.
Day(s)	means calendar days unless otherwise noted.
Department or DCS	means the New York State Department of Civil Service.
DOB	means the New York State Division of the Budget.
EEO	means the Federal Equal Employment Opportunities Act.
Employee Health Services (EHS)	means the division of the New York State Department of Civil Service responsible for administering the New York State Health Insurance Program (NYSHIP).
ET	means prevailing Eastern Time.
Key Subcontractors	means those vendors with whom the Contractor subcontracts to provide Project Services and incorporates as a part of the Contractor's Project Management Team.
MWBE	means Minority- and Women-Owned Business Enterprises.
Normal Business Hours	means Monday – Friday between the hours of 7:00 a.m. and 5:00 p.m. ET, excepting NYS Holidays that fall on a weekday.
NYS	means the State of New York (including the New York State Department of Civil Service).
NYS Holidays	means: <ul style="list-style-type: none"> • Christmas Day; • Columbus Day; • Election Day; • Independence Day; • Labor Day; • Lincoln's Birthday; • Martin Luther King Day; • Memorial Day; • New Year's Day; • President's Day; • Thanksgiving Day; and • Veteran's Day.

Term	Definition
Offeror	means any responsible and eligible entity submitting a responsive Proposal to this RFP. It shall be understood that references in the RFP to "Offeror" shall include said entity's proposed subcontractor, if any.
OSC	means the New York State Office of the State Comptroller.
President	means the President of the Civil Service Commission and the Commissioner of the Department.
Project Services	means the entire scope of medical consultation and examination services to be provided by the Contractor pursuant to the terms and conditions of the Contract.
Proposal or Submissions	means the Offeror's Administrative Proposal, Technical Proposal and Cost Proposal, submitted during the course of the procurement process including all responses to supplemental requests for clarification, information, and documentation.
RFP or Procurement	means the Request for Proposals entitled "Medical Examination Services", dated January 9, 2014.

ATTACHMENT 1 PROCUREMENT REGISTRATION FORM

(Link [§2.01.1](#))

**NYS Department of Civil Service
RFP No. 2014MES-1,
"MEDICAL EXAMINATION SERVICES"**

Medical Examination Services

Primary Contact Information	Alternate Contact Information
Company Name:	Company Name:
Contact Name:	Contact Name:
Address:	Address:
Phone Number:	Phone Number:
Fax:	Fax:
E-Mail:	E-Mail:

The completed table may be emailed, faxed and/or mailed (see addresses provided in RFP [§2.01.1](#)).

ATTACHMENT 2 OFFEROR'S AFFIRMATION OF UNDERSTANDING AND AGREEMENT

(Link [§2.01.1](#) & [§2.02.7](#))

Attachment 2 – Page 1 of 3

Part 1 of this [Attachment 2](#), as contained on the following page, should be completed by the Offeror and emailed, faxed and/or mailed to the Procurement Manager as set forth in RFP [§2.01.1](#).

Part 2 of this [Attachment 2](#) should, prior to initiating any contact with the Department, be completed for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement and submit it to the Procurement Manager specified in RFP [§2.01.1](#).

Attachment 2 – Part 1

Offeror’s Affirmation of Understanding and Agreement

Instructions:

Pursuant to State Finance Law §§139-j and 139-k, this solicitation imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement’s “Restricted Period” (from the earliest written notice, advertisement or solicitation of a request for proposal,, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract with a governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, approval by the State Comptroller) to other than designated staff, unless the contact falls within certain statutory exceptions (“permissible contacts”). DCS employees are required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror’s responsibility that addresses the Offeror’s compliance with the statutes’ requirements. Findings of non-responsibility result in rejection for contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. Further information about these requirements can be found at:

<http://www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html>.

As a prerequisite for participating in this procurement, an Offeror must provide the following Affirmation of Understanding and Agreement to comply with these procurement lobbying restrictions in accordance with State Finance Law §§139-j and 139-k.

Offeror Affirmation and Agreement

The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the DCS’ procedures regarding permissible contacts as required thereby.

Name of Offeror:

By:

(Signature)

Name:

Title:

Address:

Date:

[Attachment 2](#) – Part 2

Offeror Designated Contact	
First Name	
Last Name	
Company Name	
Company Address:	
Street Address	
City	
State	
Zip	
Individual's Business Telephone # (xxx) xxx-xxxx	
E-mail Address	
Principal Place of Business (1)	
Individual's Occupation	

(1) Enter the location of the individual's Principal Place of Business (e.g. Albany, NY)

Complete the table above for each Offeror officer, employee, agent or consultant retained, employed or designated, by or on behalf of the Offeror to appear before or contact the Department in regards to this Procurement, prior to the individual initiates any contact with the Department, and submit it to the Procurement Manager specified in [§2.01.1](#) of the RFP.

ATTACHMENT 3 NOTICE OF BIDDING INTENTION FORM

(Link [§2.01.4](#))

[Attachment 3](#) – Page 1 of 1

**NYS Department of Civil Service
RFP No. 2014MES-1,
“MEDICAL EXAMINATION SERVICES”**

Notice of Bidding Intention Form

(Please PRINT Firm’s Name Above)

With regard to this RFP, (check one of the following boxes applicable):

- We **ARE INTERESTED & MAY** submit a Proposal.
- We **ARE NOT INTERESTED & WILL NOT** be submitting a Proposal because:

INTEREST IN M/WBE SUBCONTRACTING POSTING:

(Check box if applicable)

- Our firm is a NYS certified M/WBE interested in a subcontracting opportunity. Please add our firm’s contact information, indicated at the top of this Form, to the list of certified M/WBE subcontractors that have expressed interest in this Procurement. The list will be posted on Department’s web page for this Procurement. The NYS M/WBE certification documentation for our firm is attached

Name of Contact at Firm

Title

_____/_____/_____

Date

Complete the tables above and submit it to the Procurement Manager specified in RFP [§2.01.1](#). The completed table may be emailed, faxed and/or mailed (see addresses provided in RFP [§2.01.1](#)).

ATTACHMENT 4 QUESTION TEMPLATE

Attachment 4 – Page 1 of 1

NYS Department of Civil Service
 RFP No. 2014MES-1,
 "MEDICAL EXAMINATION SERVICES"

Questions Template

Question Number	RFP Page #	Section and Sub-Section Reference	Question

Offerors are requested to use the Question Template table above in submitting questions. Offerors' questions must be submitted to the Procurement Manager at the address specified in RFP [S2.01.1](#), with an electronic copy of the Offeror's questions sent to the Procurement Manager's attention at the email address provided therein.

ADDENDUM 1 Employer Medical Examination Report (EHS-701.3)

(Links [§3.02.1](#) & [§3.03.2](#))

[ADDENDUM 1](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Employer Medical Examination Report (EHS-701.3)

A pdf version of the document is embedded below:



Addenda 1.pdf

To open the document double click on the icon.

ADDENDUM 2 Statement of Physical and Medical Requirements for Highway Maintenance Worker I (EHS PM-24)

(Links [§3.02.2](#))

[ADDENDUM 2](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Statement of Physical and Medical Requirements for Highway Maintenance Worker I (EHS PM-24)

A pdf version of the document is embedded below:



Addenda 2.pdf

To open the document double click on the Icon.

ADDENDUM 3 Preplacement Examination Determination (EHS-13)

(Links [§3.02.2](#) & [§3.03.2](#))

ADDENDUM 3 – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Preplacement Examination Determination (EHS-13)

A pdf version of the document is embedded below:



Addenda 3.pdf

To open the document double click on the icon.

ADDENDUM 4 Authorization for Release and Disclosure of Medical Information to a State Agency (EHS-742.4)

(Links [§3.03.4](#))

[ADDENDUM 4](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Authorization for Release and Disclosure of Medical Information to a State Agency (EHS-742.4)

A pdf version of the document is embedded below:



Addenda 4.pdf

To open the document double click on the icon.

ADDENDUM 5 Medical Examination Report For Commercial Driver Fitness Determination

(Links [§3.02.4](#) & [§3.03.2](#))

[ADDENDUM 5](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1 Medical Examination Report For Commercial Driver Fitness Determination

A pdf version of the document is embedded below:



addenda 5.pdf

To open the document double click on the icon.

ADDENDUM 6 Medical History Questionnaire for Occupational Health Examination

(Links [§3.03.2](#))

[ADDENDUM 6](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1 Medical History Questionnaire for Occupational Health Examination

A pdf version of the document is embedded below:



ADDENDA 6.pdf

To open the document double click on the icon.

ADDENDUM 7 Respiratory Questionnaire (EHS-781)

(Links [§3.03.2](#))

[ADDENDUM 7](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. RESPIRATORY QUESTIONNAIRE (EHS-781)

A pdf version of the document is embedded below:



Addenda 7.pdf

To open the document double click on the icon.

ADDENDUM 8 Public Health Service Roentgenographic Interpretation Form

(Links [§3.03.2](#))

[ADDENDUM 8](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Public Health Service Roentgenographic Interpretation Form - OMB No. 0920-0020, Interpretation of X-ray

A pdf version of the document is embedded below:



ADDENDA 8.pdf

To open the document double click on the icon.

ADDENDUM 9 Medical History Questionnaire for Preplacement Examinations (EHS-728B)

(Links [§3.03.2](#))

[ADDENDUM 9](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. MEDICAL HISTORY QUESTIONNAIRE FOR PREPLACEMENT EXAMINATIONS (EHS-728B)

A pdf version of the document is embedded below:



Addenda 9.pdf

To open the document double click on the icon.

ADDENDUM 10 Consultant Examination Request and Authorization (EHS-793)

(Links [§3.03.5](#))

[ADDENDUM 10](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. CONSULTANT EXAMINATION REQUEST AND AUTHORIZATION (EHS-793)

A pdf version of the document is embedded below:



Addenda 10.pdf

To open the document double click on the Icon.

ADDENDUM 11 Summary of Medical Standards for NYS Court Officer – Trainee Program

(Links [§3.02.3](#))

[ADDENDUM 11](#) – Page 1 of 1

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. Summary of Medical Standards for NYS Court Officer – Trainee Program

A pdf version of the document is embedded below:



Addenda 11
4-2-12.pdf

To open the document double click on the icon.

ADDENDUM 12 Diagnostic Testing and Laboratory Studies(Links [§3.02.5](#))**ADDENDUM 12** – Page 1 of 1

EHS may request as part of an occupational health, mandatory health or pre-employment examination those types of laboratory procedures and diagnostic tests as set forth in this [ADDENDUM 12](#).

Mandatory or Optional	Laboratory Studies	
Mandatory	Chemistry Profile	Including: Albumin, Alk. Phosphatase, BUN, Calcium, Cholesterol, Chloride, Creatinine, Direct Bilirubin, G-Glutamyl Transp., Globulin, Glucose, Iron, LDH, Magnesium, Phosphate, Potassium, Sodium, Total Bilirubin, Total Protein, Transaminase SGO, Transaminase SGP, Triglycerides, and Uric Acid
Mandatory	Hematology Profile	Including: WBC, RBC, Hemaglobin, Hematocrit, RBC Indices, Platelet Count, and WBC Differential
Mandatory	Complete Urinalysis	Including: Color, Appearance, PH, Specific Gravity, Ketones, Protein, Glucose, Blood, Bilirubin, Leukocyte Esterase, Nitrite, and Microscopic (WBC, RBC, Bacteria, and Epithelial Cells)
Mandatory	Urine Dipstick only.	
Mandatory	Complete Laboratory Profile	Including: all the above chemistry, hematology and urinalysis testing.
Mandatory	Lipid Panel	Including: Total cholesterol, HDL cholesterol, LDL cholesterol, Cholesterol/HDL cholesterol ratio and Triglycerides
Mandatory	Cholinesterase	RBC and serum
Mandatory	Drug Screen	10 panel w/Confirmation and Chain of Custody (must be performed by a certified lab)
Mandatory	Hepatitis B Surface Antibody	
Mandatory	Hepatitis B Surface Antigen	
Mandatory	Hepatitis B Core Antibody	
Mandatory	Hepatitis C Antibody	
Mandatory	Lead	Blood with OSHA questionnaire
Mandatory	Lyme Antibody	ELISA w/confirmation by Western Blot
Mandatory	Measles Antibody Titer	
Mandatory	Rubella Antibody Titer	
Mandatory	Occult Blood (stool)	
Mandatory	Varicella-Zoster Antibody Titer	
Mandatory	PCB Level	
Mandatory	PSA	
Mandatory	Zinc Protoporphyrin (ZPP)	
Diagnostic Testing		
Mandatory	Audiometry	Pure tone air with audiologic history
Optional	Cardiovascular stress test	With interpretation and report
Mandatory	ECG	Electrocardiogram (12 lead) with interpretation
Mandatory	Chest x-ray	Radiologic examination, chest PA with interpretation
Optional	Chest x-ray with B-reading	Radiologic examination, chest PA with B-Reading
Mandatory	Chest x-ray, lateral	Radiologic examination, chest, lateral with interpretation
Optional	Respirator Fit Test	Quantitative
Mandatory	Spirometry	Including graphic record and results (must include FVC, FEV1, and %FEV1/FVC at a minimum)
Mandatory	Vision test	Including: far and near each eye and binocular, with and without corrective lenses, and peripheral vision each eye
Mandatory	Color Vision test	Ishihara color vision test using Macbeth easel lamp or equivalent

ADDENDUM 13 OCA Participation Form

(Links [§3.02.4](#))

[ADDENDUM 13](#) – Page 1 of 2

EHS may request as part of an occupational health, mandatory health or pre-employment examination those types of laboratory procedures and diagnostic tests as set forth in this [ADDENDUM 13](#).

Placeholder for hardcopy of the following document as set forth at this section of the Agreement:

1. OCA Participation Form

A pdf version of the document is embedded below:



Addenda 13.pdf

To open the document double click on the icon.

ADDENDUM 14 Regional Map

(Links [§1.01.3](#))

[ADDENDUM 14](#) – Page 1 of 1



To open the document double click on the icon.

APPENDIX A Standard Clauses for New York State Contracts

Placeholder for hardcopy of the following document:

1. Appendix A, dated December 2012

A PDF version of the document is embedded below:



APPENDIX A - Dec
2012.pdf

To open the document double click on the icon.

APPENDIX B Standard Clauses for All DCS Contracts

Placeholder for hardcopy of the following document:

1. Appendix B, dated December 2013

A PDF version of the document is embedded below:



To open the document double click on the icon.

APPENDIX C Third Party Connection and Data Exchange Agreement

Placeholder for hardcopy of the following document:

1. Appendix C, dated April 2006

A PDF version of the document is embedded below:



Appendix C.pdf

To open the document double click on the icon.

APPENDIX D Participation by Minority Group Members and Women With Respect to State Contracts

(Link [§2.02.3](#))

CONTRACTOR REQUIREMENTS AND OBLIGATIONS UNDER NEW YORK STATE EXECUTIVE LAW, ARTICLE 15-A (PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS)**I. General Provisions**

- A. The Department 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. Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the “Department”), to fully comply and cooperate with the Department 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 the Procurement that results in the Contract, the Department established an overall goal for Minority and Women-Owned Business Enterprises (“MWBE”) participation, and separate Minority-Owned Business Enterprises (“MBE”) participation and Women-Owned Business Enterprises (“WBE”) participation goals (based on the current availability of qualified MBEs and WBEs) as set forth in the Procurement solicitation document.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in section II-A above, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:

<http://www.nylovesmwbe.ny.gov/cf/search.cfm>

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 this 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 Department 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 Department within seventy two (72) hours after the date of the notice by Department of proposed award of the Contract to the Contractor.
 3. If Contractor or subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or subcontractor a model statement (see Form **EEO-102** entitled "Minority and Women-Owned Business Enterprises M/WBE - Equal Employment Opportunity (EEO) 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 sections (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 EEO-100 – EEO Staffing Plan

To ensure compliance with this section III, the Contractor shall submit an EEO 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. The Contractor shall complete the EEO Staffing Plan form and submit it as part of its Proposal or within a reasonable time, but no later than the time of proposed award of the Contract.

D. Form EEO-101 - Workforce Utilization/Compliance Report ("Workforce Report")

1. Once proposed contract award has been made and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted EEO 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 Form (MWBE-100) and Certification of Good Faith Efforts (MWBE-104)

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (form **MWBE-100**) either prior to, or at the time of, the execution of the Contract. The Contractor shall ensure that enterprises have been identified within the MWBE Utilization Plan, and the Contractor shall attempt, in good faith, to utilize such enterprise(s) at least to the extent indicated in the Contractor's MWBE Utilization Plan. The Contractor must document "good faith efforts" to provide meaningful participation by New York State Certified MWBE subcontractors or suppliers in the performance of the Contract. In support of such efforts, the Contractor will include with its **MWBE-100** submission a Certification of Good Faith Efforts statement (form **MWBE-104**).
- 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 D](#).
- 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, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waiver Requests (MWBE-101)

- A. For Waiver Requests Contractor should use Form **MWBE-101** – Request for Waiver Form.

- 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 Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the Department, upon review of the MWBE Utilization Plan and updated Quarterly M/WBE 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 Department 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 M/WBE Contractor Compliance Report (Form MWBE-103)

Contractor is required to submit a Quarterly M/WBE Contractor Compliance Report (Form **MWBE-103**) to the Department 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 Department 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 Department 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 Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department 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 Department.

VII. Further Information:

General questions concerning New York's MWBE program should be directed to:

New York State Department of Economic Development
633 Third Avenue
New York, NY 10017
Telephone: (212) 803-2414

New York State Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl Street
Albany, NY 12245
Telephone: (518) 292-5150

All of the EEO and M/WBE forms referenced in [Appendix D](#) are available for download at the Department's website at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>. These forms are to be submitted without change to the goals specified by Department in the Contract.

APPENDIX E Procurement Lobbying Policy: Restrictions on Contacts during the Procurement Process

(Link [§2.01.2](#))

Placeholder for hardcopy of the following document:

1. [Appendix E](#), dated April 2011

A PDF version of the document is embedded below:



Policy on Restrictions
on Contacts During th

To open the document double click on the icon.

APPENDIX F Submission of Errors or Omission(Link [§2.01.3](#))**Appendix F**
Page 1 of 1**Submission of Errors or Omissions**

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to the Solicitation Instrument (i.e., RFP or IFB, as applicable), prospective Offerors and Offerors agree to be bound by its terms, including, but not limited to, this process by which a prospective Offeror may submit errors or omissions for consideration. In the event that a prospective Offeror believes there is an error or omission in the Solicitation Instrument, the prospective Offeror may raise such issue according to the following provisions:

- a. Process for Submitting Assertions of Errors or Omissions in a Solicitation Instrument
- (1) **Time Frame:** Assertions of errors or omissions in the Solicitation Instrument which are or should have been apparent prior to the Proposals Due Date and Time must be received by the Department, in writing, five (5) Business Days after the Issue Date of Official Responses to Offeror Questions as specified in the Solicitation Instrument.
 - (2) **Content:** The submission alleging the error or omission must clearly and fully state the legal and/or factual grounds for the assertion and must include all relevant documentation.
 - (3) **Format of Submission:** All submissions asserting an error or omission must be in writing and submitted to the Department's designated procurement manager for the given procurement at the address set forth in the Solicitation Instrument.

The envelope or package must clearly and prominently display the following statement:

**“Submission of Errors or Omissions for the
New York State Department of Civil Service’s
Procurement entitled, [Enter Name of RFP or IFB],
Reference # [Enter RFP or IFB Ref. No.],
dated [Enter RFP or IFB date]”**

Any assertion of an error or omission which does not conform to the requirements set forth in in [Appendix F](#) shall be deemed waived by the prospective Offeror and the prospective Offeror shall have no further recourse.

- b. The Review Process for Assertions of Errors or Omissions in a Solicitation Instrument
- The Department shall conduct the review process for submission of errors or omissions. The Commissioner may appoint a designee who will review the submission and make a recommendation to the Commissioner as to the disposition of the matter. The Commissioner's designee may be an employee of the Department but, in any event, shall be someone who has not participated in the preparation of the Solicitation Instrument, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the prospective Offeror may be given the opportunity to meet with the Commissioner or his designee, as the case may be, to support its submission. The prospective Offeror may, but need not, be represented by counsel at such a meeting. Any and all issues concerning the manner in which the review process is conducted shall be determined solely by the Commissioner or the Commissioner's designee.

The Commissioner, or the Commissioner's designee, shall review the matter, and the Commissioner shall issue a written decision within twenty (20) Business Days after the close of the review process. If additional time for the issuance of the decision is necessary, the prospective Offeror shall be advised of the delay and of the time frame within which a decision may be reasonably expected. The Commissioner's decision will be communicated to the party in writing and shall constitute the agency's final determination in the matter.

The Department reserves the right to determine and to act in the best interests of the State in resolving any assertion of error or omission in the Solicitation Instrument. As a consequence of reviewing the assertion, the Department may elect to extend the Proposal Due Date and Time as may be appropriate. Notice of any such extension will be provided to all organizations who were sent a copy of the Solicitation Instrument.

APPENDIX G NYS Department of Civil Service Debriefing Guidelines

(Link [§2.01.11](#))

Placeholder for hardcopy of the following document:

1. [Appendix G](#), dated April 2011

A PDF version of the document is embedded below:



Debriefing
Guidelines.pdf

To open the document double click on the icon.

APPENDIX H Submission of Award Protests

(Link [§2.01.12](#))

Placeholder for hardcopy of the following document:

1. [Appendix H](#), dated April 2011

A PDF version of the document is embedded below:



Submission of Award
Protests.pdf

To open the document double click on the icon.

APPENDIX I ST-220-CA – Contractor Certification to Covered Agency

(Link [§2.02.9](#))

Placeholder for hardcopy of the following document:

1. [Appendix I](#), dated June 2006

A PDF version of the document is embedded below:



To open the document double click on the icon.

APPENDIX J ST-220-TD – Contractor Certification Pursuant Section 5-A of the Tax Law

(Link [§2.02.9](#))

Placeholder for hardcopy of the following document:

1. [Appendix J](#), dated May 2007

A PDF version of the document is embedded below:



ST220TD.pdf

To open the document double click on the icon.

APPENDIX K State Consultant Services "Form A" (Full Contract Term) (Adm-985)

(Link [§2.02.11](#))

Placeholder for hardcopy of the following document:

1. [Appendix K](#), dated June 2006

A PDF version of the document is embedded below:



Form A .pdf

To open the document double click on the icon.

APPENDIX L State Consultant Services "Form B" (Annual Submission) (Adm-986)

(Link [§2.02.11](#))

Placeholder for hardcopy of the following document:

1. [Appendix L](#), dated June 2006

A PDF version of the document is embedded below:



To open the document double click on the icon.

APPENDIX M Compliance with NYS Workers' Compensation Law

(Link [o](#))

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that DCS shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with DCS, the selected Offeror will be required to verify for DCS, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518)486-6307. The Offeror may also find useful information at their website <http://www.wcb.state.ny.us>. Failure to provide verification of either of these types of insurance coverage by the time the winning Offeror is selected and the Agreement is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Workers' Compensation Requirements under WCL § 57:

To comply with coverage provisions of the WCL, businesses must:

- A) be legally exempt from obtaining workers' compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the government entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage ⁽¹⁾; **OR**
- B) C-105.2 -- Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) **PLEASE NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3; **OR**
- C) SI-12 -- Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 -- Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

Disability Benefits Requirements under Workers' Compensation Law §220(8)

To comply with coverage provisions of the WCL regarding disability benefits, businesses may:

- A) be legally exempt from obtaining disability benefits insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220(8), businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage ⁽¹⁾; **OR**
- B) DB-120.1 -- Certificate of Disability Benefits Insurance (the business's insurance carrier will send this form to the government entity upon request); **OR**
- C) DB-155 -- Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247).

⁽¹⁾ Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website, www.wcb.state.ny.us, under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract.

APPENDIX N Department Of Civil Service Information Security Policy

Placeholder for hardcopy of the following document:

1. [Appendix N](#) dated October 2005

A PDF version of the document is embedded below:



DCS Information
Security Policy.pdf

To open the document double click on the icon.

EXHIBIT A Formal Offer Letter

(Link [S4.02.1](#))

Exhibit A - Page 1 of 2

[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]

Date:

Procurement Manager
NYS Department of Civil Service
55 Mohawk Street, Suite 201
Cohoes, New York 12047

**RE: RFP No. 2014MES-1, entitled
"MEDICAL EXAMINATION SERVICES"
Firm Offer to the State of New York**

[INSERT OFFEROR NAME] hereby submits this firm and binding offer ("Proposal") to the State of New York in response to New York State Department of Civil Service Request for Proposals 2014MES-1, entitled "Medical Examination Services" (RFP). The Proposal hereby submitted meets or exceeds all terms, conditions, and requirements set forth in the above-referenced RFP and in the manner set forth in the RFP associated the Geographic Region(s) as bid..

[INSERT OFFEROR NAME] accepts the terms and conditions as set forth in RFP Section 6; as well as the terms and conditions set forth in RFP Appendices A through D, and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in the RFP in the manner set forth in the RFP as regards the Project Services.

[INSERT OFFEROR NAME] agrees to execute a contractual agreement composed substantially of the terms and conditions set forth in Section 6 of the RFP, and accepts as non-negotiable the terms and conditions set forth in Appendices A through D of the RFP.

[INSERT OFFEROR NAME] further agrees, if selected as a result of the RFP, to comply with the provisions of 1) the Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax as set forth in §2.02.9 of the RFP; 2) Sections 57 and 220 of the New York State Workers' Compensation Law as set forth in §2.02.10 of the RFP; and 3) the Consultant Disclosure Requirements as set forth in §2.02.11 of the RFP.

This formal offer for **GEOGRAPHIC REGION(S)** will remain firm and non-revocable for a minimum period of 365 days from the Proposal Due Date and Time as set forth in the RFP. In the event that a contract is not approved by the NYS Comptroller within the 365 day period, this offer shall remain firm and binding beyond the 365 day period and until a contract is approved by the NYS Comptroller, unless [INSERT OFFEROR NAME] delivers to the Department of Civil Service written notice of withdrawal of its Proposal.

[INSERT OFFEROR NAME]'s complete offer is set forth as follows:

- Administrative Proposal: Total of six 6 hard copy volumes [one (1) original and five (5) copies] and one (1) electronic copy on CD.
- Technical Proposal: Total of six 6 hard copy volumes [one (1) original and five (5) copies] and one (1) electronic copy on CD.
- Financial Proposal: Total of six 6 hard copy volumes [one (1) original and five (5) copies] and one (1) electronic copy on CD.

The undersigned affirms and swears s/he has the legal authority and capacity to sign and make this offer on behalf of, [INSERT OFFEROR NAME] and possesses the legal authority and capacity to act on behalf of [INSERT OFFEROR NAME] to execute a contract with the State of New York.

Vendor ID: [INSERT OFFEROR'S VENDOR ID NUMBER]¹

The undersigned affirms and swears as to the truth and veracity of all documents included in this offer.

Date: _____

Signature _____

PRINT:

SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } **SS.:**

On the ____ day of _____ in the year 2014, before me personally appeared:

_____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of _____, County of _____, State of _____; and further that, if applicable:

[Check One, If Applicable]

(___ **If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___ **If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

¹ If the Offeror does not have a Vendor ID, leave blank and complete the OSC Substitute W-9 Form available at: (http://www.osc.state.ny.us/vendors/forms/ac3237_fe.pdf) and attach it to the Formal Offeror Letter.

EXHIBIT B Offeror Qualification Certification

(Link [§4.02.2](#))

Exhibit B - Page 1 of 2

An authorized representative of the Offeror who is legally authorized to certify the information requested in the name of and on behalf of the Offeror is required to complete and sign the Offeror Attestations and provide all requested information. Offeror's authorized representative must certify as to the truth of the representations made by signing where indicated, below.

CERTIFICATION:

The Offeror (1) recognizes that the following representations are submitted for the express purpose of assisting the State of New York in making a determination to award a contract; (2) acknowledges and agrees by submitting the Attestation, that the State may at its discretion, verify the truth and accuracy of all statements made herein; (3) certifies that the information submitted in this certification and any attached documentation is true, accurate and complete.

Name of Vendor Submitting Bid:		
Vendor's Legal Form:		<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____
No.	RFP Ref.	RFP Requirement:
1.	§1.02.1(a)	The Offeror represents and warrants that, at time of Proposal submission, the Offeror: <input type="checkbox"/> is <input type="checkbox"/> is not authorized to conduct business in New York State. If not authorized to conduct business in New York State, at time of bid, the Offeror represents and warrants that it: <input type="checkbox"/> has <input type="checkbox"/> has not filed an application for authority to do business in New York State with the New York State Secretary of State.
No.	RFP Ref.	RFP Requirement:
2.	§1.02.1(b)	The Offeror represents and warrants that, at time of Proposal submission, the Offeror: <input type="checkbox"/> possesses <input type="checkbox"/> does not possess the legal capacity to enter into a contract with the Department.
No.	RFP Ref.	RFP Requirement:
3.	§1.02.2(a)	The Offeror represents and warrants that it: <input type="checkbox"/> does <input type="checkbox"/> does not possess adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified in the RFP. <i>(Note: Evidence that Offeror has adequate staffing resources, financial resources and organization to perform the type, magnitude and quality of work specified in the RFP.)</i>

(Link [§4.02.2](#))

Exhibit B - Page 2 of 2

Name of Business Entity Submitting Bid:		
No.	RFP Ref.	RFP Requirement:
4.	§1.02.2 (b)	<p>The Offeror represents and warrants that it:</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not</p> <p>been actively and regularly engaged, for at least the past three years, in the delivery of comparable services to the Project Services covered by the RFP.</p> <p><i>(Note: Evidence that Offeror has been actively and regularly engaged, for at least the past three years, in the delivery of comparable services to the Project Services covered by the RFP.)</i></p>

Date: _____

_____ *Signature*

PRINT:

SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
 :
 COUNTY OF _____ } **SS.:**

On the ____ day of _____ in the year 2014, before me personally appeared:

_____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of _____, County of _____, State of _____; and further that, if applicable:

[Check One, If Applicable]

(**If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(**If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT C Compliance with Public Officers Law Requirements

(Links [§2.02.1](#) & [§4.02.3](#))

Exhibit C
Page 1 of 1

The New York State Public Officers Law ("POL"), particularly POL Sections 73 and 74, as well as all other provisions of New York State law, rules and regulations, and policy establishing ethical standards for current and former State employees. In submitting its Proposal, the Offeror must guarantee knowledge and full compliance with such provisions for purposes of the RFP and any other activities including, but not limited to, contracts, bids, offers, and negotiations. Failure to comply with these provisions may result in disqualification from the procurement process, termination, suspension or cancellation of the contract, and criminal proceedings as may be required by law. Offeror affirmatively states that at the time of Proposal submission, Offeror knows of no factors existing at time of Proposal submission or which are anticipated to arise thereafter, which would constitute a potential conflict of interest in successfully meeting the contractual obligations set forth in the RFP, including but not limited to:

- (1) No potential for conflict of interest on the part of the Offeror due to prior, current, or proposed contracts, engagements, or affiliations; and
- (2) No potential conflicts in the sequence or timing of the proposed award under the RFP relative to the timeframe for service delivery, or personnel or financial resource commitments of Offeror to other projects.

Date: _____

Signature

PRINT:

SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
 : **SS.:**
COUNTY OF _____ }

On the ____ day of _____ in the year 2014, before me personally appeared:
_____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of _____, County of _____, State of _____; and further that, if applicable:

[Check One, If Applicable]
(**If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(**If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT D Proposal Submission Requirements Checklist

(Links [§2.01.7](#) & [§4.02.4](#))

**Exhibit D –
Page 1 of 3**

The following checklist is provided for use of Offerors to help ensure Offeror’s compliance with the RFP requirements. Offerors should indicate by checkmark that the Offeror’s Proposal meets each of the following submission requirements (Use RFP provided forms as stipulated. If no form is stipulated, submit appropriate documentation as stated in the requirement.)

TIMELY SUBMISSION:

Offerors are reminded that Offerors are solely responsible for timely delivery of their Proposal to DCS prior to the stated Proposal Due Date and Time deadline as set forth in RFP [§2.01.1](#).

1. PACKAGING AND FORMATTING REQUIREMENTS:

Each part of the Offeror’s Proposal (Administrative, Technical and Financial Proposal) must comply with the formatting requirements stated in RFP [§2.01.7](#).

Check (✓) If Included	RFP Section	Required Submission
	§2.01.7.a	The Offeror’s Proposal is organized in three separate (3) parts: Administrative; Technical, and Financial Proposals.
	§2.01.7.a	One (1) ORIGINAL separately bound hard copy of each part.
	§2.01.7.a	Six (6) separately bound hard copies of the Offeror’s Administrative Proposal; Six (6) separately bound hard copies of the Offeror’s Technical Proposal; and Six (6) separately bound hard copies of the Offeror’s Financial Proposal.
	§2.01.7.a	One (1) electronic copy (CD) of each of the three (3) parts of the Offeror’s Proposal.
	§2.01.7.a	Each ORIGINAL hard copy of each part is marked "ORIGINAL" and contains an original signature of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror’s signature.
	§2.01.7.a	The remaining hard copies of each part contain either an original signature or a copy of the official's signature on all forms submitted that require the Offeror’s signature and they are numbered sequentially (e.g. Copy #1, Copy #2, etc).
	§2.01.7.a	Proposals are placed and packaged together, by part, in sealed boxes/envelopes.
	§2.01.7.a	Each sealed boxes/envelopes contains a label on the outside of the container which contains the required labeling information.
The Proposal complies with the formatting requirements set forth in the RFP in terms of:		
	§2.01.7.b	<u>Binding of Proposal:</u> The official name of the organization(s) and “MEDICAL EXAMINATION SERVICES” appears either on the outside front cover of each copy of the Offeror's Administrative, Technical and Financial Proposal, or if the Proposals are submitted in loose-leaf binders on the spine of the binders
	§2.01.7.b	<u>Table of Contents:</u> Each Proposal contains a table of contents.
	§2.01.7.b	<u>Index Tabs:</u> Each major section of the Proposal and each exhibit/attachment/appendix is labeled with an index tab that completely identifies the title of the section, or exhibit, attachment or appendix as named in the table of contents.
	§2.01.7.b	<u>Pagination:</u> Each page of each of the three (3) parts of the Offeror’s Proposal is dated and numbered consecutively from its beginning through all appended material.

2. ADMINISTRATIVE PROPOSAL:

The Offeror’s Administrative Proposal must respond to all of the mandatory sections as set forth in RFP [§4.02.1](#) through [§4.02.11](#), in the order specified in [§4.02](#) and using the specified forms and formats, as applicable, set forth in RFP [Exhibit A](#) through [Exhibit L](#). Subsections for which narrative information is to be provided, if any, are not separately listed in the table below, just the Section title and Exhibits, if any that are to be included at that section of the Offeror’s Administrative Proposal. When indicating that a section is included the Offeror should ensure that all required submission associated with a given section and its subsections, if any, have been provided (Note: Although not an Official Component of the Offeror’s Administrative Proposal, the Checklist includes the “[Requested Redactions CD and Hard Copy](#)” as requested to be provided per RFP [§4.02.12](#)):

Check (√) If Included	RFP Section	Required Submission and Associated Exhibits, if any
	§4.02.1	Formal Offer Letter - Exhibit A
	§4.02.2	Offeror Qualification Certification - Exhibit B
	§4.02.3	Compliance with Public Officers Law Requirements - Exhibit C
	§4.02.4	Proposal Submission Requirements Checklist - Exhibit D
	§4.02.5	1. EEO Staffing Plan (form EEO-100) - Exhibit E ; 2. Certification of Good Faith Efforts (form MWBE-104) - Exhibit F ; and 3. MWBE Utilization Plan (form MWBE-100) - Exhibit G
	§4.02.6	Compliance with Americans with Disabilities Act - Exhibit H
	§4.02.7	MacBride and Non-Collusive Bidding Certification - Exhibit I
	§4.02.8	New York State Standard Vendor Responsibility Questionnaire - Exhibit J
	§4.02.9	Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k(5) - Exhibit K
	§4.02.10	Financial (No associated Exhibit)
	§4.02.11	Freedom of Information Law – Request for Redaction Chart - Exhibit L
Check (√) If Included	RFP Section	Supplemental Information Requested to be Included with Administrative Proposal Package
	§4.02.12	Requested Redactions CD and Hard Copy

3. TECHNICAL PROPOSAL:

The Offeror’s Technical Proposal must respond to all of the mandatory sections as set forth in RFP [§4.03.1](#) through [§4.03.5](#), in the order specified in [§4.03](#) and using the specified formats and forms, as applicable, set forth in RFP [Exhibit M](#) through [Exhibit R](#). Sub-sections for which narrative information is to be provided, if any, are not separately listed in the table below, just the Section title and Exhibits, if any that are to be included at that section of the Offeror’s Technical Proposal. When indicating that a section is included the Offeror should ensure that all required submission associated with a given section and its subsections, if any, have been provided:

Check (√) If Included	RFP Section	Required Submission – Associated Exhibits, if any
	§4.03	Copy of Offeror’s Formal Offer Letter
	§4.03.1	Organizational Overview (No associated Exhibit)
	§4.03.2	Key Subcontractors - Exhibit M
	§4.03.3	Client References – Exhibit N - 2 client references
	§4.03.4	Project Services : i. Biographical Sketch Form - Exhibit P ii. Medical and Technical Staff Roster - Exhibit O Project Services Matrix - Exhibit Q
	§4.03.5	Performance Guarantees - Exhibit R

4. FINANCIAL PROPOSAL:

The Offeror’s Financial Proposal must respond to all of the mandatory sections as set forth in RFP [§4.04.1](#) using the specified form and formats set forth in RFP [Exhibit S](#). *Sub-sections for which narrative information is to be provided, if any, are not separately listed in the table below, just the Section title and Exhibits, if any that are to be included at that section of the Offeror’s Financial Proposal. When indicating that a section is included the Offeror should ensure that all required submission associated with a given section and its subsections, if any, have been provided:*

Check (✓) If Included	RFP Section	Required Submission – Associated Exhibits
	§4.04	Copy of Offeror’s Formal Offer Letter
	§4.04.1	Exhibit S , Medical Examination and Test Services Quotation

EXHIBIT E EEO Staffing Plan (form EEO-100)

(Links [§2.02.3](#) & [§4.02.5](#))

Exhibit E – Page 1 of 1

Placeholder for a hardcopies of the following documents (Either version of the document may be used by Offerors):

To open the document(s) double click on the Icon.

The below documents are also available at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>

- EEO Staffing Plan (form EEO-100)

A PDF version of the document is embedded below:



EEO-100-fill-in.pdf

A Word version of the document is embedded below:



EEO-100.dot

EXHIBIT F Certification of Good Faith Efforts (form MWBE-104)

(Links [§2.02.3](#) & [§4.02.5](#))

Exhibit F– Page 1 of 1

Placeholder for a hardcopies of the following document (Either version of the document may be used by Offerors):

To open the document(s) double click on the Icon.

The below documents are also available at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>

- Certification of Good Faith Efforts (form MWBE-104)

A PDF version of the document is embedded below:



MWBE-104.pdf

A Word version of the document is embedded below:



MWBE-104.dot

EXHIBIT G MWBE Utilization Plan (form MWBE-100)

(Links [§2.02.3](#) & [§4.02.5](#))

[Exhibit G](#) – Page 1 of 1

Placeholder for a hardcopies of the following document (Either version of the document may be used by Offerors):

To open the document(s) double click on the Icon.

The below documents are also available at: <http://www.cs.ny.gov/pio/mwbe-eeo-forms.cfm>

- MWBE Utilization Plan (form MWBE-100)

A PDF version of the document is embedded below:



MWBE-100-fill-in.pdf

A Word version of the document is embedded below:



MWBE-100.dot

EXHIBIT H Compliance with Americans with Disabilities Act

(Links [§2.02.4](#) & [§4.02.6](#))

Exhibit H – Page 1 of 1

The Offeror hereby provides assurance of its compliance with the Americans With Disabilities Act (42 USC§12101 et seq.), in that any services and programs provided during the course of performance of the contract resultant from the RFP (Contract) shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act.

Date: _____

Signature

PRINT:

SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
 : **SS.:**
COUNTY OF _____ }

On the ____ day of _____ in the year 2014, before me personally appeared:

_____, known to me to be the person who executed the foregoing

instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of

_____, County of _____, State of _____; and

further that, if applicable:

[Check One, If Applicable]

(___ **If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___ **If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT I MacBride and Non-Collusive Bidding Certification

(Links §2.02.5 & §4.02.7)

Exhibit I – Page 1 of 1

**NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with Chapter 807 of the Laws of 1992 the Offeror, by submission of this bid, certifies that it or any individual or legal entity in which the Offeror holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Offeror, either (answer "yes" or "no" to one or both of the following, as applicable):
Have business operations in Northern Ireland. Yes _____ or No _____

If yes:

Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles. Yes _____ or No _____

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each Offeror and each person signing on behalf of any Offeror 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 his knowledge and belief:

1. The prices in 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 Offeror or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly or indirectly, to any other Offeror or to any competitor; and
3. No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Date: _____

Signature

PRINT:

SIGNATORY'S NAME _____ **TITLE** _____

INDIVIDUAL, CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }
 : **SS.:**
COUNTY OF _____ }

On the ____ day of _____ in the year 2014, before me personally appeared:

_____, known to me to be the person who executed the foregoing

instrument, who, being duly sworn by me did depose and say that _he resides at _____, Town of

_____, County of _____, State of _____; and further that, if applicable:

[Check One, If Applicable]

(___ **If a corporation**): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(___ **If a partnership**): _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name and on behalf of said partnership as the act and deed of said partnership.

Notary Public

EXHIBIT J New York State Standard Vendor Responsibility Questionnaire

(Links [§2.02.6](#) & [§4.02.8](#))

Placeholder for a hardcopies of the following document (Either version of the document may be used by Offerors):

To open the document(s) double click on the Icon.

- [New York State Standard Vendor Responsibility Questionnaire](#)

A PDF version of the document is embedded below:



New York State
Standard Vendor Res

A Word version of the document is embedded below:



Vendor Responsibility
Questionnaire 6-2010

EXHIBIT K Offeror’s Certification of Compliance Pursuant to State Finance Law §139-k(5)

(Links [§2.01.2](#), [§2.02.7](#) & [§4.02.9](#))

**Exhibit K – Page 1
of 1**

Instructions:

New York State Finance Law (SFL) §139-k(5) requires that every contract award subject to the provisions of SFL §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the DCS with respect to SFL §139-k is complete, true and accurate.

At the time an Offer or Bid is submitted to the DCS, the Offeror/Offeror must provide the following certification that the information it has and will provide to the DCS pursuant to SFL §139-k is complete, true and accurate including, but not limited to, disclosures of findings of non-responsibility made within the previous four years by any State governmental entity where such finding of non-responsibility was due to a violation of SFL §139-j or due to the intentional provision of false or incomplete information to a State governmental entity.

Offeror Certification

I certify that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

Name of Offeror: _____

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

Date: _____

EXHIBIT L Freedom of Information Law – Request for Redactions Chart

(Links [§2.02.8](#) & [§4.02.11](#))

Exhibit L – Page 1 of 2

_____ Proposal Dated: _____

(Name of Company)

In Response to the NYS Department of Civil Service Request for Proposals RFP No. 2014MES-1 entitled, "Medical Examination Services"

Check the applicable box below:

- Offeror asserts that the information noted in the table below constitutes proprietary and/or trade secret information and desires that such information not be disclosed if requested pursuant to the New York State Freedom of Information Law, Article 6 of the Public Officers Law.
- Offeror makes NO assertion that any information in its Proposal, in whole or in part, should be protected from FOIL disclosure.

Administrative Proposal		
Requested Redaction Page #'s and Proposal Sections	Description	Offeror Rationale for Proposed Redaction
<i>Insert rows above as necessary</i>		
Technical Proposal		
Requested Redaction Page #'s and Proposal Sections	Description	Offeror Rationale for Proposed Redaction
<i>Insert rows above as necessary</i>		
Financial Proposal		
Requested Redaction Page #'s and Proposal Sections	Description	Offeror Rationale for Proposed Redaction
<i>Insert rows above as necessary</i>		

REDACTION CHART

Please provide specific justification for each item for which you seek protection from FOIL disclosure. An appropriate justification may include any one or more of the following considerations by which to demonstrate reasonably whether the item for which you seek protection may be excepted from disclosure:

- a. the confidential nature of the specific item, including a description of the nature and extent of the injury to the Offeror's competitive position, such as unfair economic or competitive damage, which would be incurred were the information/record to be disclosed;
- b. whether the specific information/record is treated as confidential by the Offeror, including whether it ever has been made available to any person or entity;
- c. whether any patent, copyright, or similar legal protection exists for the specific item of information;
- d. whether the public disclosure of the information/record is otherwise restricted by law, and the specific source and content of such restriction;
- e. the date upon which the information/record no longer will need to be kept confidential, if applicable;
- f. whether the item of information is known by anyone outside the Offeror's business or organization;
- g. the extent to which the information is known by Offeror's employees and others involved in the Offeror's business;
- h. the value of the specific information/record to the Offeror and to its competitors;
- i. the amount of effort or money expended by the Offeror in developing the information/record;
- j. and the ease or difficulty with which the information could be properly acquired or duplicated (not merely copied) for use by others.

EXHIBIT M Key Subcontractors

(Link [S4.03.2](#))

Exhibit M – Page 1 of 1

INSTRUCTION: Prepare this form for each Key Subcontractor	
Offeror's Name:	
<p>The Offeror:</p> <p><input type="checkbox"/> is</p> <p><input type="checkbox"/> is not</p> <p>proposing to utilize the services of a subcontractor(s) to provide Project Services</p>	
Subcontractor's Legal Name:	
Business Address:	
Subcontractor's Legal Form:	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____
<p>As of the date of the Offeror's Proposal, a subcontract</p> <p><input type="checkbox"/> has</p> <p><input type="checkbox"/> has not</p> <p>been executed between the Offeror and the subcontractor(s) for services to be provided by such subcontractor(s) relating to the Project.</p>	
<p>In the space provided below, describe the Subcontractor's role(s) and responsibilities regarding Project Services to be provided by the subcontractor:</p>	
<p>Relationship between Offeror and Subcontractor for Current Engagements: (Complete items 1 through 5 for each client engagement identified)</p>	
1. Client:	
2. Client Reference Name and Phone #	
3. Project Title:	
4. Project Start Date:	
5. In the space provided below, Project Status:	
<p>6. In the space provided below, describe the roles and responsibilities of the Offeror and subcontractor in regard to the project identified in 3, above:</p>	

EXHIBIT N Client References

(Link [§4.03.3](#))

Exhibit N – Page 1 of 1

Client Reference #: _____

Project Reference Name: _____

Name of the Client for whom services are/were Performed:	
Client Contact Information:	
Contact's Name:	
Contact's Title:	
Phone Number:	
Email Address:	
Services Rendered Description: In the space provided below, the Offeror should describe the nature of the services in satisfaction of the requirements in RFP §4.03.3 demonstrating that the Offeror has provided services comparable in scope to those as set forth in the RFP. The type of services provided as well as the number of individuals examined and over what time period(s) should be provided.	

EXHIBIT O Medical and Technical Staff Roster

(Link [S4.03.4](#))

Exhibit O – Page 1 of 1

Medical and Technical Staff Members' Name ¹	Position Title	Subcontractor (Y/N)	Employer

NOTE:

¹ Employers are required by Federal law to verify that all employees are legally entitled to work in the United States. Accordingly, DCS reserves the right to request legally mandated employer-held documentation attesting to the same for each individual assigned work under the Contract. In accord with such laws, DCS does not discriminate against individuals on the basis of national origin or citizenship.

EXHIBIT P Biographical Sketch Form

(Link [S4.03.4](#))

Exhibit P – Page 1 of 1

INSTRUCTION: Prepare this form for the Offeror’s proposed Project Manager and each Medical and Technical staff member individual, including Key Subcontractors provided Medical and Technical staff, if any, listed in the Offeror’s [Exhibit O](#) submission.

Name:			
Position Title			
In the space provided below describe the individual's proposed role and responsibilities under the Contract:			
EDUCATION:			
Institution & Location	Degree	Year Conferred	Discipline
QUALIFICATIONS & CERTIFICATIONS:			
PROFESSIONAL EMPLOYMENT: (Start with most recent)			
Employer	Title	Dates From – To	
PROFESSIONAL EXPERIENCE: (Include only that experience which is significant and relevant given the services which are the subject matter of the RFP.)			
REFERENCES: (Provide and the Name and Phone Number of two references). All references provided must be from client company(ies) external to the Offeror’s or Key Subcontractor’s organization. All references provided should have direct knowledge of the individual’s experience and be able to validate the experience provided as it relates to the individual’s proposed role and responsibilities under the Contract.			
Name:			
Phone:			
Name:			
Phone:			

EXHIBIT Q Project Services Matrix

(Link [§4.03.4](#))

[Exhibit Q](#) – Page 1 of 1

Placeholder for a hardcopy of the following document:

- [Project Services Matrix](#)

A pdf version of the document is embedded below:



Exhibit Q Word DOC
- Jan 2014.pdf

To open the document double click on the icon.

A Microsoft Word TEMPLATE version of the document is available upon request but has NOT been embedded

EXHIBIT R Performance Guarantees

(Link [S4.03.5](#))

PERFORMANCE GUARANTEES

[Exhibit R](#) – Page 1 of 3

Performance Guarantee:	Offeror's Response
<p>1. <u>Appointment Scheduling Guarantee:</u> <i>The Contractor guarantees that each occupational health and preplacement examination, including OCA preplacement examinations, shall be scheduled and conducted within seven (7) Business Days from the date the Contractor is notified by EHS that a given examination is required, unless a different duration is agreed to by EHS on a case-by-case basis. For each Business Day that elapses, after the seventh (7th) Business Day from the date the Contractor is notified by EHS that a given examination is required, until the examination is scheduled and conducted by the Contractor, the Contractor shall pay the Department one seventh of the contracted fee for the associated examination, up to an aggregate total penalty amount equal to the contracted fee for the associated examination. Said total aggregated penalty is based on the assumption that the examination is conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required. In those cases, if any, where the examination is not scheduled and conducted by the Contractor by the fourteenth (14th) Business Day from the date the Contractor is notified by EHS that a given examination is required, the Department reserves the right to have the examination performed by a third party, in which case the total aggregate penalty amount that the Contractor shall pay the Department shall be equal to the sum of the cost incurred by the Department to have the examination performed by the third party, plus the amount of the contracted fee for the associated examination. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the appointment scheduling guarantee for a given appointment is attributable solely to the individual for whom the examination is to be performed e.g., examination is scheduled with an individual and the individual fails to show up for the appointment within a reasonable period from the appointed time.</i></p>	<p>1. <u>Check appropriated box:</u> The Offeror <input type="checkbox"/> agrees <input type="checkbox"/> does not agree to meet the Appointment Scheduling Guarantee and the stipulated penalty amounts for failure to meet the guarantee.</p>

(Link [§4.03.5](#))

PERFORMANCE GUARANTEES

Exhibit R – Page 2 of 3

Performance Guarantee:	Offeror's Response
<p>2. <u>Time Frame for Reports Guarantee</u> <i>The Contractor guarantees that the Final Reports for the Occupational Health; Mandatory Health; Preplacement and OCA Preplacement Examinations shall be received by EHS or OCA, as applicable within their associated deadlines as set forth in RFP §3.03.3.</i></p>	<p>1. <u>Check appropriated box:</u> The Offeror</p> <p><input type="checkbox"/> agrees</p> <p><input type="checkbox"/> does not agree to meet the Time Frame for Reports Guarantee.</p> <p>2. <u>Complete the following by entering the proposed penalty amounts, in the space provided, for failure to meet the Time Frame for Reports Guarantee:</u></p> <p><i>For each twenty-four (24) hour period, or part thereof, that an Occupational Health; Mandatory Health; Preplacement or OCA Preplacement Examinations Final Report is not provided to EHS or OCA, as applicable, by the report's due date, the Contractor shall pay the Department:</i></p> <p>\$ _____ per day, until such time that the report is provided to EHS or OCA, as applicable, up to an aggregate total penalty amount of:</p> <p>\$ _____ for each occurrence of Contractor non-performance. The Parties agree that the Contractor shall not be penalized for Contractor non-performance in those cases where the Contractor can document and prove to the satisfaction of the Department that the failure to meet the performance guarantee for a given report is due to the fact that the examiner is waiting for medical records from the individual's physician; the examiner is waiting for results of a subspecialty exam scheduled after the initial exam; the individual needs to return for retesting, or for other reasons as determined by Department on a case-by-case basis to be, in the Department's sole discretion, acceptable.</p>

EXHIBIT S Financial Proposal Forms

The Offeror's Financial Proposal must respond to all of the mandatory sections set forth in RFP [§4.04](#) in the formats as specified and using the form set forth in [Exhibit S](#). The Offeror's Financial Proposal must be based upon the Pricing Assumptions and the instructions as set forth in RFP [§4.04](#).

(Link [§4.04.1](#))

[Exhibit S](#) - Financial Proposal**Medical Examination and Test Services Quotation**

Placeholder for a hardcopy of the following document:

- [Medical Examination and Test Services Quotation](#)

A pdf version of the document is embedded below:



Exhibit S - Form
1.pdf

To open the document double click on the icon.

A Microsoft Excel version of the document is available upon request but has NOT been embedded.