



NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

REQUEST FOR PROPOSALS

"New York State Health Insurance Program Decision Support System"

RELEASE DATE: June 30, 2010

PROPOSAL DUE DATE: **September 8, 2010**

IMPORTANT NOTICE: A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the resultant contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the DSS Procurement Manager as listed 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, Section II: Procurement Protocol and Process)

**Department of Civil Service Contact for
Inquiries and Submissions for this Procurement:**

**DSS Procurement Manager
Employee Benefits Division, Room 641
New York State Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239
(518) 402-4264**

e-mail: 2010DSSRFP@cs.state.ny.us

**Nancy G. Groenwegen
Commissioner
New York State Department of Civil Service**

**Robert W. DuBois, CEBS
Director
Employee Benefits Division**

SECTION I: INTRODUCTION**A. Purpose**

This Request for Proposals entitled, “New York State Health Insurance Program Decision Support System” (RFP) is being issued by the New York State Department of Civil Service (DCS or Department). The purpose of the RFP is to solicit Proposals from qualified Offerors in order to secure the services of a firm to implement and support a comprehensive and integrated data management solution that provides the Department with a flexible, effective and efficient means of storing data, analyzing data, and generating business intelligence to be used by the Department and its designated Users, hereinafter referred to as “Project Services.” That solution, together with said Project Services, is hereinafter referred to as the “Decision Support System” or “DSS Solution”. The Department will execute an agreement with that Offeror selected as a result of this Procurement (Contractor) for Project Services under which the Contractor shall be solely responsible for the implementation and ongoing operation of its proposed DSS Solution. For purposes of this RFP, the use of the term Project Services will be understood to mean the entire scope of services to be provided by the Contractor under the Contract.

The agreement resultant from this Procurement (Contract) shall be subject to approval by the NYS Office of the Attorney General (OAG) and the NYS Office of the State Comptroller (OSC). The term of the Contract shall be for a period of five (5) years, with a one (1) year optional extension period. The right to exercise said optional extension shall be at the sole discretion of the Department and is subject to approval by the OAG and the OSC.

The Department shall contract with a single entity only and that entity shall be the sole contact with regard to all provisions of the Contract. If an Offeror’s Proposal includes subcontractors, the Department will consider the Offeror the Prime Contractor, and the Offeror shall assume full responsibility for all aspects of the DSS Solution. The Department reserves the right to approve (or disapprove) any or all subcontractors.

The State may use the Contract for any agency of the State or local government subject to required statutory approvals, including the approval of the NYS Office of General Services.

Offerors intending to submit a Proposal should, at minimum, be aware of the following key points:

- It is **mandatory** that all prospective Offeror/Offerors complete Attachment 1 “Procurement Lobbying Offeror’s Affirmation of Understanding & 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. As stated in Section II.A.2, a completed Attachment 1 must be submitted to the DSS Procurement Manager prior to a prospective Offeror making its initial contact with the Department (e.g., attendance at the Pre-Proposal Conference, submission of questions, etc.) or concurrent with an Offeror’s submission of its Proposal, whichever shall occur first.
- To assist the Department in better managing the procurement process, it is requested but **not** mandatory, that prospective Offerors, whether they intend to submit a proposal to this RFP or not, complete Attachment 2 “Notice of Bidding Intention Form” and submit it to the Procurement Manager by the Notice of Bidding Intention Due Date as set forth in Section II.A. of this RFP.
- All Proposals must be received by the Department by 3:00 p.m. Eastern Time (ET) on the Proposal Due Date. **No exceptions will be made for late submission or delays in delivery of the Proposal.**
- The Offeror’s proposed DSS Solution will be evaluated based on the product offering as it exists as of the date of proposal submission; proposed and/or yet-to-be-released versions will not be evaluated.

Section II of this RFP provides an estimated timeline of key events as well as detail on the procurement protocol and procedures required for this Procurement.

Note: Refer to **RFP Section VIII, “Decision Support System RFP Glossary of Terms and Abbreviations,”** for definitions of terms used throughout this RFP.

B. Overview of the New York State Health Insurance Program

The New York State Health Insurance Program (NYSHIP) was established by the State Legislature in 1957 to provide health insurance protection to New York State (NYS or State) employees, retirees and their eligible dependents. Subsequent amendment to NYS Civil Service Law and collective bargaining agreements provided for the inclusion of the Dental and Vision Plans. Public authorities, public benefit corporations, and other quasi-public entities, such as the NYS Thruway Authority and the Dormitory Authority may choose to participate in NYSHIP; those that do are called Participating Employers (PEs). Article XI of the NYS Civil Service Law also allows local units of government such as school districts, special districts, and municipal corporations to participate in NYSHIP; those local government units which choose to participate in NYSHIP are called Participating Agencies (PAs). At present, there are approximately 455 NYS agencies, 93 Participating Employers, and 811 Participating Agencies in NYSHIP. NYSHIP is administered by the Department’s Employee Benefits Division.

NYSHIP is designed to provide health insurance coverage through the Empire Plan and the Excelsior Plan, indemnity plans with managed care components; NYSHIP approved Health Maintenance Organizations (HMOs); and through the Student Employee Health Plan (SEHP), a health insurance plan for graduate student employees of the State University and City University systems. NYS and PE employees and retirees may elect to enroll in either the Empire Plan or in one of the HMOs offered through NYSHIP. However, NYSHIP offers only the Empire Plan and the Excelsior Plan, an Empire Plan option that is extended to PAs, local government units which choose to participate in NYSHIP. NYSHIP currently covers over 599,800 NYS, PA and PE employees and retirees. Eligible covered dependents bring the total number of covered lives in NYSHIP (Empire Plan, HMOs and SEHP inclusive) to approximately 1,202,000. Separate from NYSHIP, PAs may, and frequently do, offer HMOs directly to their own employees and retirees as an alternative to Empire Plan coverage.

For the benefit year beginning January 1, 2010, eleven (11) HMOs have been approved for participation in NYSHIP. Consistent with New York State law, the HMOs are community-rated. While NYSHIP establishes certain minimum coverage requirements, the content of the benefit packages offered by the HMOs are not otherwise dictated by NYSHIP or affected by collective bargaining.

The Department's Employee Benefits Division also administers the Dental and Vision Plans for those groups of State employees and PEs that elect to participate in the programs. Dental and Vision Plan enrollees are, for the most part, also enrolled in NYSHIP for health insurance coverage through either the Empire Plan or one of the NYSHIP participating HMOs.

C. The Empire Plan, Excelsior Plan and Student Employee Health Plan

The Empire Plan is a comprehensive health insurance program for New York's public employees and their families. The Empire Plan is sponsored by the Council on Employee Health Insurance (CEHI). The Council is composed of the President of the Civil Service Commission, the Director of the Governor's Office of Employee Relations (GOER), and the Director of the Division of the Budget (DOB). The Department holds the contracts with the Empire Plan Insurers. The Employee Benefits Division of the Department of Civil Service (EBD) is responsible for the administration of the Empire Plan and the Excelsior Plan. The Empire Plan and the Excelsior Plan currently have over 531,700 enrollees with approximately 1,070,800 covered lives. The Empire Plan benefit design has four (4) components:

1. Hospital Program benefits that include coverage for inpatient stays and hospital outpatient and emergency care. This Program is currently insured and administered by Empire HealthChoice Assurance, Inc. d/b/a Empire BlueCross BlueShield (EBCBS);
2. Medical Program benefits that include coverage for medical and surgical services under the Participating Provider and the Basic Medical Programs and includes several specialty programs. This Program is currently insured and administered by United HealthCare Insurance Company of New York (UHICNY);

3. Prescription Drug Program benefits that include coverage for prescription drugs dispensed through retail network pharmacies, the mail service pharmacy, the designated specialty pharmacy, and non-participating pharmacies. This Program is currently insured and administered by United HealthCare Insurance Company of New York (UHICNY) with Medco Health Solutions, Inc. (Medco) serving as the Pharmacy Benefit Manager (PBM); and
4. Managed Mental Health and Substance Abuse Program benefits that include coverage for inpatient and outpatient mental health and substance abuse services through network and non-network providers. This Program is currently insured by United HealthCare Insurance Company of New York (UHICNY) with network administration, managed care services, and claims administration provided by the Behavioral Healthcare Administrator (BHA), OptumHealth, Inc. (Optum).

The benefit design of the Empire Plan is the result of collective bargaining between the State and the various unions representing its employees. Benefits are extended administratively to non-represented State employees, employees of PAs and PEs, and retirees. Therefore, the benefit design is subject to change from time to time as the result of those negotiations, and, as a result, there are minor variations in benefits available to employees in each bargaining unit. The benefit design cannot deviate from that which has been collectively bargained. The majority of the active workforce is represented by various unions, and union participation in the design and oversight of NYSHIP is active and ongoing. Local governments may choose one of two variations of the Plan, the Empire Plan or the Excelsior Plan. The Excelsior Plan is a more affordable alternative to the Empire Plan. It offers many of the same features of the Empire Plan with a higher degree of cost sharing between the employer and plan participants.

In addition to the Empire Plan, NYSHIP affords benefits to members of the Student Employee Health Plan (SEHP) through the Empire Plan insurance contracts. The SEHP was established in 1994 through collective bargaining. The SEHP became part of NYSHIP in 2002 to provide basic health insurance protection to graduate student employees of the State University of New York and their eligible dependents. The SEHP was made available to graduate student

employees of the City University of New York and their eligible dependents on January 1, 2009. Like the Empire Plan, the SEHP includes hospital, medical, managed mental health and substance abuse benefits, and prescription drug benefits. SEHP is administered by EBD. SEHP covers an average of 5,300 employees; their eligible covered dependents bring the total number of average covered lives to approximately 6,400.

The Department maintains all NYSHIP enrollment data in its accounting and enrollment system, New York Benefits Eligibility & Accounting Systems (NYBEAS). NYBEAS is the source of eligibility information for each of the NYSHIP plans, (e.g. the Empire Plan, the Excelsior Plan, the SEHP and the NYSHIP-participating HMOs), and the NYS Dental and Vision Plans.

The Department intends to use the DSS Solution initially and primarily as a tool in the administration and management for only the Empire Plan, the Excelsior Plan and SEHP, with potential application to other benefit programs administered by the Department.

D. Empire Plan Data and Reports

Each of the Empire Plan Insurers provides detailed claims data and summary reports on benefit utilization. However, this information is reported in different formats and maintained separately for each of the four Plan components. As a result, its use in analyzing the Empire Plan's overall performance is limited.

Empire Plan summary reports are provided in a variety of reporting formats including Microsoft Excel, Word, Access, and other standardized reporting formats. These reports reflect various aspects of the Plan's utilization and financial experience on historical, current, and projected basis. The reports are program specific, not integrated with the reports provided by the other Plan insurers. Also, the reports are presented at a summary level and, therefore, do not provide the Department with the capability for in-depth analysis.

The Department has access to claims data for the Empire Plan including the Excelsior Plan and the SEHP, the Dental Plan, and the Vision Plan. Since NYSHIP HMOs are community-rated

plans, EBD does not receive claim data of any type from the HMOs. The Empire Plan claims data is currently received from the Insurers via FTP transmission; however, prior to January 1, 2008; data was transmitted to the Department through various methods, e.g. data tapes, cartridges, CDs and FTP. The claims files are program-specific, and are loaded and stored in Department-designed Oracle Database tables on a Plan Year basis.

While not the primary focus of the DSS Solution at this time, the Department may, during the term of the Contract, include additional data in the DSS Solution. Workers' Compensation medical claim data, pertaining only to NYS employees and currently held by the State Insurance Fund, may be added to the DSS Solution as it becomes accessible to the Department followed by other plan data, such as Dental or Vision, at the Department's option.

E. Decision Support System Overview

The Department is seeking data management and data integration tools and services. The ultimate goal is to have access to a comprehensive and integrated data warehouse and Decision Support System that provides the Department with a flexible, effective and efficient means of storing data, analyzing data, and generating business intelligence to be used by Department approved individuals including, but not limited to, the Department's program managers, CEHI executives, and staff of the NYS Office of the State Comptroller (OSC) in the administration, management, and oversight of the various NYSHIP programs. Further, the DSS Solution may be used by the Department's actuarial consultant in discharging its contractual obligation to provide benefit consulting services to the Department.

The following is a high level description of the Project Services the Department is seeking:

1. Data Management Services

The Department is seeking data management services whereby the Contractor will collect, maintain, and integrate NYSHIP eligibility and claims data in a manner consistent with the goal of making meaningful and useful program information

available to Users, including NYSHIP administrators and decision-makers. These services include, but are not limited to, activities such as:

- a. Providing facilities and architecture for long-term physical maintenance and storage of detailed claims data.
- b. Conducting all necessary quality assurance activities to ensure that data loaded into the DSS has passed all data validation edits required by the Department, as described more fully in Section IV of this RFP, following up with Data Providers to correct identified data errors, and advising the Department of significant and/or recurring errors by Data Providers.
- c. Create a DSS Solution that effectively integrates NYSHIP eligibility and claims data for Empire Plan, including the Excelsior Plan and SEHP, program areas, and allows for future expansion and integration of other programs.
- d. Conferring with Department staff and NYSHIP Insurers and administrators as appropriate to evaluate existing information assets, assess the Department's information needs, and develop and implement a project plan to achieve the goals of the DSS.
- e. Provide operational data support and services including establishing and documenting specifications for data files, providing comprehensive training and documentation to DSS Solution Users.

2. Information System Tools and Services

The Department is seeking a comprehensive, integrated health benefits information system solution which provides the Department and other CEHI and OSC staff with information required to manage and administer the Empire Plan, Excelsior Plan and SEHP initially, and potentially other NYSHIP benefit programs. The DSS Solution proposed by an Offeror must comply with all federal and State laws and regulations relating to the privacy and security of personal and protected health

information. Also, the proposed DSS Solution must allow access to information by Users only as authorized by the Department. The DSS Solution must provide analytical tools, reports, and information services that result in, at minimum, accomplishment of the following objectives:

- a. Give Users the ability to conduct analysis of detailed claims data by key attributes, such as geographic location, Benefit Program, employee status, relationship, age, gender, etc.
- b. Integrate prescription drug, mental health, medical, and hospital claims data.
- c. Organize medical, hospital, mental health, and prescription drug claims data into unique analytic combinations based on episodes of care to illustrate how specific illnesses/diseases are being treated.
- d. Provide Users with "built-in" analytics such as groupings for clinical conditions within major diagnostic categories, chronic conditions, preventive care measures, and identification of "avoidable admissions"
- e. Provide standard report templates and ad hoc analysis capability (e.g. trend analysis and premium development).
- f. Provide the capability to view claim information on both a "paid" and "incurred" basis.
- g. Offer access to meaningful utilization statistics (e.g. claims per enrollee, cost per claim, average length of stay for admissions, etc.)
- h. Enable Users to analyze prescription drug cost information (e.g. average cost of generic versus brand drugs within a therapeutic category, aggregate discount off AWP for retail generic drugs.)

- i. Provide the ability to identify, track and report Empire Plan cost and financial information, including major cost drivers.
- j. Include tools for in-depth provider analysis. (e.g. high volume providers, network participation levels per specialty area, practice patterns, etc.)
- k. Offer a credible normative database for comparison or benchmarking purposes and the ability to identify significant outliers. (e.g. Average Empire Plan cost per evaluation and management service, average duration of therapy per condition, average cost per generic drug claim, etc.)
- l. Provide recommendations and consultations on how the Department can, utilizing the information contained in the DSS Solution, maximize the value of Empire Plan services.
- m. Provide the capability to model the potential impact to the Empire Plan resulting from proposed benefit design changes or proposed changes to provider reimbursement rates.

SECTION II: PROCUREMENT PROTOCOL AND PROCESS**A. RULES GOVERNING CONDUCT OF COMPETITIVE PROCUREMENT PROCESS****Amended 8-5-10****1. Timeline/Key Events**

The following estimated timeline will be in effect for this RFP:

RFP Release Date	June 30, 2010
Attachment 1 Procurement Lobbying Offeror's Affirmation of Understanding & Agreement Due Date	*
Questions Due Date	July 14, 2010 5:00 p.m. ET
Release Date of Official Responses to Questions	July 22, 2010
Attachment 2 Notice of Bidding Intention Due Date	August 4, 2010
Proposals Due Date	September 8, 2010 3:00 p.m. ET
Anticipated Contract Start Date	**

* Prior to the Offeror's initial contact with the Department, the Offeror must complete and submit Attachment 1 Procurement Lobbying Offeror's Affirmation of Understanding & Agreement to the DSS Procurement Manager.

** Upon approval of the Agreement resultant from this RFP by the NYS Office of the State Comptroller, the Contract Start Date is anticipated to be on or about January 1, 2011.

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 this RFP until the date of the Contract's final approval by the OSC) to other than designated staff of the Department and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this Section II.A.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 D "Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process"** to this RFP. Further information about these requirements can also 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 DSS 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.

DSS Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239
Fax: 518-402-2835
E-mail: 2010DSSRFP@cs.state.ny.us

Additionally, prospective Offerors and Offerors are strictly prohibited from making any contacts or inquiries concerning the Procurement with any member, officer or employee of any State governmental entity other than the Department 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 as provided for in this RFP;
- (4) A complaint by a prospective Offeror or an Offeror regarding the failure of the DSS 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 State Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or

(c) Written protests, appeals or complaints to OSC office 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 **Attachment 1 “Procurement Lobbying Offeror’s Affirmation of Understanding & 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 1** must be submitted to the DSS Procurement Manager **prior to a prospective Offeror making its initial contact with the Department** (e.g., attendance at the Pre-Proposal Conference, submission of questions, etc.) or concurrent with an Offeror’s submission of its Proposal, whichever shall occur first.

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

3. 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 this RFP or not, are requested to complete **Attachment 2 “Notice of Bidding Intention Form”** and submit it to the DSS Procurement Manager by the Notice of Bidding Intention Due Date as set forth in Section II.A.1. The completed form may be submitted either in hardcopy, at the address provided in Section II.A.2.b, or electronically at: 2010DSSRFP@cs.state.ny.us or in both formats.

4. Pre-Proposal Conference

There will be no Pre-Proposal Conference held for this RFP.

5. Submission of Errors or Omissions in the 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 the RFP, the prospective Offeror may raise such issue according to the following provisions:

a. Process for Submitting Assertions of Errors or Omissions in RFP Document

- (1) **Time Frame:** Assertions of errors or omissions in the procurement process which are or should have been apparent prior to the Proposal Due Date must be received by the Department, in writing, five (5) Business Days after the Release Date of Official Responses to Questions specified in Section II.A.1.
- (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 DSS Procurement Manager at the following address:

DSS Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

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

"Submission of Errors or Omissions for the New York State Health Insurance Program Decision Support System Request for Proposal"

Any assertion of an error or omission which does not conform to the requirements set forth in this section 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 RFP Document

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 this RFP, 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 RFP document. As a consequence of reviewing the assertion, the Department may elect to extend the Proposal Due Date as may be appropriate. Notice of any such extension will be provided to all organizations who registered via mail, facsimile or e-mail and those prospective Offerors who attended the pre-proposal conference. Notice of any extension will also be posted to:

www.cs.state.ny.us/2010DSSRFP/index.cfm.

6. Submission of Questions

In the event a prospective Offeror has any substantive or procedural questions concerning the content of the RFP document, those questions can be submitted in the following manner to:

DSS Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239
Fax: 518-402-2835
E-Mail: 2010DSSRFP@cs.state.ny.us

Prospective Offerors may submit questions to the DSS Procurement Manager, in writing, via e-mail, facsimile or mail, prior to the date of the Pre-Proposal Conference. The Department strongly urges prospective Offerors to submit the questions via e-mail. Written and oral questions also may be submitted at the Pre-Proposal Conference. Each question must cite the particular RFP section, page number and paragraph number to which it refers. Responses to some questions may be deferred until after the conference. All responses will be considered unofficial until issued or confirmed in writing by the Department on the procurement website.

Only those questions received prior to 5:00 p.m. Eastern Time (ET), on the Questions Due Date as shown in Section II.A.1. of this RFP, will be accepted.

To expedite its responses, the Department has provided a question template form which prospective Offerors are requested to use in submitting questions regarding the RFP (see RFP, **Attachment 3 - "Question Template"**).

After the Questions Due Date, the Department will post the Department's Official Responses to all of the questions received. The information will be posted to:

www.cs.state.ny.us/2010DSSRFP/index.cfm

All registered prospective Offerors will be notified of the posting to the website. In responses to questions, the Department will not provide information about processes or information proprietary to any prospective Offeror.

7. Submission of Proposal

a. Submission Requirements

The Offeror's Proposal must be organized in three (3) separate parts: Administrative Proposal; Technical Proposal, and Cost Proposal. To facilitate the evaluation process, Offerors must submit twelve (12) separately bound hard copies (two (2) ORIGINALS and ten (10) copies) and one (1) electronic copy (CD) **of each of the three (3) parts** of the Offeror's Proposal. Electronic submissions must be in Adobe Acrobat, as applicable. These thirty-six (36) documents and three (3) disks are collectively hereafter referred to as "Submissions."

Each ORIGINAL hard copy of each part must be marked "ORIGINAL" and contain original signatures of an official(s) authorized to bind the Offeror to its provisions on all forms submitted that require the Offeror's signature and should be numbered sequentially, i.e. ORIGINAL #1, ORIGINAL #2. The remaining ten (10) hard copies of each part may contain a copy of the official's signature and should be numbered sequentially (e.g. Copy #1, Copy #2, etc). Please note that, for each of the three (3) parts, that hard copy marked "ORIGINAL #1" will be deemed controlling by the Department when viewing the Proposal.

Proposals should be placed and packaged in sealed boxes/envelopes with a label on the outside containing the information below.

**New York State Department of Civil Service
Request for Proposals
"New York State Health Insurance Program
Decision Support System"**

**OFFEROR NAME
OFFEROR ADDRESS**

Indicate content, as applicable:
ADMINISTRATIVE, TECHNICAL or COST PROPOSAL

There must be no cost information included in the Offeror's Administrative Proposal or Technical Proposal.

All Proposals must be mailed or hand-delivered to:

DSS Procurement Manager
ATTN: Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

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 DSS Procurement Manager forty-eight (48) hours prior to delivery.**

All Proposals must be received by 3:00 p.m. ET on the Proposal Due Date as set forth in Section II. A.1 of the RFP. No exceptions will be made for late submission or delays in delivery of the Proposal. 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.

All Proposals submitted become the property of the Department. Any proposal received after 3:00 p.m. ET on the Proposal Due Date will not be deemed accepted by the Department and may be returned to the submitting entity at the Department's discretion.

The Department will accept amendments and/or additions to an Offeror's Proposal if the request is received by the Department prior to 3:00 p.m. ET on the Proposal Due Date. Such a request must be submitted in writing, in accordance with the format set forth in Section II.A.7.b(5) of this RFP, and will be included as part of the Offeror's Proposal, if accepted by the Department as provided above.

Offerors are cautioned to verify the content 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 or additions to a Proposal if such material is received after 3:00 p.m. ET on the Proposal Due Date. Offerors are encouraged to complete and submit **Exhibit C “Proposal Submission Requirements Checklist”** in its Administrative Proposal submission to facilitate verification of Proposal contents. An Offeror's request to withdraw a Proposal after the Proposal Due Date may be considered at the sole discretion of the Department.

b. Formatting Requirements

The Administrative Proposal, Technical Proposal and Cost Proposal each must comply with the following formatting requirements:

- (1) ***Binding of Proposal:*** The Administrative, Technical and Cost Proposals must be separately bound. The official name of the organization(s) and “New York State Health Insurance Program Decision Support System” must appear on the outside front cover of each copy of the Offeror's Administrative, Technical and Cost Proposal. If the Proposals are submitted in loose-leaf binders, the official name(s) of the organization(s) and “New York State Health Insurance Program Decision Support System” also must 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 must be labeled with an index tab that completely identifies the title of the Section or Exhibit as named in the table of contents;
- (4) ***Pagination:*** Each page of the Proposal, including Exhibits, must be labeled on the upper right with the Section title and Section reference, page number, and date. Pages within each Section and Exhibit must be numbered consecutively;

(5) ***Proposal Updates/Corrections:*** Each Offeror must submit its Proposal so that any update pages required by the Department can be easily incorporated into the Proposal. Should it be necessary for an Offeror to submit additional information in support of its Proposal, it must be submitted in accordance with the following: upon written notification by the Offeror and agreement by the Department, new or replacement pages may be placed in the Proposal. All new or replacement pages will show the date of the revision and indicate the portion of the page being changed. This latter requirement will be fulfilled by drawing vertical lines down both margins of all affected passages. All new/ replacement pages will be noted by the Department on the errata sheet to be placed at the front of the Proposal copy; and,

(6) ***Required Content of Proposals:*** The Proposal shall consist of three parts: 1) the Administrative Proposal, which must respond to the requirements set forth in Section III of this RFP; 2) the Technical Proposal, which must respond to the requirements set forth in Section IV of this RFP; and 3) the Cost Proposal, which must respond to the requirements set forth in Section V of this RFP.

8. 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 and the possibility that failed negotiations could result in an alternative award. At that time, Offerors will be advised of the opportunity for a debriefing by the Department of the evaluation of that Offeror's Proposal. No public discussion or news releases relating to this RFP or the Contract shall be made by any Offeror or their agent without the prior approval of the Department.

9. Submission of Award Protests

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this 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 following provisions.

a. Process for Submitting Post Award Protests of the Selection Decision

- (1) **Time Frame:** Any protest of the selection decision must be received no later than ten (10) Business Days after an Offeror's receipt of written notification by the Department of a conditional award.
- (2) **Content:** The submission of the protest must clearly and fully state the legal and/or factual grounds for the protest and must include all relevant documentation.
- (3) **Format of Submission:** All submissions of protest must be in writing and submitted to the DSS Procurement Manager at the following address:

DSS Procurement Manager
ATTN: Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, New York 12239

A protest of the selection decision must have the following statement clearly and prominently displayed on the envelope or package:

**“Submission of Selection Protest for the
New York State Health Insurance Program
Decision Support System”**

Any assertion of protest which does not conform to the requirements set forth in this section shall be deemed waived by the Offeror, and the Offeror shall have no further recourse.

b. The Review Process for Submission of Protests

The Department shall conduct the review process of submitted protests. The Commissioner may appoint a designee to review the submission and to 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 this RFP, the evaluation of Proposals, or the selection decision. At the discretion of the Commissioner, or the Commissioner's designee, the Offeror may be given the

opportunity to meet with the Commissioner or his designee, as the case may be, to support its submission. The 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 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.

In the event that an Offeror protests the selection decision, the Department shall continue working with the selected Offeror pending the outcome of the protest. Any Offeror who's Proposal might become eligible for a conditional award in the event that the intended selection is disqualified may be asked to extend the time for which their Proposal shall remain valid.

The Department reserves the right to determine and to act in the best interests of the State in resolving any post award selection protest.

10. Department of Civil Service Reservation of Rights

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

- a. Make the award under the RFP in whole or in part;
- b. Prior to the bid opening, amend the RFP. If the Department elects to amend any part of the RFP, notification of the amendment will be provided to all organizations who submitted a Notice of Bidding Intention Form (**Attachment 2**) via e-mail, facsimile or mail. Any amendments will also be posted to:
www.cs.state.ny.us/2010DSSRFP/index.cfm.
- c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent RFP amendments;

- d. Withdraw the RFP, at any time, in whole or in part, at its sole discretion;
- e. Waive any requirements that are not material;
- f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any mandatory requirements of the RFP;
- g. Require clarification at any time during the Procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offeror's Proposal and/or to determine an Offeror's compliance with the requirements of this RFP;
- h. Reject any or all Proposals received in response to this RFP, at its sole discretion;
- i. Change any of the scheduled dates stated in this RFP;
- j. Seek clarifications and revisions of Proposals;
- k. Establish programmatic and legal requirements to meet the Department's needs, and to modify, correct, and/or clarify such requirements at any time during the Procurement, provided that any such modifications would not materially benefit or disadvantage any particular Offeror;
- l. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Offerors;
- m. For the purposes of ensuring completeness and comparability of the 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 it deems necessary to make level comparisons across Proposals;
- n. Use the Proposal, information obtained through any site visits, management interviews, and the Department's own investigation of an Offeror's qualifications, experience, ability

or financial standing, and any other material or information submitted by the Offeror in response to the Department's request for clarifying information in the course of evaluation and selection under this RFP;

- o. Negotiate with the successful bidder within the scope of the RFP in the best interests of the State;
- p. Utilize any and all ideas submitted in the Proposal(s) received;
- q. Set aside the original selected Offeror if it is subsequently determined by the Department that the Offeror is non-responsive or not responsible. The Department may then invite the Offeror with the next Highest Combined Total Score to enter into negotiations for purposes of executing an agreement;
- r. Set aside the conditional award to the selected Offeror should the Department be unsuccessful in negotiating an agreement with that Offeror 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 Department and the State. If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful, the Department may then invite the Offeror with the next Highest Combined Total Score to enter into negotiations for purposes of executing an agreement.

11. Limitation of Liability

The Department is not liable for any cost incurred by any Offeror prior to approval by OSC of the Contract. 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 this RFP (hard copy Exhibits, website Exhibits, and those contained on CD) and sample document exhibits. However, the Department does not warrant the accuracy of the data; the numbers or statistics which appear in (hardcopy Exhibits, website Exhibits, and those contained on CD) and sample document exhibits referenced throughout this RFP are for informational purposes only and should not be used or viewed by prospective Offerors as guarantees or representations of any levels of past or future

performance or participation. Accordingly, prospective Offerors should rely upon and use such numbers or statistics in preparing their Proposals at their own discretion.

B. COMPLIANCE WITH APPLICABLE RULES, LAWS, REGULATIONS & EXECUTIVE ORDERS

This Procurement is governed by the legal authorities referenced below. All Offerors must fully comply with the provisions set forth in this Section II.B of the RFP. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provision whose Proposal contain the Statements, Formal Certifications and Exhibits submissions required hereunder.

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 State employees. In signing its Proposal, each Offeror guarantees knowledge and full compliance with such provisions for purposes of this 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.

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 I “Compliance with Public Officers Law Requirements”** in the Offeror’s Administrative Proposal.

2. Omnibus Procurement Act

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.

A current list of jurisdictions subject to this provision is available from the NYS Department of Economic Development, or on-line at www.nyscr.com/pub_omnibus.aspx.

A completed **Exhibit K “Omnibus Procurement Act Statement of Acceptance”** form must be submitted in the Offeror’s Administrative Proposal.

3. **Minority and Women-Owned Business Enterprises (MWBE) Act and Federal Equal Employment Opportunities Act (EEO)**

a. General Obligations

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. The Contract will contain provisions regarding the participation of MWBEs in the performance of the Contract. Those provisions are set forth below. Generally, the provisions state the Contractor's obligations under Article 15-A of the Executive Law and its implementing regulations, including clauses dealing with equal employment opportunities, organized labor cooperation and advertisements for employees.

b. Minority and Women-Owned Business Enterprises (MWBEs)

The Department has established a zero percent (0%) goal for the participation of the Minority-Owned Business Enterprises and a zero percent (0%) goal for the participation of Women-Owned Business Enterprises in the performance of services under the Contract. The Offeror is encouraged to use its best efforts to solicit and obtain the participation of MBE’s and WBEs on the Contract. In furtherance of this goal, Offerors shall submit **Exhibit M “Article 15-A of the Executive Law”** in the Offeror’s Administrative Section.

c. Equal Employment Opportunity Obligations

The Offeror shall undertake or continue existing programs of affirmative action 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, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotions, upgradings, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation.

The Offeror's EEO Policy Requirements under this RFP shall contain, but not necessarily be limited to, the following:

- (1) The Offeror must demonstrate its compliance with the Equal Employment Opportunity (EEO) Act by affirming to the Department that the Offeror's EEO Policy Statement contains, at a minimum, language consistent with the provisions set forth in **Exhibit F "Equal Employment Opportunity (EEO) Obligations – Offeror Certification of Compliance"**. During the performance of the Contract, the Contractor shall agree to comply with such EEO Policy Statement. The Offeror's EEO Policy Statement shall contain, but not necessarily be limited to, the services under the Contract. However, the Offeror is encouraged to use its best efforts to solicit and obtain the participation of MWBEs on the Contract. Offerors must affirm their ability to comply with this requirement by submitting a completed **Exhibit F** in the Offeror's Administrative Proposal.
- (2) As part of its Administrative Proposal, the Offeror shall submit a completed **Exhibit G "Workforce Employment Utilization Report"** to be utilized on the Contract or, where required, information on the Offeror's total workforce, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories specified by the Department.
- (3) On a periodic schedule to be provided by the Department, the Contractor shall submit to the Department a workforce utilization report, on a form to be supplied by the Department, of the workforce actually utilized on the Agreement, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the Department.
- (4) The Offeror shall include in every subcontract in connection with the Contract, if any, the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and, when requested, provide to the

Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on the Contract.

4. **Americans with Disabilities Act**

The Contractor will be required to 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 a completed **Exhibit J “Compliance with Americans with Disabilities Act”** form in the Offeror’s Administrative Proposal.

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. An executed copy of **Exhibit E “MacBride Statement and Non-Collusive Bidding Certification”** form is required to be submitted in the Offeror’s Administrative Proposal.

6. Vendor Responsibility Requirements – State Finance Law §163

New York State Finance Law §163 requires 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.

“Responsibility” encompasses factors including, but not limited to, financial ability to complete the contract, accountability, reliability, skill, sufficiency of capital resources, judgment, integrity, and “moral worth.” *Does the Offeror possess the integrity to perform the contract?* Factors to be considered may include, but not be limited to, criminal indictments, criminal convictions, civil fines and injunctions imposed by governmental agencies, anti-trust and any other investigations, ethical violations, tax delinquencies, debarment by the Federal government, or prior determinations of integrity-related non-responsibility of the Offeror. In addition, any litigation, investigation or subpoena in which the Offeror is presently involved in regardless of the venue or whether or not the State of New York is a party, which may materially affect the Offeror’s ability to effectively perform, and any present litigation concerning a contract for services similar to that as set forth in this RFP may be considered in this determination. *Has the Offeror performed at acceptable levels on other governmental contracts?* Factors to be considered include, but not limited to, reports of less than satisfactory performance, early contract termination for cause, contract abandonment, court determinations of breach of contract, etc. *Is the Offeror legally capable of performing the contract?* Factors to be considered include, but not limited to, authority to do business in New York State (under the Business Corporation Law or Not-For-Profit Corporation Law), licensing (i.e., with the Education Department or Department of State), debarment by the State Labor Department due to a prevailing wage violation, etc. *Is the contractor financially and organizationally capable of performing the contract?* Factors to be considered include, but not limited to, assets, liabilities, recent bankruptcies, equipment, facilities, personnel resources and expertise, availability in consideration of other business commitments, existence of appropriate accounting and auditing procedures for control of property and funds, etc.

To assist the Department in evaluating the responsibility of Offerors, a completed **Exhibit H “New York State Vendor Responsibility Questionnaire”** must be submitted in the Offeror’s

Administrative Proposal. A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Contractor is proposing the use of “key subcontractors” (i.e., part of the Offeror’s proposed Project Team), the Offeror must submit a completed **Exhibit H** for each key subcontractor completed by a person legally authorized to represent the subcontractor.

Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at: www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

7. 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 State 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 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 E “Form ST-220-CA”** with the Department and a properly completed **Appendix F “Form ST-220-TD”** 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-220CA and ST-220TD) 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:

www.tax.state.ny.us/forms/sales_cur_forms.htm#Other%20Sales%20Tax%20Forms

8. 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 the State 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). This Bulletin can be found at: <http://www.osc.state.ny.us/agencies/gbull/g-226.htm>

The Contractor will be required to provide a completed **Appendix G “State Consultant Services Contractor’s Planned Employment From Contract Start Date Through the End of the Contract Term – Form A”** (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, 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 H “State Consultant Services - Contractor’s**

Annual Employment Report – Form B” (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 the State Fiscal Year being reported.

9. Disclosure of Proposal Contents – Freedom of Information Law (FOIL)

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 consultants retained by the Department and may also 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, 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 FOIL disclosure, the Offeror must follow the procedures below regarding the New York State Freedom of Information Law (FOIL). If an Offeror believes that any information in its Proposal or subsequent communication 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, the Offeror must make that assertion by completing **Exhibit D “Freedom of Information Law – Request for Redaction 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 D 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.

Note: Offerors are advised that **Exhibit D**, as a part of the Offeror’s Proposal, is subject to disclosure under FOIL. Offerors should also highlight any parts of **Exhibit D** which the Offeror wishes to protect from FOIL disclosure.

The completed **Exhibit D** must be submitted in the Offeror's Administrative Proposal. In addition, at the time of Proposal submission, the Offeror must submit a hard copy and one consolidated file of their entire proposal on CD in Adobe Acrobat noting the specific portions of each item requested to be protected from FOIL disclosure by highlighting in yellow such sections in a manner such that the material remains visible. No security should be applied to the consolidated Adobe Acrobat file. The hardcopy shall be separately bound and clearly labeled "Requested Redactions." These materials will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation process.

If, after the Proposal Due Date, the Offeror makes any submissions during the procurement process that it wishes to protect from FOIL disclosure, the Offeror must submit such submissions with a completed **Exhibit D** in hardcopy and on a CD in Adobe Acrobat noting the specific portions of each item requested to be protected from FOIL disclosure by highlighting in yellow such sections in a manner such that the material remains visible. These FOIL-related materials will not be considered part of the Offeror's proposal and will not be reviewed as a part of the procurement's evaluation process.

Upon completion of the procurement process, a copy of the redacted contract and a copy of each Offeror's proposal with approved redactions permanently blacked out will be posted to the procurement website.

If the Offeror chooses not to assert that any proposal material or subsequent correspondence should be protected from FOIL disclosure, the Offeror must so advise the Department by checking the applicable box on **Exhibit D** and including the completed form in the Offeror's Administrative Proposal. You must however provide the Department with a CD in Adobe Acrobat with one consolidated file of the entire Proposal.

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.

10. 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 Offerors 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 V** – 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.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 Contract is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

Submission of the insurance verification information is **not** required at the time of submission; however, the Department would prefer the Offeror submit this insurance verification information with the Administrative Section, if possible.

SECTION III: ADMINISTRATIVE PROPOSAL REQUIREMENTS

This section of the RFP sets forth the requirements for the Offeror's Administrative Proposal submission, including the minimum mandatory requirements that must be satisfied to qualify an Offeror to be considered for selection. The Department will accept Proposals only from qualified Offerors and will consider for evaluation and selection purposes only those Proposals that it determines to be in compliance with the requirements set forth in this Section III.

The Offeror's *Administrative Proposal* must respond to all of the following sections as set forth below in the order and format specified and using the forms set forth in RFP, **Exhibits A through O**. Additional details pertaining to the required forms are found in Section II. B. Compliance With Applicable Rules, Laws, Regulations & Executive Orders.

The *Administrative Proposal* must contain the following information, in the order enumerated below:

A. 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 **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 the State. Each of the two copies of the Offeror's Administrative Proposal marked "ORIGINAL" requires a letter with an original signature; the remaining copies of the Offeror's Administrative Proposal may contain photocopies of the signature. The Offeror must accept the terms and conditions as set forth in RFP, Section VII and Appendices A, B and C and agree to enter into a contractual agreement containing, at a minimum, the terms and conditions identified in the RFP section and appendices as cited herein. (Note: Appendix A, "Standard Clauses for New York State Contracts" is basically a compilation of statutory requirements applicable to all persons and entities contracting with the State and therefore has been deemed to be non-negotiable by the Offices of the Attorney General and the State Comptroller. Appendix B, "Standard Clauses for All DCS Contracts", and Appendix C, "Third Party Connection and Data Exchange Agreement", are compilations of standard

clauses for Department contracts and also are non-negotiable.) If an Offeror proposes to include the services of a subcontractor(s), the Offeror shall be required to assume responsibility for those services as “Prime Contractor.” The Department will consider only the Prime Contractor in regard to contractual matters.

B. Minimum Mandatory Requirements: In this part of its Administrative Proposal, the Offeror must submit a completed **Exhibit B “Offeror Attestation Form”** representing and warranting that the Offeror:

1. possesses, as of the Proposal Due Date, the legal capacity to enter into a contract with the President of the New York State Civil Service Commission (“Commissioner”);
2. has completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the NYSHIP Decision Support System and agrees to, during the term of the Contract, comply with any requirements imposed upon it by law;
3. as of the Proposal Due Date, has implemented and maintained decision support system services for Health Insurers, Health Plans (including public health plans, Health Maintenance Organizations (HMOs) and/or Benefit Administrators), and large employer groups that use these decision support services for, in aggregate, a minimum of five million (5,000,000) total covered lives in its full book of business. The Offeror must provide a list of clients with the number of covered lives for each to support its attestation that it meets the minimum requirement of five million (5,000,000) covered lives. In determining covered lives, the Offeror should count all lives [i.e., an employee, a spouse and two (2) eligible dependents counts as four (4)];
4. has prior experience providing the services, which are the subject matter of this RFP, for a large complex client. As evidence of this experience the Offeror must affirm that it currently has, or has had, at least one (1) client with one hundred thousand (100,000) or more covered lives. Confirmation of this experience is demonstrated by

-
- identification of any and all such client(s) and inclusion of named client(s) as reference(s) in response to Section III.E;
5. will maintain a complete and accurate set of records as may be required by the State to be produced for review by the State pursuant to the requirements of this RFP and the resultant contract including but not limited to Appendices A and B, including any and all financial records as deemed necessary by the State to discharge its fiduciary responsibilities to NYSHIP participants and to ensure that public dollars are spent appropriately;
 6. in order to ensure independence in the performance of Project Services the Offeror, its parent company, and/or any subsidiaries, partners and/or affiliates⁽¹⁾:
 - can **not** be a current Empire Plan carrier, contractor and/or subcontractor; and/or
- Amended 7-29-10**
- can **not** be a current Department, Division of the Budget and/or Governor's Office of Employee Relations contractor and/or subcontractor⁽²⁾ where the purpose of said contract(s)/subcontract(s) is to provide support to or is related to the administration of NYSHIP and/or the delivery of NYSHIP services, including, insurance coverage, either directly or indirectly and in part or in whole.

Offerors are advised that the two pre-requisites above apply to any and all proposed subcontractor(s) of the Offeror.

⁽¹⁾ 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.

⁽²⁾ For the purpose of this requirement, "Subcontractor" means all of those entities specifically engaged by a current Empire Plan carrier and/or contractor and/or a current Department, Division of the Budget (DOB) and/or Governor's Office of Employee Relations (GOER) contractor (where the purpose of said contract is to provide support to or is related to the administration of NYSHIP and/or the delivery of NYSHIP services, including, insurance coverage, either directly or indirectly and in part or in whole) to provide commodities or perform services necessary to allow a contractor/carrier to fulfill its contractual obligation under the terms of the Department, DOB or GOER contract.

7. acknowledges and agrees that:

- a. all claims, enrollment, and other data (i.e., materials) provided by the Department or the Department's agents and/or contractors is being provided to the Offeror (Contractor) solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Contract; however, de-identified NYSHIP data may be included in the Contractor's normative database used for their book of business; and
- b. said materials are the sole property of the State; and
- c. provision of said materials to the Offeror (Contractor) does not confer ownership or shared ownership to the Contractor; and
- d. it will not share, sell, release, or make the data available to third parties in any manner without the written authorization of the Director of the Employee Benefits Division of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.

8. represents that the product submitted in response to this RFP is an existing product offering as of the Proposal Due Date; not a proposed and/or yet-to-be-released version of the product.

C. Exhibits: At this part of its Administrative Proposal, the Offeror must complete and submit the various Exhibits specified in Section II.B of this RFP, in satisfaction of the regulatory requirements described therein. A listing of the required Exhibits is set forth as follows:

Exhibit Name	Exhibit #
Proposal Submission Requirement Checklist	Exhibit C
Freedom of Information Law – Request for Redaction Chart	Exhibit D
MacBride Statement and Non-Collusive Bidding Certification	Exhibit E
Equal Employment Opportunity (EEO) Obligations – Offeror Certification of Compliance	Exhibit F
Workforce Employment Utilization Report	Exhibit G
New York State Department of Civil Service Vendor Responsibility Questionnaire	Exhibit H
Compliance with Public Officers Law Requirements	Exhibit I
Compliance with Americans with Disabilities Act	Exhibit J
Omnibus Procurement Act Statement of Acceptance	Exhibit K
Certification of Compliance Pursuant to State Finance Law §139-k	Exhibit L
Article 15-A of the Executive Law	Exhibit M

Note: If not already provided to the Department by time of Proposal submission, the Offeror must also enclose a completed Attachment 1 “Offeror’s Affirmation of Understanding and Agreement.”

D. Key Subcontractors: At this part of its Administrative Proposal, the Offeror must provide a statement identifying all Key Subcontractors, if any, that the Offeror will be contracting with to provide Project Services and must, for each such subcontractor identified, complete and submit **Exhibit N “Key Subcontractors”**: 1) provide a brief description of the services to be provided by the subcontractor; and 2) provide a description of any current relationships with such subcontractor and the clients/projects that the Offeror and subcontractor are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the project. The Offeror must 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 the subcontractor relating to this RFP. If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Offeror must provide a statement to that effect.

E. Reference Checks: At this part of its Administrative Proposal, for the purpose of reference checks, the Offeror must list five (5) references comprised of a combination of both current and former clients for which the Offeror has supplied decision support services pertaining to

medical claims similar to those required in this RFP (Project References). For each Project Reference provided the Offeror must complete and submit **Exhibit O “Project References.”** At least one (1) of the referenced clients must be an entity with one hundred thousand (100,000) or more covered lives. If the Offeror has no former clients to submit as references; the Offeror must include a statement attesting to that fact. Otherwise, the Offeror must list, at minimum, one (1) former client as a reference for which the Offeror has supplied services similar in nature to those required in this RFP. The Offeror shall be solely responsible for providing contact names and phone numbers that are readily available to be contacted by the State. The Offeror must also indicate what participation, if any, the Project Manager and each key staff person proposed for this project had in the referenced services.

F. Financial Statements: At this part of its Administrative Proposal, the Offeror must provide a copy of the Offeror's last issued GAAP annual audited financial statement. A complete set of statements, not just excerpts, must be provided. Additionally, for each Key Subcontractor, if any, that provides any of the Project Services; provide the most recent GAAP annual audited statement. If the Offeror, or a Key Subcontractor, is a privately held business and is unwilling to provide copies of their annual audited financial statements as part of their Proposal, the Offeror/Key Subcontractor must make arrangements for the procurement evaluation team to review the financial statements.

G. Conflict of Interest: At this part of its Administrative Proposal, the Offeror must list and describe all Conflicts of Interest.¹

¹ A Conflict of Interest means a situation which has or may influence or appear to influence, compromise or bias the Offeror's/Contractor's actions and/or judgments in the Offeror's/Contractor's performance of Project Services. Such situations may result from the Offeror's/Contractor's direct or indirect interests, including but not limited to, financial, business, proprietary or personal interests, in the operation and/or administration of the New York State Health Insurance Program (NYSHIP). A Conflict of Interest can result from relationships between the Offeror/Contractor and any individual, entity or organization that existed prior to or that may arise during the term of the Contract.

For each Conflict of Interest identified by the Offeror/Contractor, the Offeror/Contractor must describe what Firewalls and/or other controls, policies and procedures which a reasonable person would expect to provide corrective or mitigating action to adequately safeguard or protect the Department against any Conflict of Interest which have been or will be implemented by the Offeror/Contractor.

Notwithstanding the Conflicts of Interest (and proposed Firewalls or remedies) identified by each Offeror/Contractor, the Department reserves the right to determine whether the Offeror/Contractor has a Conflict of Interest. If the Department determines that there is a Conflict of Interest, the Department may disqualify the Offeror or terminate the Contract. Notwithstanding the preceding, where a Conflict of Interest has been determined, the Department may, along with all other remedies available, require the Contractor to implement Firewalls and/or other controls, policies and procedures identified by the Offeror/Contractor or by the Department to adequately safeguard or protect the Department against any Conflict of Interest. Further, if the Department determines that the implemented Firewalls and/or other controls, policies and procedures do not adequately safeguard or protect against a Conflict of Interest, the Department may disqualify the Offeror or terminate the Contract.

Note: Any Offeror that fails to satisfy one or more of the above submission requirements may be deemed non-responsive and/or non-responsible and eliminated from further consideration.

SECTION IV: TECHNICAL PROPOSAL REQUIREMENTS

The Department's goal is to have a fully functional DSS Solution available to the Department and its Users not later than twelve (12) months from the Contract effective date. This section of the RFP sets forth the requirements for the Offeror's Technical Proposal submission, describes the duties and responsibilities of the Contractor and poses questions and solicits information from Offerors concerning those duties and responsibilities; the responses to which form the basis of the Offeror's Technical Proposal offering (see those subsections below titled "*Required Submission Material*").

The Offeror's Technical Proposal must contain responses to all of the items listed under the Required Submission Material subsections in this Section IV of the RFP in the order and format specified. **Do not include any cost information in the Technical Proposal, including any exhibits or attachments thereto.** Offerors' proposed performance guarantee responses including fee amounts to be put at risk are not considered to be cost information and therefore should be stated in the Offeror's Technical Proposal.

Each Technical Proposal will be evaluated based on the Offeror's responses to the information sought in Section IV of the RFP (Note: see the "Required Submission Material" subsections throughout this Section IV of the RFP).

Note: Numbers, data or statistics which may appear in Appendices referenced throughout this RFP are considered to be accurate but should not be used or viewed by prospective Offerors as guarantees or representations of any future enrollment or claim volume.

The Department will accept Proposals only from qualified Offerors and will consider for evaluation and selection purposes only those Proposals that it determines to be responsive to the programmatic duties and responsibilities set forth in this Section IV of the RFP.

A. Administrative Services**1. Executive Summary****a. Requirements**

In this section, the Offeror must demonstrate that it has the experience and expertise to provide the required services for the implementation and administration of the DSS.

b. Required Submission Material

In its Technical Proposal, the Offeror must submit an Executive Summary that must include:

- (1) The name and address of the Offeror's main and branch offices and the name of the senior officer who will be responsible for this account;
- (2) A description of the Offeror's understanding of the requirements presented in the RFP, the Department's needs, approach, and how the Offeror can assist the Department in accomplishing its objectives;
- (3) A statement explaining previous experience providing DSS services to other state governments, large public entities or any other organizations administering health benefits programs. The Offeror's submitted statement must indicate such experience was with one or more client(s) with, at minimum, one hundred thousand (100,000) covered lives. Also, include a description of the Offeror's experience with the management of various health-related data from multiple data providers. Detail how this experience qualifies the Offeror and, if applicable, any subcontractors, to undertake the functions and activities required by this RFP; and
- (4) Specify which function(s), if any, will be subcontracted.

2. Project Management Team

A key aspect to successful implementation and ongoing operation of the DSS is a strong project management team. The Department expects the Contractor to have a knowledgeable, experienced Project Manager and an experienced team in place that will have the responsibility, authority and integrity to command the appropriate resources necessary to implement and deliver Project Services. The Department will provide an onsite work area for key Contractor personnel during Implementation and thereafter, as necessary.

a. Duties and Responsibilities

- (1) The Contractor must maintain an organization of sufficient size with the skills and experience necessary to administer, manage, and oversee all aspects of the DSS Solution during Implementation and Ongoing Operation.
- (2) The Contractor's assigned project management team must be experienced, accessible and sufficiently staffed to provide timely responses (1 Business Day) to administrative concerns and inquiries posed by the Department and designated Users for the duration of the Contract to the satisfaction of the Department.
- (3) The Offeror must propose a Project Manager who will be dedicated to the NYSHIP DSS, so as to have the ability to address direct inquiries by the Department within one (1) Business Day, for the entire term of the Contract. The Project Manager must possess at least five (5) years experience serving as a project manager.
- (4) The Contractor's Project Manager must immediately notify 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.

b. Required Submission Material

In its Technical Proposal, the Offeror must:

- (1) Provide an organizational chart and description illustrating how the Offeror proposes to administer, manage, and oversee all aspects of the DSS functions. Include the following:
 - (a) The responsibilities of each key position, including subcontractor provided key staff, if any, of the project management team. The Offeror must include the percentage of time (by position) dedicated to the Project and reporting relationships. Also include how the team will interact with other departments or functional areas within the Offeror's organization and with any subcontractors for this Project. Describe how the project management team interfaces with the organization's senior management;
 - (b) Names, qualifications, and job descriptions of those individuals selected to comprise the implementation, operational and management team for the Offeror. Complete **Exhibit P "Biographical Sketch Form,"** for all key staff, including subcontractor provided key staff, if any, of the proposed project management team; and
 - (c) Where individuals are not named, include qualifications of the individuals that you would seek to fill the positions.
- (2) In responding to this requirement, the Offeror must describe in detail how the Offeror proposes to ensure the project management team will meet the Department's accessibility and timely response requirements. The Offeror must state how it proposes to ensure that the Project Manager will have the authority to guarantee that problem areas identified by the Department will be corrected in a manner satisfactory to the Department.

- (3) Describe the experience of the individual who will assume the role of Project Manager for the DSS Solution. Include a description of the individual's experience with clients whose needs were of similar size and scope as those of the Department.

3. General Qualifications of the Offeror

a. Requirements and Responsibilities

- (1) The Contractor must have the experience, reliability and integrity to ensure that the Department's needs are addressed in a cost effective manner consistent with the requirements of the RFP.
- (2) The Contractor must have prior experience providing decision support services for a large complex client.
- (3) Except as otherwise required by the Contract resulting from this procurement, the Offeror must agree that it will not disclose any information related to NYSHIP to any party without written authorization from the Director of the Employee Benefits Division of the Department. Such request for authorization must be made to the Director in writing and the Contractor must submit to the Department a written description of the situation and a justification for the requested authorization prior to the expected access by the parties in question. Further, such written requests must satisfy all requirements for notification as stated in the Agreement resulting from this RFP.

b. Required Submission

In its Technical Proposal, the Offeror must:

- (1) Describe the Offeror's experience in implementing and providing services similar in scope to those described in this RFP for large clients. Include the timetable for Implementation of each referenced client's solution, adherence to the schedule (e.g. was it implemented on time?), how long the client's solution has been in operation,

any issues that arose during implementation or ongoing operation and an explanation of how those issues were resolved.

(2) Submit documentation of all ownership agreements and other relationships, current, pending or proposed, between, or among, the Offeror and any third parties including, but not limited to, the ownership of the Offeror by, or the Offeror's ownership of, an entity or organization. Such relationships must be identified and explained as follows:

- (a) all direct and indirect relationships the Offeror has with any entity involved in health benefits insurance and/or administration (or any parent, subsidiary, division, or related or affiliated entity), or any officer/director/board member/agent/partner/or employee of any of the previously described entities;
- (b) For each relationship identified, the Offeror must state (a) the name of the entity or individual with which the Offeror has the relationship; (b) the type and basic terms of the relationship, whether formal or informal, whether direct or indirect, whether separate or bundled, including but not limited to all relationships arising out of: any brokerage agreements, commission or other fee agreements, or any contracts to perform any work or services; (c) whether the relationship was or is based on an oral or written agreement; (d) when the relationship arose; and (e) when the relationship terminated or will terminate.

B. Implementation, Operation, and Support Services

The Department is seeking a DSS Solution with the capability to collect and integrate disparate claim, provider, financial and enrollment data into an organized system that can be accessed in order to define, measure, and analyze historical, current, and future benefits.

The Contractor must provide a DSS Solution that provides Web-based access that effectively integrates NYSHIP enrollment and claims data for all Empire Plan benefit areas, while allowing for future expansion and integration of additional data. The number of Empire Plan claims has increased at an approximate annual rate of 3.6% over the last five years. See **Appendix I “NYS Empire Plan Number of Paid Services and Claims”** for an overview of

claims experience based upon number of claims and/or services paid (a claim may be composed of one or more services) for the Empire Plan over the last eight years.

NOTE: Unless stated otherwise, Empire Plan data is understood to include the Excelsior Plan and the SEHP.

Project Services required by the Department are as follows:

1. Implementation

The Contractor must have a well developed Implementation Plan to ensure that its proposed DSS Solution will be fully functioning within one year after the Contract effective date.

The Contractor's Implementation Plan must be detailed, comprehensive and exhibit a firm commitment that all Implementation activities will be completed within one year of the Contract effective date.

To assist the Contractor in fulfilling its obligations, the Department will provide Department staff to participate in meetings and provide administrative oversight in the data acquisition process to ensure Data Provider cooperation in provision of the initial historical data load during the Implementation period. The Department will provide a workstation, (i.e. desk and chair, personal computer (PC) with internet access and appropriate network access), and appropriate building access for the Contractor's onsite staff, if any, during this period. The Department will provide technical support and maintenance of Hardware (e.g. PC) and associated Department owned and installed Software used by the Contractor's onsite staff. The Department will **not** provide personal phone lines, administrative support staff, or parking privileges to the Contractor's onsite staff.

a. Duties and Responsibilities

- (1) The Contractor must deliver an overall Implementation Plan, and designate an Implementation Team composed of individuals knowledgeable in the requirements of a large client comparable to those of the Department. The Implementation Team must be committed to work with the Department to analyze and document User

needs. The Implementation Plan must include evaluation and assessment activities and development of a project plan to achieve the goals of the Project.

- (2) The Contractor must provide, subject to Department approval, a detailed Acceptance Testing Plan (ATP) that identifies the functions the Department will test in order to ensure the Contractor's DSS Solution functionality is fully operational and meets all requirements identified in the RFP. The Department reserves the right to modify the ATP to meet the Department's needs. User training of key participants in the ATP must be completed prior to the start of testing. The ATP must include, at a minimum, the nature and duration of the tests, definition of roles of staff required to perform the tests, process for resolution of testing issues, definition of acceptable test outcomes and provision for Department signoff on testing plan and successful completion of testing activities. The ATP must confirm:
- (a) The Contractor's DSS Solution meets the requirements set forth in Section IV.B.2 - 6 of this RFP. These requirements include, but are not limited to data management, analytical, query and reporting capabilities, and user specifications; and
 - (b) The Contractor meets the requirements set forth in Section IV.B.7 - 8 of this RFP which include, but are not limited to, system availability and connectivity, response time, environment specifics, and maintenance program.
- (3) The Contractor must, at a minimum, guarantee that all DSS Implementation activities will be completed within twelve (12) months of the Contract effective date, so that all Project Services will be fully operational in all functions required by this RFP. As defined in this RFP, the specified completion date means the date proposed by the Contractor and agreed upon by the Department for delivery of a fully functional DSS Solution; the completion date may not, in any case, exceed twelve (12) months after the Contract effective date. For the purpose of this guarantee, the Contractor must on, or before, the specified completion date have completed:

- (a) Preparation of facilities for long-term physical maintenance and storage of data. See **Appendix I** for Empire Plan paid claims and services over the period 2002 – 2009 and **Appendix K** for data storage information;
- (b) Activities required to bring the DSS Solution to full production and to be fully functioning in all aspects of the Project Services as described in this RFP, (i.e. accepting data from all Data Providers with full decision support capability and able to fulfill all other related tasks and responsibilities designated in this RFP). Initially, the Contractor must submit their proposed data interface requirements to the Department for review and, once approved by the Department, supply all Data Providers with the interface requirements. The Contractor must set up a meeting(s) with all Data Providers within thirty (30) Business Days of the Contract's effective date to present file layout requirements. Once the Data Providers have produced data in a layout conforming to the Contractor's requirements, the Contractor must proceed to load historical data into the DSS Solution and provide access to the Department for acceptance testing no later than sixty (60) calendar days from the date the loadable data is received from the Data Providers;
- (c) Acquisition, validation, and loading of six (6) complete Plan Years of historical data and all current Plan Year data available to be loaded into the DSS. In addition, after the load of historical and current Plan year is completed, a minimum of one complete current update cycle from each current Data Provider must be successfully transmitted, received and loaded into the DSS in order for Implementation to be deemed complete;
- (d) Training, including proficiency testing of Users and, if necessary, additional training of Users at no additional cost to the Department;
- (e) Establishment of User support functions, (e.g. telephonic and online support);
and

- (f) All activities related to user acceptance testing and received Department sign-off on successful completion of those activities.

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) Provide a detailed Implementation Plan (narrative, diagram, and timeline) designed to implement the Offeror's proposed DSS Solution within one year of the Contract's effective date indicating: roles, responsibilities, estimated timeframes for completion of individual tasks, and testing dates and objectives. The Implementation Plan must include key activities such as:
 - (a) the date the historical initial data feeds from all of the Data Providers will be loaded into the DSS Solution;
 - (b) the date the DSS Solution will be in full production accepting data from all sources with full decision support capability;
 - (c) the dates of user acceptance testing including target test completion dates; and
 - (d) the training dates for Users.
- (2) Submit a proposed Acceptance Testing Plan that identifies the functions that will be tested to ensure the DSS Solution functionality is fully operational and meets all requirements identified in the RFP. At minimum, the ATP must include:
 - (a) Nature and duration of test(s);
 - (b) Identification of resources required to complete the testing process;
 - (c) Definition of roles of staff, both Department and Offeror, as applicable, required to perform tests;
 - (d) Process for resolution of testing issues;

- (e) Definition of acceptable test outcomes;
- (f) Reporting and analysis of test results; and
- (g) Department/Offeror signoff process.

(3) *Implementation Guarantee:* In this part of its Technical Proposal, the Offeror must state its agreement and guarantee that all Implementation activities will be completed to the satisfaction of the Department, as determined in its sole discretion, no later than twelve (12) months from the effective day of the Contract. The Offeror must provide its Implementation Guarantee in the following format:

- (a) Assuming a contract effective date of January 1, 2011, the Offeror proposes an Implementation Completion Date of [Insert Date]. For contract purposes, the Implementation Completion Date will be adjusted in accordance with a change in the contract effective date initiated by, or agreed to by, the Department.
- (b) The Offeror proposes to permanently forfeit [Insert Offerors quoted Number] times the dollar amount of the Ongoing Operations Monthly Fee for each month, or part thereof, after the Offeror's proposed Implementation Completion Date that any of the Implementation activities listed above, in Section IV.B.1.a remain incomplete.

NOTE: The Offeror must agree to permanently forfeit, at a minimum, an amount equal to one (1) time the dollar amount of the Ongoing Operations Monthly Fee for each month, or part thereof after the Offeror's proposed date that any of the Implementation activities remain incomplete.

2. **Data Management**

The DSS Solution must provide data management, analytic capability, and support services including benchmarking against accepted industry standards/norms, plan and program evaluation, benefit design and modeling, utilization analysis at provider and member levels

and both standard, pre-defined and Department defined report production. The Contractor must provide a DSS Solution which allows for independent analysis, including the capability to view data at a summary and/or granular level, and the ability to download and manipulate results into a format acceptable to the Department.

Department staff will be available to discuss validation criteria for data for which the Department is the direct provider and/or is provided on behalf of the Department from other Data Providers, as necessary, to assist in resolving escalated data integrity issues with Data Providers. The Contractor must first make best effort(s) to resolve issues through direct contact with the Data Provider.

The following Project Services are required in order to meet the Department's needs:

a. **Duties and Responsibilities**

(1) The Department requires that:

- (a) The DSS Solution be capable of containing a minimum of the previous six (6) complete calendar years of data in addition to the current Plan Year's data to date;
- (b) The Contractor develop and provide the Department with complete documentation of the DSS Solution. The documentation must provide the Department with a complete description of the meaning of the information and any relationships between the information (metadata) that is available from the DSS Solution;
- (c) The Contractor's DSS Solution adheres, to the extent applicable, to the NYS Office for Technology (NYSOFT) policies and standards as stated in New York State Information Technology Policy NYS-P08-005 (Accessibility of Web-Based Information and Applications) in regards to system user interfaces. NYS-P08-005 can be viewed at: <http://www.cio.ny.gov/Policy/NYS-P08-005.pdf>

- (d) The Contractor receive required enrollment and claims data from the Department, or from a Data Provider on behalf of the Department, and loads the data for use in the DSS Solution in a timely manner.
 - (e) The Contractor work with the Department to define specifications such as the method of transmission, frequency of data exchange, and format of the enrollment and claims data feeds (e.g. FTP with PGP encryption, monthly, new set of data – not limited to updates/changes).
- (2) The Contractor must provide a methodology satisfactory to the Department for archiving historical data and retrieving archived data, should the Department choose to utilize such services. The Department requires a minimum of six (6) Plan Years plus the current Plan Year data to be accessible through the DSS Solution.
 - (3) The Contractor must have a secure method to accept data during transmission that complies with applicable federal and State laws, rules and regulations including, but not limited to HIPAA and Appendices A, B and C.
 - (4) The Contractor must use an encryption methodology for data that resides in the DSS Solution that masks the identity of an individual but still provides the means to link together an individual's claim and coverage history without disclosing the individual's social security number or other personal identification indicator. In addition, designated Users must be provided with decryption capability, and/or security level, to associate claim and coverage history to a specific identifiable individual. The Contractor's proposed encryption methodology must ensure all individually identifiable health information is protected in compliance with applicable federal and State laws, rules and regulations including, but not limited to HIPAA.
 - (5) Prior to loading, data quality assurance tests must be performed by the Contractor. Changes to the data to ensure that only data that has passed required validation edits, or to enhance the overall integrity of the DSS Solution, will be the duty and responsibility of the Contractor working in conjunction with the Data Providers and

with Department approval. Areas to be addressed through the data quality assurance process should include, at a minimum:

- (a) Data field format incompatibility errors;
 - (b) Missing data;
 - (c) Field value edits;
 - (d) Data integrity validation appropriate to file specifications, (e.g., if summary totals are provided, the data must be reconciled to those totals);
 - (e) Data validation with external sources;
 - (f) Data calculation errors;
 - (g) Duplicate information within a single file;
 - (h) Submission of duplicate files; and
 - (i) Follow up with a Data Provider(s) to ensure the Data Provider corrects identified data errors and resubmits the corrected data.
- (6) The Contractor must be able to accept data in a variety of formats and media on a monthly, bi-weekly, and weekly basis from the Department and other Data Providers. See **Appendices J through S** for information on formats, media, and frequencies of data updates by Data Providers. The data must be loaded in the DSS Solution maintained by the Contractor.
- (7) A copy of the interface requirements given to the Data Providers by the Contractor must also be supplied to the Department. The Department reserves the right to review, request clarification, and/or suggest modifications to the interface requirements ultimately given to the Data Providers.

- (8) The Contractor's interface requirements must be provided to the Data Providers within thirty (30) Business Days of the contract award. Upon changes in NYSHIP Insurers and/or benefit administrators, the Contractor must provide its interface requirements to the new Insurer or benefit administrator within thirty (30) Business Days of notification of the change by the Department.
- (9) Thirty (30) Business Days prior to the start of each Plan Year, the Contractor must establish and provide the Department with a schedule identifying the planned DSS data loads, as well as due dates for receipt of data from the Data Providers. The Contractor must notify the Department within one (1) Business Day of any failure to meet the due date by any Data Provider.
- (10) *DSS Update Guarantee:* The Contractor must guarantee that the data supplied by the Data Providers will be processed through quality assurance testing and, if the data as submitted meets the standards, the data will be loaded in the DSS Solution not later than fifteen (15) Business Days of its receipt from each Data Provider. This guarantee does not apply to data model changes, new data providers or types, or reprocessing of previously processed data due to Data Provider error.
- (11) On a quarterly basis, the Contractor must submit a report to the Department that details the Contractor's compliance with the Performance Guarantees - DSS Update Guarantee and DSS Solution Availability Guarantee, stated in this RFP in Section IV.B.2 a(10) and B.7.b(9), respectively. The reports are due sixty (60) calendar days after the end of the quarter. In addition, the Contractor must provide timely notification, i.e. within two (2) Business Days, to the Department of any and all occurrences of non-compliance with Performance Guarantees.

b. Required Submission

In its Technical Proposal, the Offeror must:

- (1) Describe in detail the proposed process for operating the DSS Solution to meet the requirements specified in this RFP. Include how data interface requirements will be

communicated to the Data Providers and explain the proposed process for scheduling, receiving and validating data. Explain the process proposed for monthly and more frequent regularly scheduled updates and loading of historical data into the DSS Solution once it becomes operational.

- (2) Provide a complete description of the meaning of the information contained in the DSS Solution and any relationships between the information (metadata) that is available from the DSS Solution.
- (3) Describe the process proposed by the Offeror for resolving data integrity issues with Data Providers:
 - (a) During the term of the Contract, there is the potential for one or more insurers/benefit administrators of the Empire Plan components to change. This would require claim data “run-out”, (i.e. transmission of data from the prior insurer/data provider) and integration of the data into the DSS Solution for one or more years coincident with acquisition and integration of data from the new insurer/data provider. Detail the Offeror’s proposed process for handling such a change.
 - (b) Describe in detail the proposed process/procedures for archiving and retrieving historical data, including the frequency of archival process (e.g. annual).
 - (c) Describe the process proposed for ensuring that only data that has passed all validation edits required by this RFP will be loaded in the DSS Solution, and for following up with the Data Providers to correct identified data errors. The Offeror should provide a description of their proposed data validation procedures which should, at a minimum, address the areas identified in Section IV.B.2.a. (5). The Offeror should include the external validation sources it is proposing to be used as part of its DSS Solution and identify the validation sources that will be available to the Department as part of the proposed DSS Solution. In responding to this requirement, the Offeror must include the typical turnaround times for correction of data inaccuracies due to either Offeror error or due to Data Provider error, i.e. Empire Plan insurer, the Department.

- (d) Explain the procedure for maintaining NYSHIP enrollee specific information.
The explanation should include possible methods for receiving the information, frequency of the exchange and format of updated information. For example, FTP with PGP encryption, monthly, entirely new set of data with each exchange.
- (e) Confirm the Offeror's ability and agreement to accept encrypted data, in a variety of formats and media on the various frequencies required by the RFP (e.g., monthly, biweekly, and weekly).
- (f) Describe the proposed process for updates from Data Providers in terms of the timing of their receipt and loading into the DSS Solution. For example update each benefit area, (e.g. medical, hospital, prescription drug), at the same frequency (e.g. monthly) but on a staggered schedule (e.g. medical claims on the 5th of the month, hospital claims on the 15th of the month) or is all data held for one monthly update?
- (g) Provide a detailed description of the proposed transmission encryption methodology including how it will meet federal and State legal requirements as well as the requirements identified by the Department. In responding to this requirement, the Offeror must detail if this a new encryption methodology proposed to be used for the DSS Solution or is it a proven methodology currently used for the rest of the Offeror's books of business. Detail the tasks, if any, required of the Data Providers.
- (h) Provide a high-level description of the technical infrastructure, such as the hardware platform and database management platform, for the proposed DSS Solution.
- (i) *DSS Update Guarantee*: The Offeror must guarantee that the data supplied by each Data Provider will be processed through quality assurance testing and, if the data as submitted meets the standards, the data will be loaded in the DSS Solution not later than fifteen (15) Business Days from the scheduled data

receipt date of the data from each Data Provider. This guarantee does not apply to data model changes, new Data Providers or types, or reprocessing of previously processed data due to Data Provider error. If the data is received after the scheduled receipt date, the data will be loaded in the DSS Solution not later than fifteen (15) Business Days from the date the data was received.

The Offeror shall propose a dollar amount for each twenty-four (24) hour period, or part thereof, to be forfeited for failure to load the data in the DSS Solution by the specified date, as a required above, from each Data Provider.

The Standard Credit amount for this guarantee is \$500

Provide the guarantee in the following format:

For each twenty-four (24) hour period, or part thereof, beyond fifteen (15) Business Days from receipt of data from a Data Provider, in accordance with the submitted schedule, that the data is not loaded into the DSS Solution and fully accessible to all Users, the Offeror proposes to forfeit \$_____.

- (j) Confirm the Offeror's agreement to submit a report on a quarterly basis that details the Offeror's compliance with the Performance Guarantees - DSS Update Guarantee and DSS Solution Availability Guarantee and to provide timely notification, (i.e. within two (2) Business Days), to the Department of any and all occurrences of non-compliance with Performance Guarantees. The reports are due sixty (60) calendar days after the end of the quarter.

3. User Requirements

a. Duties and Responsibilities

- (1) Users will be individuals employed by the Department as well as individuals designated by the Department as Users, which may include, but not be limited to, employees of GOER, DOB, OSC and the Department's benefit management and actuarial consultant. The majority of Users will be Department employees located at

the Albany, NY offices of the Department; however, additional Users will be physically located elsewhere. All Users will not have the same level of access and permissions. No User will have the capability to change data in the DSS Solution. The Department is requiring three (3) levels of Users:

- (a) Level 1 User – The Department will require a minimum of fifteen (15) Users to be designated as and receive training as Level 1 Users. Level 1 Users will have full access to all features/functions of the delivered DSS Solution and have the highest level of security permissions granted by the Department.

 - (b) Level 2 User – The Department will require a minimum of ten (10) Users to be designated as and receive training as Level 2 Users. Level 2 Users will have full access to all features/functions of the delivered DSS Solution and restricted security permissions, (e.g. the User will not have access to any individually identifying information).

 - (c) Level 3 User - The Department will require a minimum of twenty (20) Users to be designated as and receive training as Level 3 Users. These Users will require a significantly lower level of permissions. Level 3 Users will be restricted to accessing simple, predefined queries and standard reports, performing simple data manipulations from the pre-defined reports and queries and exporting data results from such reports/queries. Level 3 Users will not require access to the same applications/software features as Level 1 or 2 Users. These Users would have the most restricted security permissions.
- (2) The Department may require that its maximum number of licensed Users be able to access the DSS at a single point in time. The DSS must allow multiple Users to utilize the system concurrently without limitations to the number of Users at any single point in time.

- (3) Dependent on the category of User, the DSS Solution must provide the Users with the capability to access various functions. At a minimum, the DSS must allow the Level 1 and Level 2 Users to directly view, access, manipulate, compare, and analyze data, run queries and develop non-standard (e.g. user defined) reports. Level 1 and Level 2 Users will have the maximum query capabilities supported by system design and will be able to manipulate the resultant data from these queries; however, the base data will remain unchanged. Level 1 and 2 User capabilities must include, but not be limited to, the ability to:
- (a) Develop and view report information at either a granular and/or summary level, as appropriate for User's needs;
 - (b) Export data to other standard applications (e.g. Microsoft Access, Microsoft Excel, Microsoft Word); and
 - (c) Extract data and reports to print and download.
- (4) User training is required. The Contractor must provide a training plan that is tailored to the types of Users and their assigned permissions. The training plan must include proficiency testing of Users and, if necessary, additional training as required based on results of testing to ensure the DSS training goals and outcomes are achieved with said additional training, if any, at no additional cost to the Department. All training provided by the Contractor under its training plan must be provided onsite at the Department's facilities. On-Demand training must be available, at the Department's request, on an ongoing basis to handle User turnover, system changes and upgrades at the rates set forth in the Offeror's Cost Proposal.
- (5) The DSS Solution's design and operation must conform to applicable federal and State laws and regulations regarding accessibility standards for persons with disabilities. Section IV.B. 2.a(1)(c) provides information regarding NYSOFT standards and policies.

- (6) User support documentation must be provided as applicable to each User Level. The documentation must be provided for all Users, in downloadable electronic versions, preferably PDF. User support documentation must include, but not be limited to:
- (a) User Manuals, quick reference guides;
 - (b) Data Dictionary; and
 - (c) Updates as appropriate to correspond to DSS Solution upgrades/changes.
- (7) Access to both online and telephonic support/Help Desk must be available to all Users regardless of User Level. Online support services, (e.g. help screens, frequently asked questions (FAQs)), must be available 24 hours per day/seven (7) days per week. Telephonic support/Help Desk, utilizing a toll-free number, must be available, at a minimum, Monday – Friday 7:00 a.m. to 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET. The Contractor must respond to all requests for assistance within four (4) business hours of the initial request and provide a proposed timeline for resolution of the identified issue. The proposed timeline will be subject to mutual agreement by both the Department and the Contractor.
- (8) The Contractor must provide connectivity as a secure, internet-based service. The Department requires:
- (a) Connectivity between the Contractor's facility at which the DSS Solution is housed and the Department and sites designated by the Department;
 - (b) A browser-only thin client deployment model;
 - (c) Generation of pages that validate to XHTML 1.0 or HTML 4.01 transitional standards;
 - (d) The Contractor must provide all DSS Solution-related Software inclusive of installation, maintenance and support; and

- (e) The Contractor is solely responsible for overall trouble-shooting and problem solving related to the delivered Project Services.
- (9) The Contractor must identify Software requirements, (e.g. compatible browsers including release version), for onsite Department utilization. The Offeror requirements are subject to Department approval.

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) Confirm the Offeror's ability to establish User Levels, including permissions and restrictions on usage, as specified in Section IV.B.3.a(1). In responding to this requirement, the Offeror must describe, in detail, any restrictions on the number of Users overall or within a category, i.e. User Level.
- (2) Describe in detail the capabilities for access, manipulation, analysis, security, etc., for each User Level in the Offeror's proposed DSS Solution. Explain how the Offeror's proposed User Levels will meet the Department's requirements for access, functionality and security at the three levels described in this RFP, Section IV.B.3.a(1).(a).
- (3) Confirm the DSS will not include limitations as to the number of Users able to concurrently use the DSS Solution.
- (4) Provide a description of the training plan the Offeror proposes for Users, including items such as, session length, number of sessions, class size and position/qualifications of instructor(s) providing training. Identify the plan's goals and expected outcomes. The Offeror must state its agreement to provide all training, both initial and subsequent, onsite at the Department's offices. The Offeror must also state if Webinar training is available and confirm the Offeror's agreement to provide On-Demand training, at the Department's request, on an ongoing basis to handle User turnover, system changes and upgrades and at the rates set forth in the Offeror's Cost Proposal.

- (5) Describe the accessibility accommodations of the proposed DSS Solution that can be implemented for disabled Users at no additional cost to the Department.
- (6) Describe and/or provide copies of the User support documentation to be provided to Users.
- (7) Describe the proposed technical support services, online and telephonic, that will be available to Users during the Department's required timeframes for online support services (e.g. help screens, FAQs) and telephonic support services. The Offeror's response should include a description of its Help Desk operation, including staff size. The Offeror must also state its agreement that all requests for assistance will be responded to within four (4) business hours of the initial request, at which time the caller will be provided with a proposed timeline for resolution of the identified issue (subject to mutual agreement by both the Department and the Contractor).
- (8) State the Offeror's agreement to provide secure connectivity as an Internet-based service offering. Describe in detail the Offeror's proposed web-based product. Identify any client(s) for which the Offeror has provided services similar to those set forth in the RFP as an Internet-based service offering. The Offeror's response must state if the identified clients' DSS Solutions have been in full production mode for twelve (12) months or more, with at least twenty-four (24) months of historical data.
- (9) Provide a description of software requirements, (e.g. compatible browsers including release version), for onsite Department utilization.

4. Analytical Capabilities

a. Duties and Responsibilities

The DSS Solution must provide Users with the ability to conduct analysis on any field or attribute, either individually or collectively, designated to be populated with data provided by the Data Providers in the DSS Solution. Such capabilities include, but are not limited to, trend and normative analysis and projections of utilization and benefit

costs, benefit and program modeling as tools for use in the administration and oversight of various NYSHIP contracts, and advanced and integrated analytics based on the Contractor's unique and proprietary methodologies. These analytical capabilities must provide Users with the ability to:

- (1) Integrate data for all clinically related services for one patient for a discrete diagnostic condition, from the point the initial treatment is identified until treatment is completed, into an episode of care. The DSS must identify the codes (e.g. AMA ICD-9, APA DSM IV, CPT codes) used in defining the episode and provide the User with the ability to exclude codes and/or include additional codes as the User deems appropriate. The DSS must have the capability to analyze episodes of care in relation to regional and national benchmarks.
- (2) Conduct analysis of individual member's claims experience through unique member identifiers provided in Empire Plan eligibility data.
- (3) Conduct analysis by member demographics such as Benefit Plan, Benefit Program, Medicare status, etc.
- (4) Perform analysis of provider billed, allowed and paid amounts, frequency and complexity of services rendered, geographic location, and other utilization and profiling indicators.
- (5) Perform analysis on diagnostic related groups as defined by the AMA ICD-9 international classification of diseases and American Psychiatric Association DSM IV codes.
- (6) Conduct analysis based on medical and hospital service codes including CPT and revenue codes.
- (7) Allow analysis and evaluation of Empire Plan utilization based on provider participation status.
- (8) Perform analysis of prescription drug data at the National Drug Code (NDC) level based ingredient cost, utilization, therapeutic class, Preferred Drug List (PDL)

status, and specialty and compound drug indicators; allow Users to model various strategies designed to contain costs while enhancing the therapeutic value of PDL drugs.

- (9) Model and analyze potential benefit changes and evaluate cost containment strategies.
- (10) Conduct analysis based on the Contractor's unique and/or proprietary analytic categories and classifications in order to provide Users with enhanced insight and understanding of Plan costs, utilization, and outcome measures.

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) Describe in detail how the Offeror's proposed DSS Solution will provide the Department with the analytical capabilities detailed in Section IV. B. 4. a.
- (2) Describe, in detail, the analytic tool available in the proposed Solution for episode of care analysis. Include components of care identified by the tool, such as costs, procedures, treatment location, etc. State the flexibility or degree of User definition allowed by the tool. Provide an example of an episode of care analysis.
- (3) Identify the industry standard diagnostic and procedural groups the Offeror's proposed DSS Solution will support and explain how the information is integrated in the DSS Solution.
- (4) Describe the tools which will enable users to analyze the data contained in the system in an effective and efficient manner. Characterize the ease of use of the analytical tools, and describe the typical learning curve for new users.
- (5) Describe the advanced and unique analytic tools, categories and classifications proposed that will afford Users the capacity to generate information and reports that provide them with enhanced insight and understanding of Plan costs, utilization, benefit models, and outcome measures.

- (6) Describe the DSS Solution's ability to identify providers by various categories, (e.g. primary care, specialty, network/non-network, group/individual).
- (7) Describe in detail how the DSS Solution will allow a User the capability for future benefit modeling. Include in the description the proposed DSS Solution's ability to evaluate changes in benefits, co-payments, co-insurance, etc.
- (8) Explain how the Offeror's proposed DSS Solution will allow for the evaluation of cost containment programs such as utilization review and case management.

5. Query and Reporting Capabilities

The Contractor must provide the capability for Users to request a variety of information from the DSS Solution and have those results presented in a formatted and organized manner. The proposed DSS Solution must provide the capability to provide user-defined reports and analyses on an as needed basis in addition to standard, pre-defined reports, (e.g. quarterly Empire Plan utilization reports). Reports may be requested to meet clinical program review needs, address special population issues and concerns, and/or for review of contract compliance.

a. Duties and Responsibilities

- (1) The DSS Solution must provide an efficient query tool that allows Users to, at minimum:
 - (a) Access all claims and enrollment files and attributes;
 - (b) Link data for analysis;
 - (c) Select subsets of data fields and/or summary or statistical information;
 - (d) Perform flexible filtering of data through pre-defined groups, (e.g. active vs. retiree), as well as user-defined groups, for those Users with the highest level of privileges;

- (e) To set criteria so that only desired records and/or information is returned. Users should have the ability to select criteria such as age, sex, service type, service location, provider type, and/or diagnostic groupings, (e.g. ICD-9 codes, DRGs), as requested;
 - (f) Sort selected subsets of records or information based on multiple sort criteria; and
 - (g) Save query design for future reference and use.
- (2) The DSS Solution must provide benchmarking capabilities that, at minimum:
- (a) Use and provide full access to files containing standard industry accepted norms including, but not limited to, national, regional, state, and county as grouped by member and provider zip codes, for benchmarking analysis. In addition, the DSS Solution must have the ability to create norms from internal data for comparison purposes; and
 - (b) Provide the capability for comparison of claim experience, enrollment experience, and provider practice/treatment patterns to the normative standards.
- (3) Reporting capabilities should provide the option:
- (a) for the Users to save query results in a permanent file (i.e. table or data file) that can be exported/imported utilizing standard Microsoft Office applications (e.g. Access, Excel, Word);
 - (b) to utilize copy and paste functions; and
 - (c) to allow Users the capability to store and reuse report templates.
- (4) The DSS Solution must provide the capability for Users to define and produce reports required to meet their needs for a particular project or analysis.
- (5) The DSS Solution must provide the capability to deliver pre-defined reports electronically. Examples of such reports may include:

- (a) Utilization reports by enrollee, patient, and/or provider;
- (b) Provider reports that include use and cost performance details for physicians, hospitals, networks;
- (c) Cost trend reports that include hospital admissions, pharmacy utilization, ambulatory surgery and physician services. Trends should include all payment components, (e.g. deductibles, copayments, coinsurance) and cost of benefit; and
- (d) Quarterly and Annual Plan summary reports.

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) For each item of functionality detailed in Section IV.B.5.a(1) – (2), confirm that the proposed DSS Solution query tool satisfies these requirements. Provide a complete description of all query functions and capabilities of the proposed DSS Solution. In its response to this requirement, the Offeror must include how the proposed DSS Solution will allow Users to select query parameters from a defined menu of choices as well as the option to allow a User to specify the fields and values to define the query.
- (2) The Offeror must describe the DSS Solution’s capability for exporting/importing query results into standard Microsoft Office applications such as Access, Excel, and Word.
- (3) Describe the filtering capabilities of the proposed DSS Solution.
- (4) Describe the benchmarking resources offered by the proposed DSS Solution.
- (5) The Offeror must describe the report writer function included in the DSS Solution.

- (6) Confirm the DSS Solution report function's ability to provide copy and paste functions and to store and reuse report templates.
- (7) Provide the proposed DSS Solution's average response times for pre-defined, standard reports; include in the response how response time will be measured and monitored.
- (8) Detail how/if the proposed DSS Solution will allow the production of reports upon request, i.e. at time other than the scheduled production date(s).
- (9) Describe the Offeror's proposed quality control procedures to be put in place to assure the accuracy and timeliness of reports.

6. Consulting Support Services

Once Implementation has been completed and DSS Solution has been deemed fully operational and acceptable by the Department, the Contractor must provide enhanced analytical assistance to Users at the Department's request. Such enhanced analytical assistance may include, but not be limited to, assistance in a specific task or project, expert advice regarding the dynamics of the health care delivery system, pharmaco-economics, the input of benefit design changes or enrollee behavior and health status. The support services shall provide expert technical advice and query development assistance to identified Users. Such Consulting Support Services are not to be considered as User Training, either initial or incremental ongoing training.

a. Duties and Responsibilities

- (1) Once the DSS is fully operational to the Department's satisfaction, the Contractor must provide, upon the Department's request, a minimum of 400 hours of consulting support services during the balance of the term of the contract.
- (2) The consulting support services must provide analytical support and expert guidance in clinical and statistical data analysis in relation to special or exigent projects

requiring a more complex level of data review and study. These services are separate and apart from User Training, either initial or incremental ongoing training.

- (3) Consulting services are understood to include, but not be limited to, assistance in a specific task or project, expert advice regarding the dynamics of the health care delivery system, pharmaco-economics, the input of benefit design changes or enrollee behavior and health status

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) State its agreement to provide a minimum of 400 hours of consulting support services during the Ongoing Operational phase of the contract.
- (2) Describe in detail the types of consulting support services the Offeror proposes to provide during the term of the contract for these required services.
- (3) Clearly specify those consulting support services that will be provided in the normal course of business under this contract for which no charge will be assessed to the Department.

7. DSS Solution Operational Requirements

The Department requires that the Contractor provide the following functions and meet specific requirements to fulfill the Department's needs.

a. Duties and Responsibilities

- (1) The Department requires that the DSS Solution be available in its entirety to Users Monday – Friday 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET (Normal Business Hours). To the extent possible, the Contractor must agree to schedule outages for required maintenance or system upgrades outside of Normal Business Hours. Any unavoidable maintenance or system upgrades that cannot be scheduled outside of Normal Business Hours and must take place during those hours

must receive prior approval from Director of the Department's Employee Benefits Division or his designee. The Contractor must provide the Department with, at a minimum, forty-eight (48) hour notice of any and all preventive maintenance and/or service interruption due to system upgrades or enhancements that may occur during Normal Business Hours.

- (2) Unscheduled interruptions of Project Services must be restored within four (4) hours of loss of Project Services. The Department's designated contact must be notified of the interruption within thirty (30) minutes of the detection of the disruption. The notification must include the reason for the interruption and estimated timeframe for restoration of Project Services. Notification must be provided to the Department's contact upon full restoration of services.
- (3) In the case of an interruption exceeding four (4) hours, a written and verbal explanation of the cause and remedial steps taken to avoid a reoccurrence must be provided to the Department within five (5) Business Days of restoration of Project Services.
- (4) The Contractor must have physical safeguards in place that ensure Department data is secure from unauthorized persons and unauthorized access at all times. Technical safeguards must also be maintained so as to ensure that the data is stored in a secure manner and will be processed such that the confidentiality of the data is protected at all times. The Contractor must agree to provide both physical and technical security for this project in agreement with the policies, terms and conditions stated in this RFP, the resultant Contract and Appendices A, B and C.
- (5) The Contractor must have existing corporate policies and procedures in place regarding ethics, privacy and security pertaining to the protection of client data and information. At minimum, the Contractor must for the protection of NYSHIP DSS data and activities agree to apply policies and procedures equal to Department policies and procedures and equal to or better than the policies and procedures in existence for other clients. Such effective, comprehensive policies and procedures must be maintained for NYSHIP data and information in perpetuity.

- (6) The Contractor is required to provide all centralized computing Hardware, Software, staffing, maintenance, and associated processes and procedures necessary to support the proposed DSS Solution in a facility provided by the Contractor. The Contractor is required to provide preventive maintenance and keep the various Hardware and Software components of the DSS Solution current with release and maintenance levels. Hardware and Software not supported by the manufacturer cannot be utilized for the DSS Solution. The Contractor must make all upgrade/enhancements available to the Department in the delivery of the DSS Solution at no additional cost to the Department.
- (7) The Contractor must establish, use, document and maintain professionally and technically sound quality assurance standards, techniques and tools including, but not limited to, the following:
- (a) Operational procedures;
 - (b) Data naming standards;
 - (c) Standards and techniques for controlling data synonyms, aliases and versions;
 - (d) Standards for data characteristics;
 - (e) Data design standards to ensure modularity, extensibility and flexibility, and to ensure the efficient and consistent use of the data;
 - (f) Standards for data searching and cross-referencing techniques;
 - (g) Standards to control data redundancy;
 - (h) Standards for data views;
 - (i) Standards for database administration; and
 - (j) Test-of-correctness and objective measurements of quality.

(8) The Department requires that the Contractor have a thorough and detailed Disaster Recovery Plan (DRP) in place that is updated and tested at least annually. The DRP must include offsite secure backup of the DSS Solution and the ability to establish a fully functional DSS Solution at the alternative location, if needed. The DRP must have safeguards in place to ensure the security and confidentiality of the data and system is neither compromised nor corrupted.

(a) In addition, the DRP must, at a minimum, meet the following requirements:

- (i) If the DSS Solution fails, the DSS Solution shall be able to be restored to its last consistent state before the failure occurred. The Contractor must address any data loss resulting from a system failure;
- (ii) The DSS Solution shall retain archived data and system records in accordance with State regulations, policies, and procedures;
- (iii) The DSS Solution shall be designed assuming zero fault tolerance (i.e. no single physical or electronic point of failure);
- (iv) The DSS Solution shall be backed up on a regularly scheduled basis; the schedule must be provided to the Department for review and approval;
- (v) The DSS Solution backup media shall be stored offsite in a controlled access, physically protected location;
- (vi) Scheduled maintenance shall be coordinated with the Department;
- (vii) The DSS Solution shall be fully functional during Normal Business Hours with the exception of scheduled outages for maintenance agreed to by the Department; and
- (viii) In the event of data loss or data corruption, the DSS Solution shall be able to recover lost data within one (1) day from local backup/recovery and within three (3) days from offsite backup/recovery.

b. Required Submission

In its Technical Proposal, the Offeror must:

- (1) Confirm the Offeror's agreement to the Department's required hours of availability, including notification of scheduled service interruptions as required by the Department, i.e. minimum forty-eight (48) hour prior notification, and avoidance of scheduling maintenance and/or system upgrades during Normal Business Hours. Provide an explanation of how availability is calculated, (e.g. inclusion or exclusion of planned outages in calculation). In responding to this requirement, the Offeror must include detail as to how many times has services been unavailable greater than 1% of the agreed upon hours of operation in the last three (3) years for clients similar in size and receiving similar services.
- (2) State the Offeror's agreement to provide both physical and technical security for the Project in agreement with the policies, terms and conditions stated in this RFP and Appendices A, B and C. The Offeror must describe in detail the protections, procedures, policies, and remedies in place to prevent the DSS data or NYSHIP activity from being disclosed to, or accessed by, any unauthorized individual, entity or organization. The Offeror provide detail of safeguards to be used for the protection of NYSHIP data and activities from disclosure to such individuals, entities or organizations. Such protections should include, but not be limited to:
 - (a) Identification and description of:
 - (i) technical Firewalls;
 - (ii) physical security; and
 - (iii) any other protections provided.
 - (b) Identification and description of corporate policies and practices, including:
 - (i) employee privacy awareness and ethics training
 - (ii) policies and procedures for reporting inappropriate inquiries by unauthorized individuals, entities or organizations

- (iii) application of access restrictions, permission revocations and/or other disciplinary actions, including financial penalties, that may be imposed on an individual or individuals found to be inappropriately accessing client data or gaining knowledge of client activities.
-
- (3) Identification of actions designed to mitigate possible harm to the Department, NYSHIP Contractors, and/or enrollees should unauthorized disclosure of DSS data and/or NYSHIP activities occur. Such actions may include but not be limited to compensation to the Department for all such damages.
 - (4) Describe in detail the procedures and safeguards the Offeror will implement following the conclusion of the project or termination of the Contract to render DSS data unrecoverable and prevent accidental and/or unauthorized access to such data.
 - (5) Describe the capabilities of the system for pre-scheduling reports. In responding to this requirement, the Offeror must include any limitations as to when reports may be scheduled and if reports may be scheduled to run overnight.
 - (6) Clearly state the Offeror's agreement to offer the Project Services in such a manner that the Department has no responsibility for the operation, maintenance and related upgrades of the DSS, (e.g. the decision support system software, technical infrastructure and associated processes and procedures).
 - (7) Describe the proposed process for monitoring Project Services and notifying the Department of service interruptions. Include the proposed frequency of notification (initial and updates), and items that will be reported in the notification, (e.g. the reason for the interruption and estimated timeframe for restoration of services).
 - (8) Detail the proposed process to restore Project Services. Describe the proposed steps to be taken to evaluate and remediate the causes of system outages.

(9) *DSS Solution Availability Guarantees:* The Offeror must guarantee that the DSS Solution will be available in its entirety to Users Monday – Friday, 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET, with the exception of previously agreed to scheduled outages due to required maintenance or system upgrades. The Offeror’s responses must be provided in the following format:

- (a) Confirm the Offeror guarantees that the DSS Solution will be available in its entirety to Users Monday – Friday, 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET, with the exception of previously agreed to scheduled outages due to required maintenance or system upgrades.
- (b) For each hour, or part thereof, beyond the initial four (4) hours from the loss of Project Services that the DSS Solution is not available in its entirety to Users, with the exception of previously agreed to scheduled outages due to required maintenance or system upgrades, the Offeror proposes to forfeit *Insert Number* times the Ongoing Operations Monthly fee, pro-rated to an hourly basis.

Note: The standard credit amount to be forfeited is two (2) times the Ongoing Operations Monthly fee pro-rated to an hourly basis.

The measurement of hours to which the forfeiture is applied shall begin with the first hour the DSS is not available. To illustrate, the DSS is not available for five (5) hours and fifteen (15 minutes) during Normal Business Hours in *Month A* which equates to six (6) hours that the DSS Solution was not available. The Offeror shall forfeit 2 x the Ongoing Operations Monthly fee for *Month A* pro-rated to an hourly rate x 6 (hours).

- (c) Confirm the Offeror guarantees that for each month, the DSS Solution will be available in its entirety, with the exception of previously agreed to scheduled outages, for a minimum of 98% of the scheduled operating hours, based on Normal Business Hours.

- (d) For each month, in which the DSS Solution is not available in its entirety, with the exception of previously agreed to scheduled outages, for a minimum of 98% of the scheduled operating hours, based on Normal Business Hours, the Offeror shall forfeit an amount equal to [insert Offeror proposed Number] time(s) the full Ongoing Operations Monthly fee.

Note: The standard credit amount to be forfeited is one (1) time the full Ongoing Operations Monthly fee.

To illustrate, during *Month A*, the DSS should be available, in its entirety, 298 hours (rounded up to the nearest full hour) based on 304 hours (12 hours/day x 22 weekdays [Mon – Fri] in *Month A* = 264 hours + 10 hours/day x 4 Saturdays in *Month A* = 40 hours) x .98. In this example, if the DSS is available 298 hours or less, the Offeror shall forfeit one (1) time the full Ongoing Operations Monthly fee for *Month A* in which the DSS was not at, or above, the 98% availability standard.

- (10) Describe the proposed method to be used to measure, monitor and report system response time.
- (11) Provide the location of the facility at which the DSS Solution will be housed, hardware configuration, including manufacturer and models, software configuration for the servers and workstations and the network configuration. Describe in detail the Offeror's proposed Preventive Maintenance Plan. State the proposed process for acceptance testing and approval of upgrades and enhancements.
- (12) Describe the quality assurance standards, techniques and tools proposed to be used for the DSS Solution. In responding to this requirement, the Offeror must state if the Offeror has received a Statement of Auditing Standards (SAS) No. 70 certification. If yes, provide the date and a copy of the most recent audit, and state if the Offeror has ever received a qualified opinion as a result of an SAS 70 audit. If yes, provide a detailed explanation of the identified exceptions and/or control deficiencies and remedial action(s) taken as well as a copy of the report.

- (13) Submit a copy of the Offeror's most current Disaster Recovery Plan. Include, in detail, the process for data backup, including the frequency of back-up proposed for the DSS Solution, and offsite storage.

8. Security

The DSS Solution and all associated support processes and procedures must be compliant with Federal Health Insurance Portability and Accountability Act (HIPAA) laws and all applicable federal and State laws and regulations concerning data security and personal privacy protection.

a. Duties and Responsibilities

- (1) The Contractor must commit to maintaining compliance with all federal and State privacy protection laws for the life of the Contract.
- (2) The Contractor must have an Information Security Plan (ISP) for the DSS Solution, acceptable to the Department in place on the effective date of the Contract resulting from this RFP, which states all security policies and procedures for the protection of data, equipment and facilities, including receipt of and transmission of data in accordance with Department standards, policies and procedures. The ISP must, at a minimum:
 - (a) Conform to the requirements of the Department of Civil Service Information Security Policy (**Appendix T**);
 - (b) Support the Department of Civil Service Protocol for Protective Security Measures for Applications with High Sensitivity. Refer to **Appendix U**;
 - (c) Agree to the policies, terms and conditions stated in this RFP, the resultant Contract and Appendices A, B and C.;
 - (d) Allow for the configurable control of access to processes, reports, content and functions;

- (e) Allow the definition of a robust, multi-level row security model;
 - (f) Allow the maintenance of a robust, multi-level row security model;
 - (g) Support configurable role-based security and
 - (h) Support the encryption of data being communicated over a public network.
- (3) The Department reserves the right, at its discretion, to perform security audits on the Project Services being provided to the Department. In the event the Department elects to perform a security audit, either independently or via a third party, the Contractor must agree to cooperate fully with the audit and respond to all findings in the audit in a timely manner.

b. Required Submission

In this part of its Technical Proposal, the Offeror must:

- (1) Include a copy of the Offeror's proposed DSS Solution ISP for providing and maintaining compliance with HIPAA and all federal and State privacy laws and regulations. The Offeror's ISP should confirm it will comply with, at a minimum, the items identified in Section IV B. 8.a.(1) and (2)
- (2) State the Offeror's agreement to comply and cooperate with any Department security audit.

C. Transition and Termination of Contract

1. Transition Period

The State may require the Contractor to provide uninterrupted Project Services after Contract termination/expiration as the State deems reasonable and necessary and/or as necessary for the State to comply with all legal requirements for establishing a new contract to continue the provision of Project Services (Transition Period).

The Department anticipates the selection of a successor contractor be completed approximately one year prior to Contract termination. The Contractor and the Department must ensure that any transition from one Contractor to another Contractor is carried out in accordance with the provisions of Article XIV of Section VII and in a way that allows for minimal disruption to the Department. Consequently, it is important that a transition plan be established in a timely manner.

a. Duties and Responsibilities

- (1) The Contractor must commit to fully cooperate with the Department and the successor Contractor, if any, to ensure the timely, smooth transfer of information necessary to provide the Project Services.
- (2) At all times during the Transition Period and unless directed otherwise in writing by the Department, the Contractor shall continue all contractual obligations set forth in the Contract until such time as the State (i) has approved the Contractor's proposed transition plan, and (ii) an orderly transition to the Department or a Successor Contractor, if applicable has been completed pursuant to the approved Transition Plan as referenced below. The Contractor shall be required to meet its contractual obligations pursuant to this Article notwithstanding the issuance of a termination for cause or convenience by the Department.
- (3) Within ninety (90) Days of the Department's written request, but not later than ninety (90) Days prior to the end of the term of the Contract, or within forty-five (45) Days of notice of termination of the Contract, whichever event occurs first, the Contractor shall provide for approval of the Department a detailed written plan for Transition (Transition Plan) which outlines, at a minimum, the timeline, tasks, milestones and deliverables associated with the smooth transition of Services to the Department or a Successor Contractor, if applicable. Contractor agrees to amend the Transition Plan to include all other information deemed necessary by the Department: The Transition Plan must, at a minimum detail:

- (a) The length of time proposed by the Contractor to complete the transition of Project Services to the Department or a Successor Contractor, if any (Transition Period);
- (b) encompass the transmission of data, provision of data dictionaries representing Department owned data, conversion tables/data mapping and related duties and functions necessary for a smooth transition of the Project Services to the Department or a Successor Contractor, if and as applicable; and
- (c) encompass the completion of all outstanding Contractor provided services/deliverables, including, but not limited to, the Department requested projects incurred on or before the scheduled termination date of the Contract.

The Contractor shall be responsible for providing Transition Services in accordance with the approved Transition Plan.

- (4) “Transition Services” shall be deemed to include Contractor’s responsibility for all Project Services under the Contract, and for transferring in a planned manner specified in the Transition Plan all such services to the Department or a Successor Contractor, if applicable. It is expressly agreed between the Parties that the level of service rendered during the Transition Period shall be maintained in accordance with and shall be subject to all the terms and conditions of the Contract, provided, however, that where a portion of the Project Services has been transitioned to or assumed by the Department or a Successor Contractor during the Transition Period, Contractor shall not be held responsible for the negligent acts or negligent omissions of the Department or the Successor Contractor for any degradation associated with that portion of Project Services transitioned resulting from the negligent acts or negligent omissions of the Department or the Successor Contractor.

b. Required Submission

In its Technical Proposal, the Offeror must:

- (1) Provide an outline of the key elements and tasks that would be included in the Transition Plan with a brief explanation on how these key elements would be accomplished.
- (2) Recommend the estimated start date, duration of the transition period and an approach for ensuring a smooth transition from the Offeror, as the incumbent Contractor, to the Department or a successor Contractor, if any.

SECTION V: COST PROPOSAL REQUIREMENTS**A. Introduction**

The Department seeks to make an award to that responsive and responsible Offeror that will meet the Department's requirements and needs and provide the best value to the Department during the term of the Contract.

The Department expects Offerors to propose an aggressive pricing proposal consistent with the size and functional requirements for the DSS.

The sole compensation for the Contractor under the Contract will be payments based on pricing indicated in the Contractor's Cost Proposal, subject to applicable Not-To-Exceed amounts, if any.

During the term of the Contract and any extension period thereto, amounts paid for which it is subsequently determined that the Contractor was not entitled, if any, must be refunded to the Department. Submission of an invoice and payment thereof shall not preclude the Department from recovery or offset of payment in any case where Project Services as delivered are found to deviate from the terms and conditions of the Contract.

Evaluation of Cost Proposals will be performed in accordance with the provisions presented in Section VI of the RFP.

B. Cost Structure and Assumptions

This section of the RFP sets forth the requirements for the Offeror's Cost Proposal submission and the cost structure required by the Department for Offerors to use in developing their submission. The Offeror's Cost Proposal must respond to all of the following mandatory sections as set forth below in the formats as specified and, as applicable, using the tables set forth in **Exhibit Q "DSS Cost Forms."** The Offeror's Cost Proposal must be based upon the assumptions and instructions as set forth herein the RFP

and specifically this Section V and **Exhibit Q**. The Offeror's Cost Proposal must contain responses to all of the items listed under the Required Submission Material subsections in this Section V of the RFP in the order and format specified.

Cost Proposals will be evaluated based on the Offeror's responses to the information sought in Section V of the RFP (Note: see the "Required Submission Material" subsections throughout this Section V of the RFP).

1. The Cost Proposal shall consist of the following:

- a. A ***"DSS Implementation Total Not-To-Exceed Amount"*** to cover all of the Contractor's DSS Solution design, development and implementation activities and their associated costs;
- b. An all-inclusive fixed ***"Ongoing Operations Monthly Fee"*** for the Contractor's performance of ongoing Project Services, which includes the 400 hours of consulting services to be provided during the balance of the term of the Contract and any extension period thereto, once Implementation activities have been completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully operational;
- c. ***"Incremental Ongoing Training Rates"*** to cover ongoing training required as a result of User turnover, system changes and upgrades, during the term of the Contract and any extension period thereto, once Implementation activities have been completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully operational;
- d. A one-time, fixed fee, ***"Data Provider Start-up Fee"*** per new Data Provider, to cover all of the Contractor's costs to add a new Data Provider, should the DSS Solution be expanded to include additional NYSHIP programs, or replace an existing Data Provider, in the DSS Solution during the term of the Contract and any extension

- period thereto, once Implementation activities have been completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully operational; and
- e. **“Additional User Fees”** to cover any increase to the total number of active Users at a given level as requested by the Department, at its sole discretion. The Additional User Fees would be applicable for the term of the Contract and any extension period thereto.
 - f. **“Additional Consulting Support Services Fees”** to cover analytical support and expert guidance requested by the Department in relation to special or exigent projects. These services are separate and apart from User Training, either initial or incremental ongoing training and in addition to the minimum of 400 hours of consulting support services included at no additional cost during the Ongoing Operational phase of the contract.
 - g. **“Other Assumptions, Terms and Payment Provisions”** applicable to Contractor performance under the Contract.

2. Duties and Requirements

a. ***DSS Implementation Total Not-To-Exceed Amount:***

(1) **Duties and Responsibilities:**

The Department seeks the completion of all Implementation activities as soon as practicable in accordance with the Offeror’s proposed DSS Solution Implementation approach, but not later than one year from the effective date of the Contract.

- (a) During the Implementation Phase, the Department will make monthly payments, in arrears, to the Contractor for design, development and implementation costs incurred by the Contractor in its performance of

services/activities described in Section IV.B based on the Personnel, Hardware, Software, Training and Other Cost Categories quoted rates as set forth in the Offeror's Proposal (**Exhibit Q**, Tables 3 through 7), subject to the Not-To-Exceed caps associated with each Cost Category. If a Contractor does not seek separate reimbursement of personnel, hardware, software or training costs, but instead, proposes a fixed flat fee, the fixed flat fee would be based on the DSS Implementation - Other Costs category's Not-To-Exceed amount (Table 7) and that amount would represent the total actual costs to the Department to implement the DSS Solution. Costs incurred by the Contractor in excess of the Total Not-To-Exceed Amounts for Personnel, Hardware, Software, Training and Other costs, if any, shall not be subject to reimbursement by the Department. As regards the Total Not-To-Exceed – Amount - Training Cost cap (**Exhibit Q**, Table 6), notwithstanding the preceding, additional costs incurred resultant from the Contractor training more Users than the number of Users assumed in **Exhibit Q**, Table 6 will not be applied against the Total Not-To-Exceed - Training Cost cap.

- (b) Notwithstanding any payments made to the Contractor during the Implementation Phase associated with any Cost Category, title to all products provided by the Contractor during the Implementation Phase shall remain with the Contractor and shall not transfer to the Department until the Contractor's DSS Solution is accepted by the Department, in its sole discretion.
- (c) Ten percent (10%) of each monthly invoice amount will be withheld from each monthly amount paid to the Contractor (Surety Withhold). The total of all Surety Withhold amounts withheld will be due to the Contractor upon Department acceptance, in its sole discretion, of a fully functional DSS Solution.
- (d) Should the Contractor's DSS Solution ultimately not be accepted by the Department, the Contractor will be considered in default of the Contract and

the Contract shall be subject to termination for cause. In such case of default, the Contractor shall forfeit all Surety Withhold amounts withheld, refund any monies paid to the Contractor during the Implementation Phase and forfeit its right to reimbursement by the Department of any and all costs incurred by the Contractor under the Contract.

(2) **Required Submission Material**

- (a) The Offeror must provide a clear statement of agreement to the duties and responsibilities required by Section V B.2.a.(1).
- (b) The Offeror must submit completed **Exhibit Q, Tables 1 through 7**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2.a as set forth below:

Table 1: DSS Total Projected Cost

Table 2: DSS Implementation Total Not-To-Exceed Amount

Table 3: Total Not-To-Exceed Amount – Personnel Costs

Table 4: Total Not-To-Exceed Amount – Hardware Costs

Table 5: Total Not-To-Exceed Amount – Software Costs

Table 6: Total Not-To-Exceed Amount – Training Costs

Table 7: Total Not-To-Exceed Amount – Other Costs

b. *Ongoing Operations Monthly Fee for Ongoing Operations*

(1) **Duties and Responsibilities:**

- (a) The payment of the ***Ongoing Operations Monthly Fee*** shall commence with the first FULL month following the date on which all Implementation activities are completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully operational. If Implementation activities are completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully

operational on a date other than the first day of the month such that the DSS Solution is fully operational for only part of a month, then the Contractor shall be due a **DSS Partial Month Ongoing Operations Fee** equal to the **Ongoing Operation Monthly Fee** times the number of Calendar Days during said partial month during which the Offeror's proposed DSS Solution is fully operational divided by the total number of Calendar Days in said partial month, assuming that the date the Contractor's DSS Solution is fully operational is not later than one (1) year from the effective date of the Contract. If the date Contractor's DSS Solution is deemed fully operational is later than one (1) year from the effective date of the Contract, then, the Contractor shall not be due a **DSS Partial Month Ongoing Operations Monthly Fee**.

- (b) The **Ongoing Operations Monthly Fee** rate quoted must be a fixed all-inclusive rate to cover all of the Offeror's costs in fulfilling its duties and responsibilities in the performance of Project Services as set for in Section IV.B of the RFP, except the delivery of Incremental Ongoing Training, adding a new Data Provider to the DSS Solution, Additional User Fees, if any, and Additional Consulting Support Services, if any. The **Ongoing Operations Monthly Fee** charged to the Department for such services shall be quoted on a fixed all-inclusive dollar amount per month basis and the rate quoted will remain unchanged over the initial five (5) year term of the Contract (i.e., the rate quoted and charged for the first month of ongoing operations will be the same as the rate charged for the last month of ongoing operations).
- (c) The **Ongoing Operations Monthly Fee** shall be the sole and exclusive fee chargeable to and payable by the State under the Contract for the performance of Project Services as set for in Section IV.B of the RFP once the DSS Solution is fully operational, except the payment of Additional User Fees, if any and any fees for Incremental Ongoing Training provided, Additional Consulting Support Services, if any and/or adding new a Data Provider and the payment of a **DSS Partial Ongoing Operations Fee**, if any.

(d) In developing its ***Ongoing Operations Monthly Fee***, the Offeror should consider the following information:

(i) As of June 2010, there are approximately 531,700 enrollees and an additional 539,100 dependents in the Empire Plan (including the Excelsior Plan and SEHP) as reported by the NYBEAS enrollment bringing the total Covered Lives in the Empire Plan to approximately 1,070,800. With the inclusion of HMO enrollees and dependents, the total number of covered lives in NYSHIP is approximately 1,202,000.

(ii) There are currently five (5) Data Providers, i.e. insurers/administrators, as follows: Empire Plan hospital contract insurer (currently EBCBS), Empire Plan medical contract insurer (currently UHICNY), Empire Plan mental health and substance abuse contract insurer and benefit administrator (currently UHICNY and Optum), Empire Plan prescription drug contract insurer and benefit manager (UHICNY and Medco), and the Department for enrollment eligibility data that will be loaded into the DSS Solution. The Department does not guarantee that these Data Providers will not change during the term of the contract and subsequent extension, if any.

(ii) Updates will be received from Data Providers at least monthly.

(iv) At a minimum, the DSS must maintain six (6) Plan Years of data plus the current Plan year-to-date data accessible to the Department's and Department designated Users via the DSS Solution.

(e) Should changes including, but not limited to, an increase or decrease in enrollment or the addition or loss of Data Provider(s) cause the volume of data and related storage needs of the Department to increase or decrease by 15% or more, over the term of the Contract, the Contractor may request a change in the

Ongoing Operations Monthly Fee. In such cases, if any, the Department will review and consider the justification submitted by the Contractor. The Department reserves the right to request, and the Contractor shall be required to provide, any additional information and documentation the Department deems necessary to verify that the request for a change in the ***Ongoing Operations Monthly Fee*** is warranted. The Department's decision to modify the ***Ongoing Operations Monthly Fee*** to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State, and if deemed warranted by the Department, then said change shall require a formal amendment to the Contract and must be approved by the OSC.

- (f) If a significant change in technology or benefits occurs during the term of the Contract which materially impacts the Offeror's level of effort or cost, to either a greater or lesser extent, the State reserves the right to renegotiate the ***Ongoing Operations Monthly Fee***. In such cases, if any, the Department will review and consider the justification submitted by the Contractor. The Department reserves the right to request, and the Contractor shall be required to provide, any additional information and documentation the Department deems necessary to verify that the request for a change in the ***Ongoing Operations Monthly Fee*** is warranted. The Department's decision to modify the ***Ongoing Operations Monthly Fee*** to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State, and if deemed warranted by the Department, then said change shall require a formal amendment to the Contract and must be approved by the OSC

(2) **Required Submission Material**

- (a) The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section V B.2.b.(1).

- (b) The Offeror must submit completed **Exhibit Q, Tables 1, 8, and 8A**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2.b. as set forth below:

Table 1: DSS Total Projected Cost

Table 8: DSS Ongoing Operations Monthly Fee

Table 8A: DSS Partial Month Ongoing Operations Fee

- c. ***Incremental Ongoing Training Rates*** to provide, at the Department's request, training on an ongoing basis to handle User turnover, system changes and upgrades (i.e., "Incremental Ongoing Training").

(1) **Duties and Responsibilities:**

- (a) During the term of the Contract, as a result of User turnover, system changes and upgrade the Department may require/request the delivery of Incremental Ongoing Training from the Contractor.
- (b) When requested by the Department, the Contractor must provide Incremental Ongoing Training services at the associated rates as quoted in the Contractor's Proposal.

(2) **Required Submission Material**

- (a) The Offeror must provide a clear statement of agreement to the duties and responsibilities as required by Section V B.2.c.(1).
- (b) The Offeror must submit a completed **Exhibit Q, Table 9**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2.c. as set forth below:

Table 9: Incremental Ongoing Training Rates

- d. ***Data Provider Start-up Fee*** to add a new Data Provider to the DSS Solution.

(1) **Duties and Responsibilities:**

- (a) During the term of the Contract, once Implementation activities have been completed and accepted by the Department, at its sole discretion, and the DSS Solution is fully operational, changes in the Data Providers may occur. The Contractor shall integrate a data feed with the new Data Provider into the DSS Solution effective with the contracted effective date of the new Data Provider into the Empire Plan or other NYSHIP benefit should the DSS Solution be expanded to include additional programs during the term of the Contract and any extension period.
- (b) The Contractor shall be reimbursed for services rendered as required in this section V.B.2.d to add a new Data Provider at the associated one-time fixed all-inclusive rate as quoted in the Contractor's Cost Proposal. No additional or incremental Ongoing Operations Monthly Fee is allowed resultant from the addition of a new Data Provider.
- (c) The Contractor must include the run-out data that is received from the previous Data Provider in the DSS Solution for up to three (3) years after the date a change in Data Providers is made.

(2) **Required Submission Material:**

- (a) The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section V B.2.d.(1)

- (b) The Offeror must submit a completed **Exhibit Q, Table 10**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2.d. as set forth below:

Table 10: Data Provider Start-up Fee

e. Additional User Fees

(1) **Duties and Responsibilities**

- (a) At a minimum, there will be approximately 45 Users with various levels of access as described in Section IV.B.3.a. As part of its proposed DSS Ongoing Operations Fee, the Offeror shall incorporate the cost of any proposed User access, use or licensing fees associated with the assumed number of Users (i.e., fifteen [15] Level 1 Users, ten [10] Level 2 Users and twenty [20] Level 3 Users).
- (b) During the term of the Contract, and any extension thereof, the Department may, in its sole discretion add, change, delete or deactivate Users in one or more of levels. Deleted/Deactivated Users may be replaced with new Users at no additional charge to the Department, assuming that during the Operations phase of the Contract the total number of Users is not greater than the assumed number of Users for the given level. If, during the Operations phase of the Contract, the number of active Users in a given level is less than the assumed number for that level, no reduction in the DSS Ongoing Operations Fee will be due the Department. During the Operations phase of the Contract, if during a given month, the number of active Users in a given level is greater than the assumed number of Users for that level, the Offeror may, but is not required to, propose a per user per month Additional User Fee to be charged to the Department for each User beyond the assumed number of Users. Additional User Fees charged, if any, will be added to the Contractor's DSS Ongoing Operations. For example if the number of Level 1 Users in month fourteen of the Contract term is fifteen, then no

Level 1 Additional User Fee would be due the Contractor. If the number of Level 1 Users in month fifteen is seventeen, then, for that month, in addition to its DSS Ongoing Operations Fee, the Contractor would be due two (2) times its proposed Level 1 per user per month fee as set forth on “Range of Users” line 16 – 20 Table 11.

(2) **Required Submission Material**

- (a) The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section V B.2.e.(1) and (2).
- (b) The Offeror must submit a completed **Exhibit Q, Table 11**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2. as set forth below:

Table 11: Additional User Fee

f. Additional Consulting Support Services Fees

(1) **Duties and Responsibilities**

- (a) The Offeror must include a minimum of 400 hours, post Implementation, of Consulting Support Services as stated in Section IV B.6 of this RFP, for enhanced analytical assistance to Users at the Department’s request.
- (b) Such Consulting Support Services are not to be considered as User Training, either initial or incremental ongoing training.

(2) Required Submission Material

- (a) The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section V B.2.f.(1) and (2).
- (b) The Offeror must submit a completed **Exhibit Q, Table 12**, in accordance with the instructions and pricing assumptions set forth therein, in response to this subsection V.B.2. as set forth below:

Table 12: Additional Consulting Support Services Fees

g. Other Assumptions, Terms and Payment Provisions**(1) Duties and Responsibilities:**

- (a) The Contract shall commence on the approval date of the Contract by the OSC (“effective date”) and shall be for a term of five (5) years from the effective date, with one (1) year optional extension period. Said optional extension is at the sole discretion of the Department and are subject to formal written amendment and the approval by the OAG and OSC.

Should the Department choose to exercise its right to extend the Contract, the Contractor or Department may request a rate change (increase or decrease) to the **Ongoing Operations Monthly Fee**; the **Data Provider Start-up Fee**, the **Incremental Ongoing Training Rates**, and **Additional Consulting Support Services Fees** rates based upon fluctuations in the latest published copy of the Consumer Price Index - All Urban Consumers (CPI-U) as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. The index is also available through the Internet at the Bureau of Labor Statistics web site at <http://stats.bls.gov/> . [Go to “Inflation & Prices” then click “Consumer

Price Index" and then click on "CPI Tables" then click on "Table Containing History of CPI-U U.S. All Items Indexes and Annual Percent Changes From 1913 to Present."]

Price adjustments using the CPI to calculate rates for an extension period involve changing the base rates (i.e., then current rates) by the percent change in the level of the CPI between the Reference Period and the Subsequent Time Period. This is calculated by first determining the Index Point Change between the two periods and then the percent change. The price adjustment shall be calculated as follows: Take the CPI for the 3rd month prior to the month of the start date of either the last year of the Contract or the last approved annual extension period, whichever is later (Reference Period) and subtract this figure from the CPI value for the 3rd month prior to the start date of the extension period (Subsequent Time Period). (For example, if the effective date of the Contract is January 1, and there have been no approved annual extension periods and the start date of the last year of the Contract is January 2016; then the Reference Period would be October 2015 and the Subsequent Time Period would be October 2016.) That sum is then divided by the CPI value for the Reference Period and this result is then multiplied by 100 to equal the percent change which is the price adjustment value. This percentage of increase or decrease shall be effective as of the start date of the extension period. The following example illustrates the computation of percent change:

Subsequent Time Period – CPI for the 3rd month prior to the start date of the extension period (October 2016 based on the above example)	136.0
Less: Reference Period – CPI for the 3rd month prior to the month of the start date of the last year of the Contract or the last approved annual extension, whichever is later (October 2015 based on the above example)	<u>129.9</u>
Equals Index Point Change	6.1
Divided by the Reference Period CPI (October 2015 based on	

the above example)	<u>129.9</u>
Equals Percent Change	0.047
Result multiplied by 100	0.047
	<u>x 100</u>
Equals Percent of Adjustment to be applied to the base rates to calculate rates for the extension period	4.7%

The Contractor has the sole responsibility to request an annual rate change during said optional extension period and, in such case, the Contractor shall provide a copy of the index and other supporting documentation necessary to support the increase or decrease to the Department. Should the Contractor fail to request a rate change at the time the amendment is executed by the Parties, the Contractor shall be deemed to have waived its right to any increase in price associated with that year, however, the State shall not be barred from making the appropriate adjustment, at anytime during the Contract term as amended, in the case of a decrease determined in accordance with the above methodology.

- (b) The State shall render payment for invoices in accordance with ordinary State procedures and practices. The Contractor must certify the accuracy of all Contractor invoices prior to their submission to the Department and the Department will make best efforts to process all acceptable invoices within thirty (30) days of their receipt.
- (c) The Department reserves the right to negotiate any aspect of the proposed rate(s)/fee(s).

(2) **Required Submission Material:**

The Offeror must provide a clear statement of agreement to the duties and responsibilities as required by Section V B.2.e.(1). There is no submission table associated with or required of this subsection.

SECTION VI: EVALUATION AND SELECTION CRITERIA

The Department intends to select that responsive and responsible Offeror whose Proposal offers the “Best Value” to the Department and the State 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 this Section VI 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 XI, “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 evaluation will involve the review and scoring of the Offeror’s Technical Proposal and Cost Proposal.

The award shall be based on the objective and quantifiable analysis as described in this Section VI of the RFP, with seventy percent (70%) of the overall award based on the Offeror’s Technical Proposal and thirty percent (30%) of the overall award based on the Offeror’s Cost Proposal. **The Offeror’s proposed DSS Solution will be evaluated based on the product offering as it exists as of the date of proposal submission (“Product”); proposed and/or yet-to-be-released versions will not be evaluated.** Notwithstanding the proceeding, during the term of the Contract, and any extension thereof, the Contractor may and the Department shall be entitled to, at no additional cost to the Department, incorporate error corrections, updates, revisions, fixes, upgrades to Product and/or new releases of Product in the delivery of Project Services under the Contract.

The Department shall evaluate Proposals in an objective, comprehensive manner designed to benefit both the State and Offerors. Through this process, the Department shall identify the contractor who will best meet its needs and does so 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.

Using the evaluation process described herein, the Department will evaluate Proposals that are complete and received prior to the Proposal Due Date deadline. The Department will not consider Proposals that are incomplete or that are received late.

The Department will first perform a Pass-Fail Screening as described below of each Proposal received to determine whether the Proposal contains all the required content. Proposals that pass the Pass-Fail screening review will continue to the next steps — Technical Proposal Evaluation, and Cost Proposal Evaluation. The Department may, at its discretion, conduct its evaluation of the components of the Offerors' proposals concurrently.

The Department will score each section of the Proposals on a scale to be determined by the Department prior to submission of Proposals and set forth in the evaluation criteria submitted to the Office of the State Comptroller, which will become part of the procurement record. When the Technical and Cost Proposal Evaluations are complete, the Technical Proposal score will be added to the Cost Proposal score to develop a Total Combined Score. The Offerors will be ranked based on their Total Combined Score.

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

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 in accordance with the formats set forth in Sections II and III of this 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 have some or all Offerors provide a management interview, including product demonstrations and/or site visits pertaining to their Administrative, Technical or Cost

Proposal. The Procurement Manager will coordinate the necessary scheduling of these events, if any.

Proposals accepted in response to this RFP shall be subject to the following evaluation process.

A. Conformance to Submission Requirements – Pass/Fail Screening

Each Proposal will be screened on an initial pass/fail basis for completeness and conformance to the submission requirements stated in Sections II and III of this RFP and submitted in the Administrative Proposal. Proposals that do not pass this level of initial screening may be deemed non-responsive and removed from further consideration.

B. Technical Evaluation – 70% of Overall Score

Each Offeror's ability and willingness to deliver the Project Services as set forth in the RFP will be evaluated and scored based on a weighted point system. The evaluation of the Offeror's Technical Proposal will be based on that Offeror's written Technical Proposal, including responses from the Offeror to clarifying questions posed by the Department, if any; information obtained through reference checks, including the Department's experience with the Offeror or its proposed subcontractors, if any; management interviews and site visits conducted to clarify that Offeror's Technical Proposal offering as deemed necessary by the Department. An Offeror may be asked to provide a demonstration of its proposed solution in satisfying the requirements as described in Section IV.B.4 and 5 of the RFP at the Department's Albany office. Each Offeror assumes the responsibility of being prepared for and conducting these activities at its own expense. The demonstration should provide an overview of the functionality of the product, the major analytic features available, and include a demonstration of, at least, one episode of care analysis including national trends and other appropriate benchmark comparisons.

1. Allocation of Technical Proposal Score Points

The relative point value for each section is as follows:

a. Administrative Services and General Qualifications of the Offeror - 15% of Total Technical Score

The Offeror's Proposal will be rated on various administrative components of the required services including executive summary, project management team and general qualifications of the Offeror.

b. Implementation, Operation, and Support Services and Transition and Termination of Contract – 85% of Total Technical Score

The Offeror's Proposal will be rated on the various components of service delivery including implementation, data management, operation and support services, DSS Solution operational requirements, security, and transition and termination of contract.

2. Scoring of the Technical Proposal

- a. Each Offeror's Technical Proposal will be evaluated independently by multiple evaluators based on the RFP Evaluation Criteria as submitted to the Office of the State Comptroller by the Department in advance of the bid opening. The average score of "Excellent" for each evaluated response will result in a maximum available raw score of 1,000. The technical raw score for each Offeror shall be based on the points allocated to each evaluated response and the average of the evaluators' scores for each evaluated response. Scores assigned to each evaluated response are made in accordance with the following point structure:

<u>Score</u>	<u>Points</u>
Excellent	5
Good	4
Meets Criteria	3
Fair	2
Poor	1

- b. A Technical Score for each Offeror will be determined based on the following formula:

$$\text{Technical Score} = 700 \times \frac{\text{Raw Score of the Technical Proposal being scored}}{\text{Highest Raw Score of Technical Proposals evaluated}}$$

The Technical Scores will be calculated to the hundredth decimal place.

If an Offeror is eliminated anytime during the evaluation process, and that Offeror had the highest score for either the Technical or Cost proposal, the Department shall recalculate the applicable Technical and/or Cost scores for each remaining Offeror based on the score of the remaining Offeror with the next highest Technical or Cost score.

C. Cost Evaluation – 30% of Overall Score

1. To evaluate the total DSS cost to the Department, the Department will calculate a Total Projected DSS Solution Cost for each Offeror as the sum of the Offeror's quoted a) DSS Total Projected Cost amount from **Exhibit Q**, Table 1 of the Offeror's Cost Proposal; b) Incremental Ongoing Training Rates fees from **Exhibit Q**, Table 9 of the Offeror's Cost Proposal at pre-determined utilization levels of such services; and c) Data Provider Start-up Fee rate from **Exhibit Q**, Table 10 of the Offeror's Cost Proposal at pre-determined utilization levels of such services. The evaluation of Offerors' Cost Proposals shall be based on the rates quoted for Years 1 – 5 of the Contract. Each component shall be calculated based on the following:

-
- a. *DSS Total Projected Cost*: The Offeror's quoted DSS Total Projected Cost amount as set forth in **Exhibit Q**, Table 1 of the Offeror's Cost Proposal;
 - b. *Incremental Ongoing Training Rates*: The Offeror's Incremental Ongoing Training Rates fees as set forth in **Exhibit Q**, Table 9 of the Offeror's Cost Proposal assuming five (5) new Users for each of the three (3) User Levels will be trained annually for Contract years 2 through 5 as a result of User turnover and that one system change or upgrade will occur during Contract years 2 through 5 which will result in required training of fifteen (15) Level 1 Users, ten (10) Level 2 Users and twenty (20) Level 3 Users.
 - c. *Data Provider Start-up Fee*: The Offeror's Data Provider Start-up Fee rate as set forth in **Exhibit Q**, Table 10 of the Offeror's Cost Proposal assuming one new Data Provider added to the DSS Solution during the term of the Contract.
 - d. The Total Projected DSS Solution Cost for each Offeror shall be calculated by the Department as the sum of the total amounts calculated by the Department in Sections VI.C.1 a through c, above.
2. The Department reserves the right to make other cost calculation adjustments as deemed necessary to determine the evaluated cost of the Offeror's Cost Proposal. Any such adjustments shall be made with the intent to evaluate Offerors' Cost Proposals on a fair and consistent basis, without prejudice. These normalization adjustments may include, but are not limited to, any unforeseen circumstances whereby the normalization of specific factors among Offerors shall result in a more accurate and fair comparison of the Offeror's Cost Proposal.
 3. The Department may seek clarification of the Offeror's Cost Proposal in writing or through a management interview, with written responses to follow.

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4. A Cost Score for each Offeror will be determined based on the following formula, with the lowest Total Projected DSS Solution Cost as calculated in accordance with Section VI.C.1.d receiving the maximum points:

$$\text{Cost Score} = 300 \times \frac{\text{Lowest Total Projected DSS Solution Cost}}{\text{Total Projected DSS Solution Cost of Proposal being scored}}$$

Scores will be calculated to the hundredth decimal place.

D. Total Combined Score

To calculate a Total Combined Score for each Offeror, the Department will combine the Offeror's Technical Score and the Offeror's Cost Score.

E. Best Value Determination/Contract Award

The Department shall select and enter into negotiations for the purpose of executing a contract with the responsive and responsible Offeror that has accumulated the highest Total Combined Score. If an Offeror's Total Combined Score is equal to or less than 1 point below the highest Total Combined Score, the Offeror's proposal will be determined to be substantially equivalent to the Offeror with the highest score. Among any Offeror proposals deemed substantially equivalent, the Department shall select the Offeror that has the lowest evaluated cost calculated pursuant to Section VI.C.1.d. of this RFP to enter into negotiations for the purpose of executing a contract.

Please note that the terms in Appendix A, Standard Clauses for All New York State Contracts, Appendix B, Standard Clauses for all DCS Contracts, and Appendix C, Third Party Connection and Data Exchange Agreement, are not subject to negotiation.

If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful because of material differences in key provision(s) as

determined by the Department, the Department may invite the Offeror with the next highest Total Combined Score to enter into negotiations for purposes of executing a contract. Prior to negotiating with the Offeror with the next highest Total Combined Score, the Department will notify the Offeror originally selected and provide the date when negotiations shall cease should an agreement not be reached. Scores will not be recalculated for any remaining Offerors should contract negotiations between the Department and the selected Offeror are unsuccessful because of material differences in key provision(s).

SECTION VII: DRAFT CONTRACT**AGREEMENT NO. C000588**

THIS AGREEMENT (hereinafter referred to as the “Contract”), effective TBD, is entered into by and between the 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 *(Insert Name of Contractor)*, a corporation authorized to do business in the State of New York with a principal place of business located at *(Insert Contractor’s Address)*, and collectively referred to as “the Parties.”

WITNESSETH

WHEREAS, New York State, through the Department, oversees the New York State Health Insurance Program (NYSHIP) for New York State employees and retirees and their dependents; and

WHEREAS, NYSHIP is administered by the President of the New York State Civil Service Commission, who also serves as the Commissioner of the Department (President), subject to New York State laws and regulations including the Civil Service Law, the State Finance Law Article XI, and their respective implementing regulations; and

WHEREAS, on June 30, 2010, the Department issued a Request for Proposal (RFP) entitled, “New York State Health Insurance Program Decision Support System”, to secure the services of a qualified organization to provide, for the benefit of the Department and its Users, a Decision Support System solution as more fully described in the RFP; and

WHEREAS, after thorough review and evaluation by the Department of Offerors’ Proposals received in response to the RFP, the Contractor’s Proposal was selected as representing the highest combined total score to the State by a responsive and responsible bidder; and

WHEREAS, the Department, in reliance upon the expertise of the Contractor, desires to engage the Contractor to deliver Project Services, in the manner set forth in the RFP and as proposed in the Contractor's Proposal, pursuant to the terms and conditions set forth in the Agreement;

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

ARTICLE I: DEFINITION OF TERMS

- 1.1.0 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.
- 1.2.0 Agreement or Contract** means the agreement entered into between the Parties resultant from this RFP.
- 1.3.0 Application** means a program or group of programs designed for end users.
- 1.4.0 Benefit Plan** means an indicator used in the NYS computerized enrollment system (NYBEAS), to indicate the NYSHIP health insurance option (e.g. Empire Plan or a NYSHIP participating HMO) chosen by an individual, or to indicate the particular benefit package within the NYS dental or vision plans that the individual is eligible for.
- 1.5.0 Benefit Program** means an indicator used in the NYS computerized enrollment system (NYBEAS), to specify the entire benefit package the individual is eligible for and typically includes specific health, dental, and vision coverage benefit definitions. The benefit program varies based on multiple factors such as, the individual's bargaining unit

/union affiliation, employer status, (e.g. State Agency, Participating Agency, Participating Employer), and employment status, (e.g. active, retired).

1.6.0 Business Day(s) means every Monday through Friday for administrative services, and every Monday through Saturday for DSS operations, under the terms of the Contract, except for days designated as business holidays by the Department prior to January 1 of each calendar year.

1.7.0 Calendar Year/Annual means a period of 12 months beginning with January 1 and ending with December 31.

1.8.0 Completion Date means the date proposed by the Offeror and agreed upon by the Department, for delivery of a fully functional DSS; the completion date may not, in any case, exceed twelve (12) months after the contract effective date.

1.9.0 Conflict of Interest means a situation which has or may influence or appear to influence, compromise or bias the Offeror's/Contractor's actions and/or judgments in the Offeror's/Contractor's performance of Project Services. Such situations may result from the Offeror's/Contractor's direct or indirect interests, including but not limited to, financial, business, proprietary or personal interests, in the operation and/or administration of the New York State Health Insurance Program (NYSHIP). A Conflict of Interest can result from relationships between the Offeror/Contractor and any individual, entity or organization that existed prior to or that may arise during the term of the Contract.

1.10.0 Contractor means the Offeror selected as the result of this RFP with which the Department enter into the Agreement to perform Project Services.

1. 11.0 Day(s) means calendar days unless otherwise noted.

1.12.0 Data Provider means an entity (an Insurer or the Department) that provides enrollment or claims data to the Contractor for loading into the DSS Solution.

1.13.0 DCS or Department means the New York State Department of Civil Service.

1.14.0 Decision Support System (DSS) or DSS Solution means a comprehensive and integrated data management system solution that provides the Department with a flexible, effective and efficient means of storing data, analyzing data, and generating business intelligence to be used by the Department and its designated Users.

1.15.0 Disaster Recovery Plan means a plan for continued operation in the event of a situation which incapacitates part or all of a contractor's resources including, but not limited to, personnel, IT equipment, data records, and the building or other physical infrastructure.

1.16.0 Empire Plan means the experience-rated health plan administered by the NYS Department of Civil Service to provide health insurance benefits for the employees, retirees and eligible dependents of New York State and NYSHIP Participating Agencies and Participating Employers. It has four components, the Medical Program, the Hospital Program, the Managed Mental Health and Substance Abuse Program, and the Prescription Drug Program.

1.17.0 Employee Benefits Division (EBD) means the division of the New York State Department of Civil Service responsible for administering the New York State Health Insurance Program.

1.18.0 ET means prevailing Eastern Time.

1.19.0 Excelsior Plan means a variation of the Empire Plan available to local government units which choose to participate in NYSHIP. The Excelsior Plan offers many of the same features of the Empire Plan with a higher degree of cost sharing between the employer and plan participants.

- 1.20.0 Firewall** means a system designed to prevent unauthorized access to or from a private network based upon a set of rules and other criteria. Firewalls can be implemented in either hardware or software, or a combination of both.
- 1.21.0 Hardware** means tangible objects such as disks, disk drives, display screens, keyboards, printers and chips.
- 1.22.0 Insurer** means one of the several insurers or benefit administrators contracted by the Department to provide health insurance services for the NYSHIP.
- 1.23.0 Key Subcontractors** means those vendors with whom the Contractor subcontracts to provide Project Services and incorporates as a part of the Contractor's Project Team.
- 1.24.0 Level 1 User** means an individual designated by the Department to utilize the most advanced features of applications provided by the Vendor under the terms of the Contract and have the highest level of security permissions.
- 1.25.0 Level 2 User** means an individual designated by the Department to have full access to all features/functions of the delivered DSS but with restricted security permissions,(e.g. the user will not have access to any individually identifying information).
- 1.26.0 Level 3 User** means an individual designated by the Department to have access to limited functions of the DSS, (e.g. access to simple, predefined queries and standard reports, and would have the most restricted security permissions).
- 1.27.0 Licensed Product** means software transferred upon the terms and conditions set forth in the Agreement. "Licensed Product" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g. patches, fixes, PTFs, programs, code or data conversion, or custom programming).

1.28.0 Licensee means the New York State Department of Civil Service on behalf of the State of New York.

1.29.0 New Product Releases (Product Revisions) means any commercially released revisions to the version of a Product as may be generally offered and available to the market. New releases involve a substantial revision of functionality from a previously released version of the Product.

1.30.0 New York State Health Insurance Program (NYSHIP) means the health insurance program established by NYS to provide health insurance protection to employees, retirees and eligible dependents of New York State and participating agencies and participating employers. The program is administered by the NYS Department of Civil Service. NYSHIP provides health insurance coverage through the Empire Plan, Health Maintenance Organizations (HMOs); and the Student Employee Health Plan (SEHP).

1.31.0 Normal Business Hours means Monday – Friday 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET, unless specified otherwise by the Department.

1.32.0 NYBEAS means the New York Benefits Eligibility & Accounting System, a computerized enrollment system utilized by the Department for the administration of employee benefits.

1.33.0 NYS means New York State.

1. 34.0 “Or Equal” means that where a copyright brand name, trade name, catalog reference, or patented Product is referenced, references to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. A comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Department’s decision as to acceptance of the Product as equal shall be final.

1.35.0 Plan means the Empire Plan.

1.36.0 Plan Sponsor means the Council on Employee Health Insurance which is composed of the President of the Civil Service Commission, Director of the Governor's Office of Employee Relations, and the Director of Division of the Budget.

1.37.0 Plan Year means the period from January 1 to December 31 of each Year, unless specified otherwise by the Department.

1.38.0 President means the President of the Civil Service Commission and the Commissioner of the Department.

1.39.0 Product means a deliverable under the Contract which may include commodities, services and/or technology. The term "Product" includes licensed software.

1.40.0 Project Services means the entire package of decision support system services to be provided by the Contractor in accordance with the contract resultant from this RFP.

1.41.0 Proposal 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.

1.42.0 RFP means the Request For Proposals entitled "New York State Health Insurance Program Decision Support System" dated June 30, 2010.

1.43.0 Software means computer instructions or data that can be stored electronically.

1.44.0 State means the State of New York.

1.45.0 Student Employee Health Plan (SEHP) means a health insurance plan for graduate student employees of the New York State University system that provides benefits

through the various Empire Plan Insurance Contracts. Like the Empire Plan, the SEHP includes hospital, medical, managed mental health and substance abuse benefits, and prescription drug benefits. SEHP is administered by the New York State Department of Civil Service, Employee Benefits Division.

1.46.0 User means an individual designated by the Department to utilize application programs provided by the Contractor under terms of the contract resultant from this procurement.

1.47.0 Virus means any computer code, whether or not written or conceived by Contractor, which disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

ARTICLE II: AGREEMENT DURATION AND AMENDMENTS

2.1.0 The term of the Contract is for a period of five (5) years, with an option for a one (1) year extension period, starting on January 1, 2011 through and including December 31, 2015, 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") and subject to the termination provisions contained herein.

2.2.0 The Contract may be extended, at the sole discretion of the Department, for a one (1) year optional extension period. The optional extension is subject to the approval of the AG and OSC and subject to the termination provisions contained herein.

2.3.0 The Contract is subject to amendment(s) only upon mutual consent of the Parties, reduced to writing and approved by the Office of the State Comptroller of the State of New York and subject to the termination provisions contained herein.

ARTICLE III: INTEGRATION

3.1.0 The Contract, including all Appendices attached hereto and Exhibits, copies of which are attached hereto and incorporated by reference, constitutes the entire Agreement between the Parties. All prior agreements, representations, statements, negotiations, and undertaking are superseded hereby.

3.2.0 All statements made by the Department shall be deemed to be representations and not warranties.

ARTICLE IV: DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

4.1.0 The Contract consists of:

4.1.1 The body of the Contract (that portion preceding the signatures of the Parties in execution) and any amendments thereto;

4.1.2 Appendix A – Standard Clauses for all New York State Contracts;

4.1.3 Appendix B – Standard Clauses for all Department of Civil Service Contracts;

4.1.4 Appendix C – Third Party Connection and Data Exchange Agreement;

4.1.5 The following Exhibits attached and incorporated by reference to the body of the Contract:

4.1.5a Exhibit A: the Request for Proposals entitled, “New York State Health Insurance Program Decision Support System,” dated June 30, 2010 and Exhibit A-1, the Department’s Official Responses to questions raised concerning the RFP, dated *(Insert Date Responses Issued)*;

- 4.1.5b** Exhibit B: the Contractor’s Proposal comprised of its Administrative Proposal, Cost Proposal and Technical Proposal, all three of which are dated, (Insert Date of Contractor’s Proposal) and Exhibit B-1: the official transcript of the Management Interview and related materials clarifying the Contractor’s Proposal as follows (Insert Exhibit number [e.g. B-2] the Clarification Response Number and its associated date);
- 4.1.5c** Exhibit C, Department of Civil Service Information Security Policy; and
- 4.1.5d** Exhibit D, Department of Civil Service Protocol for Protective Security Measures for Applications with High Sensitivity;
- 4.1.6** In the event of any inconsistency in, or conflict among, the document elements of the Contract identified above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:

 - 4.1.6a** First, Appendix A - Standard Clauses for All New York State contracts;
 - 4.1.6b** Second, Appendix B - Standard Clauses for All Department of Civil Service contracts;
 - 4.1.6c** Third, Appendix C – Third Party Connection and Data Exchange Agreement
 - 4.1.6d** Fourth, any Amendments to the body of the Contract;
 - 4.1.6e** Fifth, the body of the Contract;
 - 4.1.6f** Sixth, Exhibit A – the Request for Proposals entitled, “New York State Health Insurance Program Decision Support System”, dated June 30,

2010 and Exhibit A-1, the Department's Official Responses to questions raised concerning the RFP, dated (Insert Date Responses Issued); and

4.1.6g Seventh, Exhibit B – the Contractor's Proposal comprised of its Administrative Proposal, Cost Proposal and Technical Proposal, all three of which are dated, (Insert Date of Contractor's Proposal) and Exhibit B-1, the official transcript of the Management Interview and related materials clarifying the Contractor's Proposal as follows (Insert Exhibit number [e.g. B-2] the Clarification Response Number and its associated date).

4.1.7 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.

4.1.8 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.

4.1.9 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.

4.2.0 The terms, provisions, representations, and warranties contained in the Contract shall survive performance hereunder.

ARTICLE V: LEGAL AUTHORITY TO PERFORM

5.1.0 The Contractor represents that it possesses adequate legal authority to perform Project Services in accordance with the terms and conditions of the Contract.

5.2.0 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 the Project Services in accordance with the Contract 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.

5.3.0 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 Contract or which may affect the performance of Contractor's duties under the Contract.

ARTICLE VI: CONFLICT OF INTEREST, TRANSPARENCY, NON-DISCLOSURE

6.1.0 The Contractor can not be a party in any relationships in which the Contractor's parent company, and/or any subsidiaries, partners and/or affiliates has or may have a direct or indirect interest, including but not limited to, financial, business, proprietary or personal, in the operation and/or administration of the New York State Health Insurance Program (NYSHIP) which, in the Department's sole discretion, has or may interfere or appear to interfere, compromise or bias the Contractor's actions and/or judgments. Therefore, the Contractor's parent company, and/or any subsidiaries, partners and/or affiliates:

6.1.1 can **not** be a current Empire Plan carrier, contractor and/or subcontractor; and/or;

6.1.2 can **not** be a current Department, Division of the Budget and/or Governor's Office of Employee Relations contractor and/or subcontractor where the purpose of said contract(s)/subcontract(s) is to provide support to or is related to the administration of NYSHIP and/or the delivery of NYSHIP services, including, insurance coverage, either directly or indirectly and in part or in whole.

- 6.2.0** A Conflict of Interest may be a situation which has or may influence or appear to influence, compromise or bias the Contractor's actions and/or judgments in the Contractor's performance of Project Services. Such situations may result from the Contractor's direct or indirect interests, including but not limited to, financial, business, proprietary or personal interests, in the operation and/or administration of the New York State Health Insurance Program (NYSHIP). A Conflict of Interest can result from relationships between the Contractor and any individual, entity or organization that existed prior to or that may arise during the term of the Contract
- 6.3.0** The Contractor will not disclose any data contained in the DSS Solution and information related to NYSHIP to any party without the written authorization of the Director of the Employee Benefits Division of the Department. Such request for authorization must be made to the Director in writing and the Contractor must submit to the Department a written description of the situation and a justification for the requested authorization prior to the expected access by the parties in question. Further, such written requests must satisfy all requirements for notification as stated in Article XIX of this Agreement.
- 6.4.0** The Contractor shall implement Firewalls and/or other controls, policies and procedures which a reasonable person would expect to provide corrective or mitigating action to adequately safeguard or protect the Department against any Conflict of Interest which have been or will be implemented by the Offeror/Contractor.
- 6.5.0** Notwithstanding the Conflicts of Interest (and proposed Firewalls or remedies) identified by Contractor, the Department reserves the right to determine whether the Contractor has a Conflict of Interest. If the Department determines that there is a Conflict of Interest, the Department may terminate the Contract. Notwithstanding the preceding, where a Conflict of Interest has been determined, the Department may, along with all other remedies available, require the Contractor to implement Firewalls and/or other controls, policies and procedures identified by the Contractor or by the Department to adequately safeguard or protect the Department against any Conflict of Interest. Further, if the Department determines that the implemented Firewalls and/or other controls, policies and

procedures do not adequately safeguard or protect against a Conflict of Interest, the Department may terminate the Contract.

ARTICLE VII: PROJECT SERVICES

7.1.0 During the term of the Contract and any extension thereto, the Contractor shall deliver Project Services required pursuant to the Contract in accordance with its proposed DSS Solution in such a manner so as to comply with the terms and conditions as set forth in the Contract.

7.2.0 Project Management Team

7.2.1 The Contractor must maintain an organization of sufficient size with the skills and experience necessary to administer, manage and oversee all aspects of the DSS Solution during Implementation and Ongoing Operation.

7.2.2 The Contractor's assigned project management team shall be experienced, accessible and sufficiently staffed to provide timely responses (one (1) Business Day) to administrative concerns and inquiries posed by the Department and designated Users for the duration of the Contract to the satisfaction of the Department.

7.2.3 The Contractor shall assign a Project Manager who will be dedicated to the NYSHIP DSS, so as to have the ability to address direct inquiries by the Department within one (1) Business Day, for the entire term of the Contract. The Project Manager must possess at least five (5) years experience serving as a project manager.

7.2.4 The Contractor's Project Manager shall immediately notify the Department of any actual or anticipated events impacting delivery of Project Services and present

options available to minimize or eliminate the impact of those events on the delivery of Project Services.

7.3.0 Implementation, Operation, and Support Services

The Contractor shall be responsible for all Project Services including, but not limited to:

7.3.1 Implementation

The Contractor must undertake and complete all Implementation activities, including, but not limited to, those specified activities set forth in Article 8.1.1 of the Contract, not later than (Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date), so that the Decision Support System is fully operational, as determined in the Department's sole discretion, on (Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date).

During Implementation, the Department will provide Department staff to participate in meetings and provide administrative oversight in the data acquisition process to ensure Data Provider cooperation in provision of the initial historical data load during the Implementation period. The Department will provide a workstation, (i.e. desk and chair, personal computer (PC) with internet access and appropriate network access), and appropriate building access for the Contractor's onsite staff, if any, during the Implementation period. The Department will provide technical support and maintenance of Hardware (e.g. PC) and associated Department owned and installed Software used by the Contractor's onsite staff. The Department will **not** provide personal phone lines, administrative support staff, or parking privileges to the Contractor's onsite staff.

7.3.1.a The Contractor must deliver an overall Implementation Plan, and designate an Implementation Team composed of individuals knowledgeable in the requirements of a large client comparable to those of the Department. The

Implementation Team must be committed to work with the Department to analyze and document User needs. The Implementation Plan must include evaluation and assessment activities and development of a project plan to achieve the goals of the Project.

7.3.1.b The Contractor must provide, subject to Department approval, a detailed Acceptance Testing Plan (ATP) that identifies the functions the Department will test in order to ensure the Contractor's DSS Solution functionality is fully operational and meets all requirements identified in the RFP. The Department reserves the right to modify the ATP to meet the Department's needs. User training of key participants in the ATP must be completed prior to the start of testing. The ATP must include, at a minimum, the nature and duration of the tests, definition of roles of staff required to perform the tests, process for resolution of testing issues, definition of acceptable test outcomes and provision for Department signoff on testing plan and successful completion of testing activities. The ATP must confirm:

- (i) The Contractor's DSS Solution meets the requirements set forth in Article 7.3.2.1 of this Agreement. These requirements include, but are not limited to data management, analytical, query and reporting capabilities, and user specifications; and
- (ii) The Contractor meets the requirements set forth in Article 7.3.3 of this Agreement which include, but are not limited to, system availability and connectivity, response time, environment specifics, and maintenance program.

7.3.2 Data Management and Ongoing Operational Services

The Decision Support System shall provide data management, analytic capability, and support services including benchmarking against accepted industry standards/norms, plan and program evaluation, benefit design and modeling,

utilization analysis at provider and member levels and both standard, pre-defined and Department defined report production. The Contractor shall provide a DSS Solution which allows for independent analysis, including the capability to view data at a summary and/or granular level, and the ability to download and manipulate results into a format acceptable to the Department.

7.3.2.1 Data Management

The Department requires and the Contractor agrees to the following:

7.3.2.1a The DSS Solution shall be capable of containing, a minimum of the previous six (6) complete calendar years of data in addition to the then current year's Plan data to date;

7.3.2.1b The Contractor shall develop and provide the Department with complete documentation of the DSS Solution. The documentation must provide the Department with a complete description of the meaning of the information and any relationships between the information (metadata) that is available from the DSS Solution;

7.3.2.1c The Contractor's DSS Solution adheres, to the extent applicable, to the NYS Office for Technology (NYSOFT) policies and standards as stated in New York State Information Technology Policy NYS-P08-005 (Accessibility of Web-Based Information and Applications) in regards to system user interfaces. NYS-P08-005 can be viewed at:

<http://www.cio.ny.gov/Policy/NYS-P08-005.pdf>

7.3.2.1d The Contractor shall accept enrollment and claims data from the Department or from a Data Provider on behalf of the Department and shall load the data for use in the DSS Solution in a timely manner.

7.3.2.1e The Contractor shall work with the Department to define specifications such as the method of transmission, frequency of data exchange, and format of the enrollment and claims data feeds (e.g. FTP with PGP encryption, monthly, new set of data – not limited to updates/changes).

7.3.2.2 The Contractor shall provide a methodology satisfactory to the Department for archiving historical data and retrieving archived data, should the Department choose to utilize such services. The Department requires and the Contractor shall provide, at a minimum, six (6) complete calendar years of Plan data, plus the current Plan Year's data accessible through the Contractor's DSS Solution.

7.3.2.3 The Contractor shall employ a secure method to accept data during transmission that complies with applicable federal and State laws, rules and regulations including, but not limited to HIPAA and Appendices A, B and C.

7.3.2.4 The Contractor's DSS Solution shall incorporate and use an encryption methodology for data that resides in the DSS Solution that masks the identity of an individual but still provides the means to link together an individual's claim and coverage history without disclosing the individual's social security number or other personal identification indicator. In addition, designated Users shall be provided with decryption capability and/or security level, to associate claim and coverage history to a specific identifiable individual. The encryption methodology employed and

utilized by the Contractor shall ensure that all individually identifiable health information is protected and in compliance with applicable federal and State laws, rules and regulations including, but not limited to HIPAA.

7.3.2.5 Prior to loading data, the Contractor shall perform data quality assurance tests. Changes to the data to ensure that only data that has passed required validation edits, or to enhance the overall integrity of the DSS Solution, will be the duty and responsibility of the Contractor working in conjunction with the Data Providers and with Department approval. Areas to be addressed through the data quality assurance process should include, at a minimum:

7.3.2.5a Data field format incompatibility errors;

7.3.2.5b Missing data;

7.3.2.5c Field value edits;

7.3.2.5d Data integrity validation appropriate to file specifications, (e.g. if summary totals are provided, the data must be reconciled to those totals);

7.3.2.5e Data validation with external sources;

7.3.2.5f Data calculation errors;

7.3.2.5g Duplicate information within a single file;

7.3.2.5h Submission of duplicate files; and

7.3.2.5i Follow up with a Data Provider(s) to ensure the Data Provider corrects identified data errors and resubmits the corrected data.

7.3.2.6 The Contractor must be able to accept data in a variety of formats and media on a monthly, bi-weekly, and weekly basis from the Department and other Data Providers. The data must be loaded in the DSS Solution maintained by the Contractor.

7.3.2.7 A copy of the interface requirements given to the Data Providers by the Contractor must also be supplied to the Department. The Department reserves the right to review, request clarification, and/or suggest modifications to the interface requirements given to the Data Providers.

7.3.2.8 The Contractor's interface requirements must be provided to the Data Providers within thirty (30) Business Days of the Contract award. During the term of the Contract, should a new Data Provider be added in place of an existing Data Provider, the Contractor must provide its interface requirements to the replacement Data Provider within thirty (30) Business Days of notification of the change by the Department.

7.3.2.9 Thirty (30) Business Days prior to the start of each Plan year, the Contractor must establish and provide the Department with a schedule identifying the planned DSS data loads, as well as due dates for receipt of data from the Data Providers. The Contractor must notify the Department within one (1) Business Day of any failure to meet the due date by any Data Provider.

7.3.3 User Requirements

Users will be individuals employed by the Department as well as individuals designated by the Department, at its sole discretion, as Users, which may include, but not be limited to, employees of NYS Governor's Office of Employee

Relations, NYS Division of the Budget, NYS Office of the State Comptroller and the Department's benefit management and actuarial consultant. All Users will not have the same level of access and permissions. No User will have the capability to change data in the DSS Solution.

7.3.3.1 The Contractor shall provide three (3) levels of Users:

- 7.3.3.1a** Level 1 User – The Department requires a minimum of fifteen (15) Users to be designated as and receive training as Level 1 Users. Level 1 Users shall have full access to all features/functions of the delivered DSS Solution and have the highest level of security permissions granted by the Department.
- 7.3.3.1b** Level 2 User – The Department requires a minimum of ten (10) users to be designated as and receive training as Level 2 Users. Level 2 Users shall have full access to all features/functions of the delivered DSS Solution and restricted security permissions, (e.g. the User will not have access to any individually identifying information).
- 7.3.3.1c** Level 3 User - The Department requires a minimum of twenty (20) users to be designated as and receive training as Level 3 Users. These Users will require a significantly lower level of permissions. Level 3 Users would be restricted to accessing simple, predefined queries and standard reports, performing simple data manipulations from the pre-defined reports and queries and exporting data results from such reports/queries. Such Users do not require access to the same applications/software features as Level 1 or 2 Users. Level 3 Users have the most restricted security permissions.

7.3.3.2 The DSS Solution must allow multiple Users to utilize the system concurrently without limitations to the number of Users at any single point in time.

7.3.3.3 Dependent on the category of User, the DSS Solution must provide the Users with the capability to access various functions. At minimum, the DSS must allow the Level 1 and Level 2 Users to directly view, access, manipulate, compare, and analyze data, run queries and develop non-standard (e.g. user defined) reports. Level 1 and Level 2 Users will have the maximum query capabilities supported by system design and will be able to manipulate the resultant data from these queries; however, the base data will remain unchanged. Level 1 and 2 User capabilities must include, but not be limited to, the ability to:

7.3.3.3a Develop and view report information at either a granular level and/or at a summary level, as appropriate for the User's needs;

7.3.3.3b Export data to other standard applications (e.g. Microsoft Access, Microsoft Excel, Microsoft Word); and

7.3.3.3c Extract data and reports to print and download.

7.3.3.4 User training is required. The Contractor must provide a training plan that is tailored to the types of Users and their assigned permissions. The training plan must include proficiency testing of Users and, if necessary, additional training as required based on results of testing to ensure the DSS training goals and outcomes are achieved with said additional training, if any, at no additional cost to the Department. All training provided by the Contractor under its training plan must be provided onsite at the Department's facilities. On demand training must be available, at the Department's request, on an ongoing basis to handle User turnover,

system changes and upgrades at the rates set forth in the Contractor's Cost Proposal incorporated in this Contract as Exhibit B. User Training is not part of the 400 hours of Consulting Support Services.

7.3.3.5 The DSS Solution's design and operation must conform to applicable federal and State laws and regulations regarding accessibility standards for persons with disabilities. Article 6.3.2.1c provides information regarding NYSOFT standards and policies.

7.3.3.6 User support documentation must be provided as applicable to each User Level. The documentation must be provided for all Users, in downloadable electronic versions, preferably PDF. User support documentation must include, but not be limited to:

7.3.3.6a User Manuals, quick reference guides;

7.3.3.6b Data Dictionary; and

7.3.3.6c Updates as appropriate to correspond to DSS Solution upgrades/changes.

7.3.3.7 Access to both online and telephonic support/Help Desk must be available to all Users regardless of User Level. Online support services, (e.g. help screens, frequently asked questions (FAQs)), must be available 24 hours per day/seven (7) days per week. Telephonic support/Help Desk, utilizing a toll-free number, must be available, at minimum, Monday – Friday 7:00 a.m. to 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET. The Contractor must respond to all requests for assistance within four (4) business hours of the initial request and provide a proposed timeline for resolution of the identified issue. The proposed timeline will be subject to mutual agreement by both the Department and the Contractor.

7.3.3.8 The Contractor must provide connectivity as a secure, internet-based service. In addition to the requirements specified in Appendices A, B and C, the Department requires:

7.3.3.8a Connectivity between the Contractor's facility at which the DSS Solution is housed and the Department and sites designated by the Department;

7.3.3.8b A browser-only thin client deployment model;

7.3.3.8c Generation of pages that validate to XHTML 1.0 or HTML 4.01 transitional standards;

7.3.3.8d The Contractor must provide all DSS Solution-related Software inclusive of installation, maintenance and support; and

7.3.3.8e The Contractor is solely responsible for overall troubleshooting and problem solving related to the delivered Project Services.

7.3.3.9 The Contractor must identify Software requirements, (e.g. compatible browsers including release version), for onsite Department utilization. The Contractor requirements are subject to Department approval.

7.3.4 Analytical Capabilities

The DSS Solution must provide Users with the ability to conduct analysis on any field or attribute, either individually or collectively, designated to be populated with data provided by the Data Providers in the DSS Solution. Such capabilities include, but are not limited to, trend and normative analysis and projections of

utilization and benefit costs, benefit and program modeling as tools for use in the administration and oversight of various NYSHIP contracts, and advanced and integrated analytics based on the Contractor's unique and proprietary methodologies. These analytical capabilities must provide Users with the ability to:

7.3.4.1 Integrate data for all clinically related services for one patient for a discrete diagnostic condition, from the point the initial treatment is identified until treatment is completed, into an episode of care. The DSS must identify the codes (e.g. AMA ICD-9, APA DSM IV, CPT codes) used in defining the episode and provide the User with the ability to exclude codes and/or include additional codes as the User deems appropriate. The DSS must have the capability to analyze episodes of care in relation to regional and national benchmarks.

7.3.4.2 Conduct analysis of individual member's claims experience through unique member identifiers provided in Empire Plan eligibility data.

7.3.4.3 Conduct analysis by member demographics such as Benefit Plan, Benefit Program, Medicare status, etc.

7.3.4.4 Perform analysis of provider billed, allowed and paid amounts, frequency and complexity of services rendered, geographic location, and other utilization and profiling indicators.

7.3.4.5 Perform analysis on diagnostic related groups as defined by the AMA ICD-9 international classification of diseases and American Psychiatric Association DSM IV codes.

7.3.4.6 Conduct analysis based on medical and hospital service codes including CPT and revenue codes.

7.3.4.7 Allow analysis and evaluation of Empire Plan utilization based on provider participation status.

7.3.4.8 Perform analysis of prescription drug data at the National Drug Code (NDC) level based ingredient cost, utilization, therapeutic class, Preferred Drug List (PDL) status, and specialty and compound drug indicators; allow Users to model various strategies designed to contain costs while enhancing the therapeutic value of PDL drugs.

7.3.4.9 Model and analyze potential benefit changes and evaluate cost containment strategies.

7.3.4.10 Conduct analysis based on the Contractor's unique and/or proprietary analytic categories and classifications in order to provide Users with enhanced insight and understanding of Plan costs, utilization, and outcome measures.

7.3.5 Query and Reporting Capabilities

The Contractor must provide the capability for Users to request a variety of information from the DSS Solution and have those results presented in a formatted and organized manner. The DSS Solution must provide the capability to provide user-defined reports and analyses on an as needed basis in addition to standard, pre-defined reports, (e.g. quarterly Empire Plan utilization reports). Reports may be requested to meet clinical program review needs, address special population issues and concerns, and/or for review of contract compliance.

7.3.5.1 The DSS Solution must provide an efficient query tool that allows Users to, at minimum:

- 7.3.5.1a** Access all claims and enrollment files and attributes;
- 7.3.5.1b** Link data for analysis;
- 7.3.5.1c** Select subsets of data fields and/or summary or statistical information;
- 7.3.5.1d** Perform flexible filtering of data through pre-defined groups, (e.g. active vs. retiree), as well as user-defined groups, for those Users with the highest level of privileges;
- 7.3.5.1e** To set criteria so that only desired records and/or information is returned. Users should have the ability to select criteria such as age, sex, service type, service location, provider type, and/or diagnostic groupings, (e.g. ICD-9 codes, DRGs), as requested;
- 7.3.5.1f** Sort selected subsets of records or information based on multiple sort criteria; and
- 7.3.5.1g** Save query design for future reference and use.

7.3.5.2 The DSS Solution must provide benchmarking capabilities that, at minimum:

- 7.3.5.2a** Use and provide full access to files containing standard industry accepted norms including, but not limited to, national, regional, state, and county as grouped by member and provider zip codes, for benchmarking analysis. In addition, the DSS Solution must have the ability to create norms from internal data for comparison purposes; and

- 7.3.5.2b** Provide the capability for comparison of claim experience, enrollment experience, and provider practice/treatment patterns to the normative standards.

7.3.5.3 Reporting capabilities must provide the option:

- 7.3.5.3a** for Users to save query results in a permanent file (i.e. table or data file) that can be exported/imported utilizing standard Microsoft Office applications (e.g. Access, Excel, Word);
- 7.3.5.3b** to utilize copy and paste functions; and
- 7.3.5.3c** to allow Users the capability to store and reuse report templates.

7.3.5.4 The DSS Solution must provide the capability for Users to define and produce reports required to meet their needs for a particular project or analysis.

7.3.5.5 The DSS Solution must provide the capability to deliver pre-defined reports electronically. Examples of such reports may include, but are not limited to:

- 7.3.5.5a** Utilization reports by enrollee, patient, and/or provider;
- 7.3.5.5b** Provider reports that include use and cost performance details for physicians, hospitals, networks;
- 7.3.5.5c** Cost trend reports that include hospital admissions, pharmacy utilization, ambulatory surgery and physician services. Trends

should include all payment components, (e.g. deductibles, copayments, coinsurance) and cost of benefit; and

7.3.5.5d Quarterly and Annual Plan summary reports.

7.3.6 Consulting Support Services

On completion of Implementation and upon determination by the Department that the DSS Solution has been deemed fully operational and acceptable by the Department, the Contractor must provide enhanced analytical assistance to Users at the Department's request. Such enhanced analytical assistance may include, but not be limited to, assistance in a specific task or project, expert advice regarding the dynamics of the health care delivery system, pharmaco-economics, the input of benefit design changes or enrollee behavior and health status. The support services shall provide expert technical advice and query development assistance to identified Users. Such Consulting Support Services are not to be considered as User Training, either initial or incremental ongoing training.

7.3.6.1 Upon the Department's determination that the DSS is fully operational to the Department's satisfaction, the Contractor must provide, upon the Department's request, a minimum of 400 hours of consulting support services during the balance of the five (5) year term of the contract.

7.3.6.2 The consulting support services must provide analytical support and expert guidance in clinical and statistical data analysis in relation to special or exigent projects requiring a more complex level of data review and study. These services are separate and apart from User Training, either initial or incremental ongoing training.

7.3.6.3 Consulting services are understood to include, but not be limited to, assistance in a specific task or project, expert advice regarding the

dynamics of the health care delivery system, pharmaco-economics, the input of benefit design changes or enrollee behavior and health status.

7.4.0 DSS Solution Operational Requirements

The Contractor shall provide a DSS Solution that provides the following functions and meet specific requirements to fulfill the Department's needs.

7.4.1 The DSS Solution must be available in its entirety to Users Monday – Friday 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET (Normal Business Hours). To the extent possible, the Contractor must agree to schedule outages for required maintenance or system upgrades outside of Normal Business Hours. Any unavoidable maintenance or system upgrades that cannot be scheduled outside of Normal Business Hours and must take place during those hours must receive prior approval from Director of the Department's Employee Benefits Division or his designee. The Contractor must provide the Department with, at a minimum, forty-eight (48) hour notice of any and all preventive maintenance and/or service interruption due to system upgrades or enhancements that may occur during Normal Business Hours.

7.4.2 Unscheduled interruptions of Project Services must be restored within four (4) hours of loss of Project Services. The Department's designated contact must be notified of the interruption within thirty (30) minutes of the detection of the disruption. The notification must include the reason for the interruption and estimated timeframe for restoration of Project Services. Notification must be provided to the Department's contact upon full restoration of services.

7.4.3 In the case of an interruption exceeding four (4) hours, a written and verbal explanation of the cause and remedial steps taken to avoid a

reoccurrence must be provided to the Department within five (5) Business Days of restoration of Project Services.

- 7.4.4** The Contractor must have physical safeguards in place that ensure Department data is secure from unauthorized persons and unauthorized access at all times. Technical safeguards must also be maintained so as to ensure that the data is stored in a secure manner and will be processed such that the confidentiality of the data is protected at all times. The Contractor must agree to provide both physical and technical security for this project in agreement with the policies, terms and conditions stated in this Agreement and Appendices A, B and C
- 7.4.5** The Contractor must have existing corporate policies and procedures in place regarding ethics, privacy and security pertaining to the protection of client data and information. At minimum, the Contractor must agree to apply policies and procedures equal to or better than the policies and procedures in existence for other clients for the protection of NYSHIP DSS data and activities. Such effective, comprehensive policies and procedures must be maintained for NYSHIP data and information through the term of the Contract.
- 7.4.6** The Contractor is required to provide all centralized computing Hardware, Software, staffing, maintenance, and associated processes and procedures necessary to support the proposed DSS Solution in a facility provided by the Contractor. The Contractor is required to provide preventive maintenance and keep the various Hardware and Software components of the DSS Solution current with release and maintenance levels. Hardware and Software not supported by the manufacturer cannot be utilized for the DSS Solution. The Contractor must make all upgrade/enhancements

available to the Department in the delivery of the DSS Solution at no additional cost to the Department.

7.4.7 The Contractor must establish, use, document and maintain professionally and technically sound quality assurance standards, techniques and tools including, but not limited to, the following:

7.4.7.1 Operational procedures;

7.4.7.2 Data naming standards;

7.4.7.3 Standards and techniques for controlling data synonyms, aliases and versions;

7.4.7.4 Standards for data characteristics;

7.4.7.5 Data design standards to ensure modularity, extensibility and flexibility, and to ensure the efficient and consistent use of the data;

7.4.7.6 Standards for data searching and cross-referencing techniques;

7.4.7.7 Standards to control data redundancy;

7.4.7.8 Standards for data views;

7.4.7.9 Standards for database administration; and

7.4.7.10 Test-of-correctness and objective measurements of quality.

7.4.8 The Contractor shall have a thorough and detailed Disaster Recovery Plan (DRP) in place that is updated and tested at least annually. The DRP must

include offsite secure backup of the DSS Solution and the ability to establish a fully functional DSS Solution at the alternative location, if needed. The DRP must have safeguards in place to ensure the security and confidentiality of the data and system is neither compromised nor corrupted.

7.4.8.1 In addition, the DRP must, at minimum, meet the following requirements:

- 7.4.8.1a** If the DSS Solution fails, the DSS Solution shall be able to be restored to its last consistent state before the failure occurred. The Contractor must address any data loss resulting from the system failure;
- 7.4.8.1b** The DSS Solution shall retain archived data and system records in accordance with State regulations, policies, and procedures;
- 7.4.8.1c** The DSS Solution shall be designed assuming zero fault tolerance (i.e. no single physical or electronic point of failure);
- 7.4.8.1d** The DSS Solution shall be backed up on a regularly scheduled basis; the schedule must be provided to the Department for review and approval;
- 7.4.8.1e** The DSS Solution backup media shall be stored offsite in a controlled access, physically protected location;
- 7.4.8.1f** Scheduled maintenance shall be coordinated with the Department;

7.4.8.1g The DSS Solution shall be fully functional during Normal Business Hours with the exception of scheduled outages for maintenance agreed to by the Department; and

7.4.8.1h In the event of data loss or data corruption, the DSS Solution shall be able to recover lost data within one (1) day from local backup/recovery and within three (3) days from offsite backup/recovery.

7.5.0 Security

The DSS Solution and all associated support processes and procedures shall be compliant with Federal Health Insurance Portability and Accountability Act (HIPAA) laws and all applicable federal and State laws and regulations concerning data security and personal privacy protection.

7.5.1 The Contractor shall commit to maintaining compliance with all federal and State privacy protection laws for the life of the Contract.

7.5.2 The Contractor shall have a DSS Solution Information Security Plan (ISP) acceptable to the Department in place on the effective date of this Contract, that states all security policies and procedures for the protection of data, equipment and facilities, including receipt of and transmission of data in accordance with Department standards, policies and procedures. The DSS Solution ISP must, at minimum:

7.5.2a Conform to the requirements of the Department of Civil Service Information Security Policy (Exhibit C of the Contract);

7.5.2b Support the Department of Civil Service Protocol for Protective Security Measures for Applications with High Sensitivity (Exhibit D of the Contract);

7.5.2c Agree to the policies, terms and conditions stated in Appendices A, B and C of the Contract;

7.5.2d Allow for the configurable control of access to processes, reports, content and functions;

7.5.2e Allow the definition of a robust, multi-level row security model;

7.5.2f Allow the maintenance of a robust, multi-level row security model;

7.5.2g Support configurable role-based security; and

7.5.2h Support the encryption of data being communicated over a public network.

7.5.3 The Department reserves the right, at its discretion, to perform security audits on the Project Services being provided to the Department. In the event the Department elects to perform a security audit, either independently or via a third party, the Contractor must agree to cooperate fully with the audit and respond to all findings in the audit in a timely manner.

ARTICLE VIII: PERFORMANCE GUARANTEES

The Parties agree that the following guarantees and the corresponding reduction(s) in fee to the Contractor for failure to meet each guarantee shall be implemented effective *(Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date)*. The Contractor

acknowledges and agrees that failure to perform the Project Service Features in such a manner which either meets or exceeds any and/or all of the Performance Guarantee(s) as set forth in this Article and/or fails to make any reimbursement(s) of any such reduction(s) 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 Contract. The Contractor shall report to the Department on a quarterly basis its level of compliance with these guarantees, as specified in Article 8.4.0 of this Agreement.

Performance related reduction amounts due from the Contractor to the Department for failure to perform any Project Service Feature at the Guarantee level as set forth above shall be made at the time and in such amounts as determined by the Department to be final. Upon such determination, the Department shall notify the Contractor, in writing, and the Contractor shall deduct such amounts from the Implementation Fee or next applicable Ongoing Operations Monthly Fee Billing, as appropriate.

8.1.0 Implementation Guarantee

8.1.1 Guarantee: Provided that the Department and the Department's designated Data Providers, have supplied all information and/or data on a timely basis necessary for implementation activities to take place, the Contractor guarantees that all Implementation activities will be completed no later than (Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date), so that, effective (Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date - no later than 12 Months from Contract Start Date), the Contractor can deliver a DSS that is fully operational in all functions required by the Department, as determined in its sole discretion. For the purpose of this guarantee, the Contractor must, on (Insert Contractor's Proposed Date in terms of days elapsed from Contract Approval Date – no later than 12 Months from Contract Start Date), have completed:

- 8.1.1a** Preparation of facilities for long-term physical maintenance and storage of data;
- 8.1.1b** Activities required to bring the DSS Solution to full production and to be fully functioning in all aspects of the Project Services as described in the Contract, (i.e. accepting data from all Data Providers with full decision support capability and able to fulfill all other related tasks and responsibilities designated in the Contract). Initially, the Contractor must submit their proposed data interface requirements to the Department for review and, once approved by the Department, supply all Data Providers with the interface requirements. The Contractor must set up a meeting(s) with all Data Providers within thirty (30) Business Days of Contract's effective date to present file layout requirements. Once the Data Providers have produced data in a layout conforming to the Contractor's requirements, the Contractor must proceed to load historical data into the DSS Solution and provide access to the Department for acceptance testing no later than sixty (60) calendar days from the date the loadable data is received from the Data Providers;
- 8.1.1c** Acquisition, validation, and loading of six (6) complete years of historical data and all current Plan Year data available to be loaded into the DSS. In addition, after the load of historical and current Plan year is completed, a minimum of one complete current update cycle from each current Data Provider must be successfully transmitted, received and loaded into the DSS in order for Implementation to be deemed complete;
- 8.1.1d** Training, including proficiency testing of Users and, if necessary, additional training of Users at no additional cost to the Department;
- 8.1.1e** Establishment of User support functions, (e.g. telephonic and online support); and

8.1.1f All activities related to user acceptance testing and received Department sign-off on successful completion of those activities.

8.1.2 Reduction in payment to Contractor: The Contractor will permanently forfeit, *[Insert Contractor's quoted Number]* times the dollar amount of the Ongoing Operations Monthly Fee for each month, or part thereof, after the Contractor's proposed Implementation Completion Date that any of the Implementation activities listed above, in Article 8.1.1a–f, remain incomplete. The Contractor may propose to complete Implementation activities on a date earlier than the one year period after the effective date of the Contract. Should the completion of all Implementation activities extend beyond the completion date as proposed by the Contractor, or if no date is proposed by the Contractor, no later than one year after the effective date of the Contract, the Contractor must agree to permanently forfeit, at a minimum, an amount equal to one (1) month Ongoing Operations Monthly Fee for each month, or part thereof after the Contractor's proposed date that any of the Implementation activities remain incomplete.

8.2.0 Decision Support System (DSS) Update Guarantee and Reduction in Payment

8.2.1 Guarantee: The Contractor shall guarantee that the data supplied by the Data Providers will be processed through quality assurance testing and, if the data as submitted meets the standards, the data will be loaded in the DSS Solution not later than fifteen (15) Business Days from the scheduled data receipt date of the data from each Data Provider. This guarantee does not apply to data model changes, new Data Providers or types, or reprocessing of previously processed data due to Data Provider error. If the data is received after the scheduled receipt date, the data will be loaded in the DSS Solution not later than fifteen (15) Business Days from the date the data was received.

8.2.2 Reduction in payment to Contractor:

8.2.2a For each twenty-four (24) hour period, or part thereof, beyond fifteen (15) Business Days from receipt of data from a Data Provider, in accordance with the submitted schedule, that the data is not loaded into the DSS Solution and fully accessible to all Users, the Contractor proposes to forfeit \$ (Insert \$ amount - TBD).

8.3.0 Decision Support System (DSS) Solution Availability Guarantee and Reduction in Payment

8.3.1 Guarantee: The Contractor must guarantee that the DSS Solution will be available in its entirety to Users Monday – Friday, 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET, with the exception of previously agreed to scheduled outages due to required maintenance or system upgrades.

8.3.2 Reduction in payment to Contractor:

8.3.2a For each hour, or part thereof, beyond the initial four (4) hours from the loss of Project Services that the DSS Solution is not available in its entirety to Users, with the exception of previously agreed to scheduled outages due to required maintenance or system upgrades, the Contractor shall forfeit [Insert Number] times the Ongoing Operations Monthly fee, pro-rated on an hourly basis. The measurement of hours to which the forfeiture is applied shall begin with the first hour the DSS is not available. To illustrate, the DSS is not available for five (5) hours and fifteen (15 minutes) during Normal Business Hours on “Month A” which equates to six (6) hours that the DSS Solution was not available. The Offeror shall forfeit 2 x the Ongoing Operations Monthly fee for “Month A” pro-rated to an hourly rate x 6 (hours).

8.3.2b For each month, in which the DSS Solution is not available in its entirety, with the exception of previously agreed to scheduled outages, for a minimum of 98% of the scheduled operating hours, based on Normal Business Hours, the Contractor shall forfeit the Offeror shall forfeit an amount equal to [Insert Number] time(s) the full Ongoing Operations Monthly fee. To illustrate, during “Month A”, the DSS should be available, in its entirety, 298 hours (rounded up to the nearest full hour) based on 304 hours (12 hours/day x 22 weekdays [Mon – Fri] in “Month A” = 264 hours + 10 hours/day x 4 Saturdays in Month A = 40 hours) x .98. In this example, if the DSS is available 297 hours or less, the Offeror shall forfeit one (1) time the full Ongoing Operations Monthly fee for “Month A” in which the DSS was not at, or above, 98% availability standard.

8.4.0 On a quarterly basis, the Contractor must submit a report to the Department that details the Contractor’s compliance with the Performance Guarantees, DSS Update Guarantee and DSS Solution Availability Guarantee, as stated in the Contract in Articles 8.2.0 and 8.3.0, respectively. The reports are due sixty (60) calendar days after the end of the quarter. In addition, the Contractor must provide timely notification (i.e. within two (2) Business Days), to the Department of any and all occurrences of non-compliance with Performance Guarantees.

ARTICLE IX: PAYMENT FOR DECISION SUPPORT SYSTEM SERVICES

9.1.0 The Contractor will bill the Department based on the *DSS Implementation Total Not-To-Exceed Amount* as stated in the Contractor’s Cost Proposal to cover all of the Contractor’s DSS Solution design, development and implementation activities and their associated costs.

9.1.1 During the Implementation Phase, the Department will make monthly payments, in arrears, to the Contractor for design, development and implementation costs

incurred by the Contractor in its performance of services/activities described in Section IV.B.1 of the RFP (Exhibit A) based on the Personnel, Hardware, Software, Training and Other Cost Categories quoted rates as set forth in the Contractor's Cost Proposal - Appendix III.A, Tables 3 through 7 (Exhibit B), subject to the Not-To-Exceed caps associated with each Cost Category. Costs incurred by the Contractor in excess of the Total Not-To-Exceed Amounts for Personnel, Hardware, Software, Training and Other costs, if any, shall not be subject to reimbursement by the Department. As regards, the Total Not-To-Exceed – Amount - Training Cost cap - Appendix III.A, Table 6 of Contractor's Cost Proposal (Exhibit B), notwithstanding the preceding, additional costs incurred resultant from the Contractor training more Users than the number of Users assumed in Appendix III.A, Table 6 (Exhibit B) will not be applied against the Total Not-To-Exceed - Training Cost cap.

- 9.1.2** Notwithstanding any payments made to the Contractor during the Implementation Phase associated with any Cost Category, title to all products provided by the Contractor during the Implementation Phase shall remain with the Contractor and shall not transfer to the Department until the Contractor's DSS Solution is fully accepted by the Department, in its sole discretion, in accordance with the provisions set forth herein the Contract,
- 9.1.3** Ten percent (10%) of each monthly invoice amount will be withheld from each monthly amount paid to the Contractor (Surety Withhold). The total of all Surety Withhold amounts withheld will be due to the Contractor upon Department acceptance of a fully functional DSS Solution. Should the Contractor's DSS Solution ultimately not be accepted by the Department, at its sole discretion, the Contractor will be considered in default of the Contract and the Contract shall be subject to termination for cause. In such case of default, the Contractor shall forfeit all Surety Withhold amounts withheld, refund any monies paid to the Contractor during the Implementation Phase and forfeit its right to reimbursement

by the Department of any and all costs incurred by the Contractor under the Contract.

9.2.0 The Contractor shall bill the Department an all-inclusive fixed *Ongoing Operations Monthly Fee* for the Contractor's performance of ongoing Project Services, during the term of the Contract and any extension periods thereto, once Implementation activities have been completed and accepted by the Department and the Department has determined in its sole discretion that the DSS Solution is fully operational.

9.2.1 The payment of the *Ongoing Operations Monthly Fee* shall commence with the first FULL month following the date on which all Implementation activities are completed and accepted by the Department and the DSS Solution is fully operational. If Implementation activities are completed and accepted by the Department and the DSS Solution is fully operational on a date other than the first day of the month such that the DSS Solution is fully operational for only part of a month, then the Contractor shall be due a *DSS Partial Month Ongoing Operations Fee* equal to the *Ongoing Operation Monthly Fee* times the number of Calendar Days during said partial month during which the Contractor's proposed DSS Solution is fully operational divided by the total number of calendar days in said partial month, assuming that is that the date the Contractor's DSS Solution is fully operational is not later than one (1) year from the effective date of the Contract. If the date the Implementation activities are completed and accepted by the Department and the DSS Solution is fully operational is a date later than one (1) year from the effective date of the Contract, then, the Contractor shall not be due a *DSS Partial Month Ongoing Operations* and shall be subject to a reduction in payment per section 8.1.2..

9.2.2 The *Ongoing Operations Monthly Fee* rate shall be a fixed all-inclusive rate to cover all of the Offerors costs in fulfilling it duties and responsibilities in the performance of Project Services as set for in Sections IV.B of the RFP (Exhibit A), excepting the delivery of Incremental Training adding a new Data Provider to

the DSS Solution, Incremental User Fees, if any and Additional Consulting Support Services, if any. The *Ongoing Operations Monthly Fee* charged to the Department for such services shall be quoted on a fixed all-inclusive dollar amount per month basis and the rate quoted will remain unchanged over the initial five (5) year term of the Contract and any extension thereof (i.e., the rate quoted and charged for the first month of ongoing operations will be the same as the rate charged for the sixtieth month of ongoing operations).

9.2.3 The *Ongoing Operations Monthly Fee* shall be the sole and exclusive fee chargeable to and payable by the State under the Contract for the performance of Project Services as set for in Sections IV.B of the RFP (Exhibit A) once the DSS Solution is fully operational, excepting as regards the delivery and payment of Incremental Ongoing Training Fees, new Data Provider Fees, if any, Additional User Fees, if any, and Additional Consulting Support Services beyond the included 400 hours, if any, and the payment of a *DSS Partial Ongoing Operations Fee*, if any.

9.2.4 During the term of the Contract and any extensions thereof, the Department may, in its sole discretion add, change, delete or deactivate Users in one or more of levels. Deleted/Deactivated Users may be replaced with new Users at no additional charge to the Department, assuming that during the Operations phase of the Contract the total number of Users is not greater than the assumed number of Users for the given level. If, during the Operations phase of the Contract, the number of active Users in a given level is less than the assumed number for that level, no reduction in the DSS Ongoing Operations Fee will be due the Department. During the Operations phase of the Contract, if during a given month, the number of active Users in a given level is greater than the assumed number of Users for that level, (i.e., fifteen [15] Level 1 Users, ten [10] Level 2 Users and twenty [20] Level 3 Users as described in Section IV. B.3.a of the RFP [Exhibit A]) the Offeror may, but is not required to, propose a per user per month Additional User Fee to be charged to the Department for each User beyond the

assumed number of Users. Additional User Fees charged, if any, will be added to the Contractor's DSS Ongoing Operations. For example if the number of Level 1 Users in month fourteen of the Contract term is fifteen, then no Level 1 Additional User Fee would be due the Contractor. If the number of Level 1 Users in month fifteen is seventeen, then, for that month, in addition to its DSS Ongoing Operations Fee, the Contractor would be due two (2) times its proposed Level 1 per user per month fee as set forth on "Range of Users" line 16 – 20 Table 11 (Exhibit B).

9.2.5 The Contractor must include 400 hours of Consulting Support Services as stated in Article 6.3.6 in its ***Ongoing Operations Monthly Fee***.

9.2.6 Should enrollment changes, or the addition of Data Provider(s), cause the volume of data and related storage needs of the Department to increase or decrease by 15% or more, from one year to the next year of the term of the Contract, the Contractor may request a change in the ***Ongoing Operations Monthly Fee***. In such cases, if any, the Department will review and consider the justification submitted by the Contractor. The Department reserves the right to request, and the Contractor shall be required to provide, any additional information and documentation the Department deems necessary to verify that the request for a change in the ***Ongoing Operations Monthly Fee*** is warranted. The Department's decision to modify the ***Ongoing Operations Monthly Fee*** to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State, and if deemed warranted by the Department, then said change shall require a formal amendment to the Contract and must be approved by the OSC.

9.2.6 If a significant change in technology or benefits occurs during the term of the Contract which materially impacts the Contractor's level of effort or cost, to either a greater or lesser extent, the State reserves the right to renegotiate the ***Ongoing Operations Monthly Fee***. In such cases, if any, the Department will

review and consider the justification submitted by the Contractor. The Department reserves the right to request, and the Contractor shall be required to provide, any additional information and documentation the Department deems necessary to verify that the request for a change in the ***Ongoing Operations Monthly Fee*** is warranted. The Department's decision to modify the ***Ongoing Operations Monthly Fee*** to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State, and if deemed warranted by the Department, then said change shall require a formal amendment to the Contract and must be approved by the OSC.

- 9.3.0** At the Department's request, the Contractor shall provide additional training for Users when needed due to events including, but not limited to, User turnover, system changes and upgrades, during the term of the Contract and any extension periods thereto, once Implementation activities have been completed and accepted by the Department and the DSS Solution is fully operational. The Contractor shall bill based upon *Incremental Ongoing Training Rates* as quoted in the Contractor's Proposal (Exhibit B) for Incremental Ongoing Training services.
- 9.4.0** At the Department's request, the Contractor shall provide Additional Consulting Support Services in addition to the minimum of 400 hours of Consulting Support Services included in its ***Ongoing Operations Monthly Fee*** as stated in Article 7.3.6, during the Ongoing Operational phase of the Contract and any extension periods thereto. The Contractor shall bill based upon *Additional Consulting Support Services Fee(s)* as quoted in the Contractor's Proposal (Exhibit B) for Additional Consulting Support Services.
- 9.5.0** During the term of the Contract, once Implementation activities have been completed and accepted by the Department and the DSS Solution is fully operational, changes in the Data Providers may occur. The Contractor shall integrate a data feed with the new Data Provider into the DSS Solution effective with the contracted effective date of the new Data Provider into the Empire Plan or other NYSHIP benefit should the DSS Solution be expanded to include additional programs during the term of the Contract and any

extension periods. The Contractor shall bill the Department based on a one-time fixed all-inclusive *Data Provider Start-up Fee* to cover all of the Contractor's costs to add a Data Provider to the DSS Solution, during the term of the Contract and any extension periods thereto, once Implementation activities have been completed and accepted by the Department and the DSS Solution is fully operational.

- 9.5.1** The Contractor shall be reimbursed for services rendered as required to add a new Data Provider at the associated one-time fixed all-inclusive rate as quoted in the Contractor's Cost Proposal (Exhibit b). No additional or incremental Ongoing Operations Monthly fee is allowed resultant from the addition of a new Data Provider other than in accordance with the provisions set forth in Article 9.2.5.
- 9.5.2** The Contractor must include the run-out data that is received from the previous Data Provider in the DSS Solution for up to three (3) years after the date a change in Data Providers is made.
- 9.6.0** Should the Department choose to exercise its right to extend the Contract pursuant to Article II of this Agreement, the Contractor or Department may request a rate change (increase or decrease) to the *Ongoing Operations Monthly Fee*; the *Data Provider Start-up Fee* and the *Incremental Ongoing Training Rates* based upon fluctuations in the latest published copy of the Consumer Price Index - All Urban Consumers (CPI-U) as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. The index is also available through the Internet at the Bureau of Labor Statistics web site at <http://stats.bls.gov/> . Go to "Inflation & Prices" then click "Consumer Price Index" and then click on "CPI Tables" then click on "Table Containing History of CPI-U U.S. All Items Indexes and Annual Percent Changes From 1913 to Present."
- 9.6.1** Price adjustments shall be made using the CPI to calculate rates for an extension period such that the base rates (i.e., then current rates) are changed by the percent change in the level of the CPI between the Reference Period and the Subsequent

Time Period. This is calculated by first determining the Index Point Change between the two periods and then the percent change. The price adjustment shall be calculated as follows: The CPI for the 3rd month prior to the month of the start date of either the last year of the Contract or the last approved annual extension period, whichever is later (Reference Period), is subtracted from the CPI value for the 3rd month prior to the start date of the extension period (Subsequent Time Period). (For example, if the effective date of the Contract is January 1, and there have been no approved annual extension periods and the start date of the last year of the Contract is January 2016; then the Reference Period would be October 2015 and the Subsequent Time Period would be October 2016.) That sum is then divided by the CPI value for the Reference Period and this result is then multiplied by 100 to equal the percent change which is the price adjustment value. This percentage of increase or decrease shall be effective as of the start date of the extension period. The following example illustrates the computation of percent change:

Subsequent Time Period – CPI for the 3rd month prior to the start date of the extension period (October 2016 based on the above example)	136.0
Less: Reference Period – CPI for the 3rd month prior to the month of the start date of the last year of the Contract or the last approved annual extension, whichever is later (October 2015 based on the above example)	<u>129.9</u>
Equals Index Point Change	6.1
Divided by the Reference Period CPI (October 2015 based on the above example)	<u>129.9</u>
Equals Percent Change	0.047
Result multiplied by 100	0.047 <u>x 100</u>
Equals Percent of Adjustment to be applied to the base rates to calculate rates for the extension period	4.7%

- 9.6.2** The Contractor has the sole responsibility to request an annual rate change during said optional extension period and, in such cases, the Contractor shall provide a copy of the index and other supporting documentation necessary to support the increase or decrease to the Department. Should the Contractor fail to request a rate change at the time the amendment is executed by the Parties, the Contractor shall be deemed to have waived its right to any increase in price associated with that year, however, the State shall not be barred from making the appropriate adjustment, at anytime during the Contract term as amended, in the case of a decrease determined in accordance with the above methodology.
- 9.7.0** The OSC shall render payment for invoices in accordance with ordinary State procedures and practices. The Contractor must certify the accuracy of all Contractor invoices prior to their submission to the Department and the Department will make best efforts to process all acceptable invoices within thirty (30) days of their receipt
- 9.8.0** 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 the Contract, the Contractor enters into arrangements with any other customers providing services which are equal to or greater than those services to be provided under the Contract at more favorable terms, the Contract shall thereupon be deemed amended to provide the same to the Department.
- 9.9.0** The Contractor agrees that the following costs are not allowable and shall not be charged to the Department as either a direct or formula expense including but not limited to: commissions, capital expenditures for improvement or acquisition of facilities, entertainment costs, including social activities or cost of alcoholic beverages, costs of fund raising, costs for political activities, costs for attendance at conferences or meetings of professional organizations unless attendance is necessary in connection with the Project Services and the Contractor receives prior written approval by the Department.

9.10.0 During the term of the Contract and any extension period thereto, amounts paid for which it is subsequently determined that the Contractor was not entitled, if any, must be refunded to the Department. Submission of an invoice and payment thereof shall not preclude the Department from recovery or offset of payment in any case where Project Services as delivered are found to deviate from the terms and conditions of the Contract.

ARTICLE X: DATA SHARING AND OWNERSHIP

10.1.0 All claims, enrollment and other data (i.e., materials) provided to the Contractor by the Department or the Department's Data Providers is being provided to the Contractor solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Contract and said materials are the sole property of the State. Except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law, the Contractor shall not share, sell, release, or make the materials available to third parties in any manner without the prior consent of the Department. This provision shall survive the expiration or termination of the Contract.

10.2.0 Within thirty (30) days after the termination or expiration of the Contract for any reason, the Contractor agrees to return to the Department all data provided to the Contractor by the Department or the Department's data providers or, if return is not feasible, destroy any and all such data. In the event returning or destroying such data is not feasible, the Contractor shall provide written notification to the Department of the conditions that make the return or destruction not feasible, in which case, the Contractor must continue to protect such data in perpetuity.

ARTICLE XI: OWNERSHIP/TITLE TO CONTRACT DELIVERABLES

In addition to the Ownership/Title to Product Deliverables requirements specified in Appendices A and B to this Contract, the following provisions shall apply:

11.1.0 For purposes of this section, “Product(s)” is/are defined as a deliverable(s) furnished under the Contract by or through Contractor, including Existing and Custom Product(s), including, but not limited to: (a) components of the hardware environment, (b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media, (c) third party software, (d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and (e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

11.1.1 For purposes of this section, “Existing Product(s)” is/are defined as tangible Product(s) and intangible licensed Product(s) which exist prior to the commencement of work under the Contract.

11.1.2 For purposes of this section, “Custom Product(s)” is/are defined as Product(s), preliminary, final or otherwise, which is/are created or developed by Contractor, its subcontractors, partners, employees or agents solely for the benefit of the Department under the Contract in its delivery of Project Services.

11.2.0 Title to Contract Deliverables – the Contractor acknowledges that it is commissioned by the Department to perform those Project Services as set forth in the Contract. Unless otherwise specified in writing in the Contract, the Department shall have ownership rights as follows:

11.2.1 Existing Product(s)

11.2.1a Hardware - Title and ownership to Existing Hardware Product(s) shall remain with the Contractor.

11.2.1b Software - Title and ownership to Existing Software Product(s) utilized in the delivery of Project Services under the Contract shall remain with Contractor or other independent software vendor proprietary owner (“ISV”).

11.2.1c Custom Product(s) – Effective upon creation of Custom Product(s), the Contractor hereby conveys, assigns and transfers to the Department the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Product(s) is/are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under the Contract in the course of Contractor’s business.

In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the State which complies with the terms of this paragraph.

11.3.0 During the term of the Contract, the Contractor may and the Department shall be entitled to, at no additional cost to the Department, incorporate error corrections, updates, revisions, fixes, upgrades to Product and/or new releases of Product in the delivery of Project Services under the Contract. In addition, where Contractor is the Product manufacturer/developer, and Contractor publicly announces to all U.S. customers (“date of notice”) that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor (“withdrawn support”) is no longer

going to be offered, Contractor shall be required to: (i) notify the Department in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at the Department's option either: provide the Department with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Department to continue use and maintenance of the Product. In the event that the Contractor is not the Product manufacturer/developer, Contractor shall be required to: (i) provide the notice required under the paragraph above within ten (10) Business Days of Contractor receiving notice from the Product manufacturer/developer, and (ii) include in such notice the period of time from the date of notice that the Product manufacturer/developer will continue to provide Product or withdraw support. The provisions of this paragraph shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent subcontractor. In the event that such subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to Department approval, to an alternate subcontractor.

ARTICLE XII: WARRANTIES

Where Contractor generally offers or proposes in its Proposal additional or more advantageous warranties, if any than those set forth below, Contractor shall offer or pass through any such warranties to the Department at no additional cost to the Department. Contractor hereby agrees to the following:

12.1.0 Representations and Warranties: Contractor assumes responsibility for the cost and timely accomplishment of all obligations and duties required by the Contract whether or not the Contractor or its subcontractor(s) 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 Contract,

including all appendices and Project Services provided shall conform to all technical specifications provided in the RFP (Exhibit B).

12.2.0 Workmanship Warranty: Contractor warrants that it shall perform Project Services in a professional and workmanlike manner, in accordance with highest applicable industry standards. For purposes of the Contract, “highest applicable industry standards” shall be defined as the degree of care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances.

12.3.0 Contractor Compliance: Contractor shall 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 Contract at no additional cost to the Department. Prior to award and during the term of the Contract, Contractor warrants that it shall meet or exceed all requirements of the Contract 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 the Department. Failure to do so may constitute grounds for the Department to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Department.

12.4.0 Survival of Warranties

All warranties contained in the Contract shall survive the termination of the Contract.

ARTICLE XIII: MODIFICATION OF SERVICES

13.1.0 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 the Contract in such a manner that the Department determines that any design elements or requirements of the Contract must be

revised, the Department shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.

13.2.0 To the extent that any of the events as set forth in this Article shall take place and constitute a material and substantial change in the delivery of Project Services that are contemplated in accordance with the terms of the Contract as of the Effective Date and which the Contractor is required to perform or deliver under the Contract, the Contractor may submit a written request to the Department to initiate review of the fee(s) received by the Contractor for Project Services provided and guarantees made by the Contractor under the terms of the Contract, accompanied by appropriate documentation. The Department reserves the right to request and the Contractor shall agree to provide additional information and documentation to the Department 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 Department approve the Contractor's request to modify the fee(s), such approval shall be subject to written amendment and approval by the OAG and OSC.

ARTICLE XIV: TRANSITION

14.1.0 The State may require the Contractor to provide uninterrupted Services after Contract termination/expiration as the State deems reasonable and necessary and/or as necessary for the State 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:

14.1.1 Cooperation with Department/Successor Contractor: The Contractor must commit to fully cooperate with the Department and the Successor Contractor, if any, to ensure the timely, smooth transfer of information necessary to provide the Project Services.

14.1.2 No Interruption of Services: At all times during the Transition Period and unless directed otherwise in writing by the Department, the Contractor shall continue all contractual obligations set forth in the Contract until such time as the State (i) has approved the Contractor's proposed transition plan, and (ii) an orderly transition to the Department or a Successor Contractor, if applicable has been completed pursuant to the approved Transition Plan as referenced below. The Contractor shall be required to meet its contractual obligations pursuant to this Article notwithstanding the issuance of a termination for cause or convenience by the Department.

14.1.3 Transition Plan: Within ninety (90) Days of the Department's written request, but not later than ninety (90) Days prior to the end of the term of the Contract, or within forty-five (45) Days of notice of termination of the Contract, whichever event occurs first, the Contractor shall provide for approval of the Department a detailed written plan for Transition (Transition Plan) which outlines, at a minimum, the timeline, tasks, milestones and deliverables associated with the smooth transition of Services to the Department or a Successor Contractor, if applicable. Contractor agrees to amend the Transition Plan to include all other information deemed necessary by the Department: The Transition Plan must, at a minimum detail:

14.1.3.a the length of time proposed by the Contractor to complete the transition of Project Services to the Department or a Successor Contractor, if any (Transition Period);

14.1.3.b encompass the transmission of data, provision of data dictionaries, conversion tables/data mapping and related duties and functions necessary for a smooth transition of the Project Services to the Department or a Successor Contractor, if and as applicable; and

14.1.3c encompass the completion of all outstanding Contractor provided services/deliverables, including, but not limited to, the Department

requested projects incurred on or before the scheduled termination date of the Contract.

The Contractor shall be responsible for providing Transition Services in accordance with the approved Transition Plan.

14.1.4 Contractor Transition Services: “Transition Services” shall be deemed to include Contractor’s responsibility for all Project Services under the Contract, and for transferring in a planned manner specified in the Transition Plan all such services to the Department or a Successor Contractor, if applicable. It is expressly agreed between the Parties that the level of service rendered during the Transition Period shall be maintained in accordance with and shall be subject to all the terms and conditions of the Contract, provided, however, that where a portion of the Project Services has been transitioned to or assumed by the Department or a Successor Contractor during the Transition Period, Contractor shall not be held responsible for the negligent acts or negligent omissions of the Department or the Successor Contractor for any degradation associated with that portion of Project Services transitioned resulting from the negligent acts or negligent omissions of the Department or the Successor Contractor.

14.1.5 Compensation for Transition Services: Contractor shall be reimbursed for Transition Services performed during the Transition Period based on the Monthly Ongoing Operation Fee, prorated by the number of days during the month that the Contractor performs Project Services, as set forth in the Contract.

14.1.6 Department Responsibilities for Transition: The Department 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. Weekly project review meetings shall be held with representatives of the Contractor, the Department and a Successor Contractor, if applicable.

14.1.7 Transition Plan Deliverable Guarantee: If the Contractor does not meet the Transition Plan submission time period requirement as set forth in Article 13.1.3 above, the Contractor will permanently forfeit one hundred percent (100%) of the Monthly Ongoing Operations Fee, or part thereof, corresponding to the time period from the date the Transition Plan was due to the date the Transition Plan is delivered to the Department. Monthly Operation Fees will resume once the Transition Plan is delivered.

ARTICLE XV: AUDIT AUTHORITY

In addition to the Audit Authority requirements specified in Appendices A and B to the Contract, the following provisions shall apply:

15.1.0 The Contractor acknowledges that the Department has the authority to conduct financial and service audits of the Contractor's delivery of Project Services in accordance with the Contract and any applicable State and federal statutory and regulatory authorities.

15.2.0 Such audit activity may include, but not necessarily be limited to, the following activities:

15.2.1 Review of security policies and procedures for the protection of data, equipment and facilities, including receipt of and transmission of data, either independently or via a third party;

15.2.2 Review of compliance with Performance Guarantees; and

15.2.3 Review of any and all activities relating to the Contractor's administration of the Contract.

15.3.0 The Contractor shall maintain and make available documentary evidence necessary to perform such reviews. Documentation maintained and made available by the Contractor

may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, pertinent contracts, subcontracts and correspondence.

15.4.0 The Contractor shall make available for audit all data in its computerized files that is relevant to and subject to the Contract. Such data may, at Department discretion, be submitted to the Department in machine-readable format, or the data may be extracted by the Department, or by the Contractor under the direction of the Department.

15.5.0 The Contractor shall, at the Department's request, search its files, retrieve information and records and provide to the auditors such documentary evidence as they require. The Contractor shall make sufficient resources available for the efficient performance of audit procedures.

15.6.0 The Contractor shall comment on the contents of any audit report prepared by the Department and transmit such comments in writing to the Department within thirty (30) Days of receiving any audit report. The response will specifically address each audit recommendation. If the Contractor agrees with the recommendation, the response will include a work plan and timetable to implement the recommendation. If the Contractor disagrees with an audit recommendation, the response will give all details and reasons for such disagreement. Resolution of any disagreement as to the resolution of an audit recommendation shall be subject to the dispute resolution procedures set forth in Appendix B to the Contract.

15.7.0 All records and documentation described in this Article for audit review and use by the Department pertain to the administration of the Contract.

15.8.0 If the Contractor has an independent audit performed of the records relating to the Contract, a certified copy of the audit report shall be provided to the Department within ten (10) Days after receipt of such audit report by the Contractor.

15.9.0 The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in Appendix A of the Contract, Standard Clauses for All New York State Contracts.

ARTICLE XVI: CONFIDENTIALITY

In addition to the Confidentiality terms specified in Appendices A and B to the Contract, the following provisions also shall apply:

16.1.0 All claims and enrollment data relating to the Contract are confidential and shall be used by the Contractor solely for the purpose of carrying out its obligations under the Contract, for measuring the performance of the Contractor in accordance with the performance guarantees of the Contract, and for providing the Department with material and information as may be specified elsewhere in the Contract.

16.2.0 Except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law, no records may be otherwise used or released to any party other than the Department by the Contractor, its officers, employees, agents, consultants or subcontractors either during the term of the Contract or in perpetuity thereafter. Contractor shall hold the State harmless from any loss or damage to the State resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such confidential information.

Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of the Contract.

16.3.0 The Contractor, its officers, employees, agents, consultants and/or any subcontractors agree to comply, during the performance of the Contract, with all applicable federal and State privacy, security and confidentiality statutes, including but not limited to the Personal Privacy Law (New York Public Officer's Law Article 6-A, as amended), and its implementing regulations, policies and requirements, for all material and information

obtained by the Contractor through its performance under the Contract, with particular emphasis on such information relating to NYSHIP enrollees and their dependents.

16.4.0 The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its officers, employees, agents, consultants and/or subcontractors contains a provision which strictly conforms to the various confidentiality provisions of the Contract. Information which falls into any of the following categories shall not be considered Confidential Information:

- 1) Information the Contractor already possesses without an obligation of confidentiality.
- 2) Information the Contractor develops independently from publicly available data.
- 3) Information the Contractor receives without obligation of confidentiality from a third party.
- 4) Information that is, or becomes, publicly available without breach of the Contract.

16.5.0 The Contractor shall promptly advise the Department of all requests made to Contractor for information regarding the performance of services under the Contract including, but not limited to, requests for any material and information provided by the Department or a Data Provider.

ARTICLE XVII: BUSINESS ASSOCIATE AGREEMENT

17.1.0 For purposes of this Article, 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 the Department or may be created or received by the Contractor on behalf of the Department. All PHI received or created by the Contractor as a consequence of its performance under this Agreement is referred to herein collectively as “Department’s PHI.” For the purpose of this Article, the term “Contractor” refers to the Insurer, if any, for the administration of the Program.

17.2.0 The Contractor acknowledges that the Department administers on behalf of New York State several group health plans as that term is defined in HIPAA’s implementing regulations at 45 CFR Parts 160 and 164, and that each of those group health plans consequently is a “covered entity” under HIPAA. These group health plans include NYSHIP, which encompasses the Empire Plan as well as participating health maintenance organizations; the Dental Plan, and the Vision Plan. In this capacity, the Department is responsible for the administration of these “covered entities” under HIPAA. The Contractor further acknowledges that the Department has designated NYSHIP and the Empire Plan as an Organized Health Care Arrangement (OHCA), respectively. The Contractor further acknowledges that the Contractor is a HIPAA “business associate” of the Department as a consequence of the Contractor’s provision of services to and/or on behalf of the Department within the context of the Contractor’s performance under this Agreement to the extent that such services extend beyond the NYSHIP OHCA or Empire Plan OHCA, and that the Contractor’s provision of such services may involve the disclosure to the Contractor of individually identifiable health information from the Department or from other parties on behalf of the Department, and also may involve the Contractor’s disclosure to the Department of individually identifiable health information as a consequence of the services performed under this Agreement.

17.3.0 Permitted Uses and Disclosures of the Department’s PHI: The Contractor may use and/or disclose the Department’s PHI solely in accordance with the terms of this Agreement. In addition, the Contractor may use the Department’s PHI to provide data

aggregation services relating to the health care operations of the Department. Further, the Contractor may use and disclose the Department's PHI for the proper management and administration of the Contractor if such use is necessary for the Contractor's proper management and administration or to carry out the Contractor's legal responsibilities, or if such disclosure is required by law or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it shall be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor or any instances of which it is aware in which the confidentiality of the information has been breached.

17.4.0 Nondisclosure of the Department's PHI: *The Contractor* shall not use or further disclose the Department's PHI otherwise than as permitted or required by this Agreement or as otherwise required by law. The Contractor shall limit its uses and disclosures of PHI when practical to the information comprising a Limited Data Set, and in all other cases to the minimum necessary to accomplish the intended purpose of the PHI's access, use, or disclosure.

17.5.0 Safeguards: The Contractor shall use appropriate, documented safeguards to prevent the use or disclosure of the Department's PHI otherwise than as provided for by this 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 it creates, receives, maintains, or that it transmits on behalf of the Department pursuant to this Agreement.

17.6.0 Breach Notification

17.6.1 Reporting: The Contractor shall report to the Department any breach of unsecured PHI, including any use or disclosure of the Department's PHI otherwise than as provided for by this Agreement, of which the Contractor becomes aware. Further, the Contractor shall report to the Department any

security incident of which it 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 shall notify the Department within five (5) Business Days of the date the Contractor becomes aware of the event.

17.6.2 Required Information: The Contractor shall provide the following information to the Department within ten (10) Business Days of discovery except when, despite all reasonable efforts by the Contractor to obtain the information required, circumstances beyond the control of the Contractor necessitate additional time. Under such circumstances, the Contractor shall provide to the Department 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.

17.6.3 The Department 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 and the media, as required by 45 CFR Part 164.

- 17.6.4** The Contractor shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to the Department upon request.
- 17.6.5** For purposes of this Agreement, “Unsuccessful Security Incidents” include activity such as pings and other broadcast attacks on Business Associate’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.
- 17.6.6** The Contractor shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Contractor not permitted by this Agreement.
- 17.7.0** Associate’s Agents: The Contractor shall require all of its agents or sub-contractors to whom it provides the Department’s PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, agree to the same restrictions and conditions on the access, use and disclosure of PHI that apply to the Contractor with respect to the Department’s PHI under this Agreement.
- 17.8.0** Availability of Information to the Department: The Contractor shall make available to the Department such information and documentation as the Department may require regarding any disclosures of PHI by the Contractor to fulfill the Department’s obligations to provide access to, to provide a copy of, and to account for disclosures of the Department’s PHI in accordance with HIPAA and its implementing regulations. The Contractor shall provide such information and documentation within a reasonable amount of time of its receipt of the request from the Department.
- 17.9.0** Amendment of the Department’s PHI: The Contractor shall make the Department’s PHI available to the Department as the Department may require to fulfill the Department’s

obligations to amend individuals' PHI pursuant to HIPAA and its implementing regulations. The Contractor shall, as directed by the Department, incorporate any amendments to the Department PHI into copies of such Department PHI maintained by the Contractor.

17.10.0 Internal Practices: The Contractor shall make its internal practices, policies and procedures, books, records, and agreements relating to the use and disclosure of the Department's PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, available to Department and/or the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the Department and/or the Secretary for purposes of determining the Department's compliance with HIPAA and its implementing regulations.

17.12.0 Termination.

17.12.1 This Agreement may be terminated by the Department at the Department's discretion if the Department determines that the Contractor, as a business associate, has violated a material term of this Article or of the Agreement with respect to the Contractor's obligations under this Article.

17.12.2 Disposition of the Department's PHI: At the time this Agreement is terminated, the Contractor shall, if feasible, return or destroy all of the Department's PHI, whether received from the Department or created or received by the Contractor on behalf of the Department, that the Contractor still maintains in any form and retain no copies of such information. Alternatively, if such return or destruction is not feasible, the Contractor shall extend indefinitely the protections of this Agreement to the information and shall limit further uses and disclosures to those purposes that make the return or destruction of the Department's PHI infeasible.

17.13.0 Indemnification: The Contractor agrees to indemnify, defend and hold harmless the State and the Department and its respective employees, officers, agents or other members of its

workforce (each of the foregoing hereinafter referred to as “Indemnified Party”) against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by the Contractor or its employees, officers, subcontractors, agents or other members of its workforce. Accordingly, the Contractor shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Contractor’s acts or omissions hereunder. The Contractor’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

17.14.0 Miscellaneous:

17.14.1 Amendments. This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary to achieve and maintain compliance with the requirements of the Regulations.

17.14.2 Survival. The respective rights and obligations of Business Associate and Covered Entity set forth in Sections III.C. and IV shall survive termination of this Agreement.

17.14.3 Regulatory References. Any reference herein to a federal regulatory section within the Code of Federal Regulations shall be a reference to such section as it may be subsequently updated, amended or modified.

17.14.4 Interpretation. Any ambiguity in this Agreement shall be resolved to permit covered entities to comply with HIPAA.

ARTICLE XVIII: NOTICE TO STATE

18.1.0 The Contractor shall immediately notify the State 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 the State a written description of the situation and a recommendation for its resolution within seven (7) Business Days of learning of the situation.

ARTICLE XIX: NOTICES

19.1.0 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:**

- 19.2.0** 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.
- 19.3.0** 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 XX: SUSPENSION OF WORK

- 20.1.0** Notwithstanding any other provision of the Agreement, DCS reserves the unconditional right to suspend any or all activities under the Agreement, at any time, with or without cause and in the best interests of the State or DCS. 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 either authorizing a resumption of work or providing notice of the DCS's intent to pursue the DCS's rights pursuant to Article XVII of the Agreement.

ARTICLE XXI: GENERAL PROVISION AS TO REMEDIES

- 21.1.0** 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.

21.2.0 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:

21.2.1 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.

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

ARTICLE XXII: TERMINATION

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

22.1.0 The State 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 the State's 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 the State, the State agrees to negotiate a payment based on the Fixed Hourly Rates as set forth in the Contractor's Financial Proposal for hours actually worked by Contractor personnel on a given project activity, not to exceed the fixed fee of the project activity;

22.2.0 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, the State, 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;

22.3.0 No delay or omission to exercise any right, power or remedy accruing to the State 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;

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

22.5.0 In the event of the Contractor's default, in addition to availing itself of specific remedies set forth in the Agreement, the State may pursue all legal and equitable remedies for

breach. In addition to pursuing any other legal or equitable remedies, the State 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 the State, and for costs incurred by the State in procuring alternate Services;

22.6.0 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;

22.7.0 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;

22.8.0 Termination Notice. Notices required by this section shall be provided consistent with Article 9 of Appendix B; and

22.9.0 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 the State. 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 the State.

ARTICLE XXIII: MERGERS/ACQUISITIONS

23.1.0 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 XXIV: RESPONSIBILITY TERMS

24.1.0 The Contractor covenants and 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 covenants and represents 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.

24.2.0 The Contractor shall provide to the Department updates to the Vendor Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Vendor Responsibility Questionnaire becomes available.

24.3.0 Notwithstanding 22.3.0 hereinabove, the Department reserves the right, in its sole discretion, at any time during the term of the Agreement, (i) to require updates or clarifications to the Vendor Responsibility Questionnaire upon written request, (ii) to inquire about information included in or require information omitted from the Vendor Responsibility Questionnaire, and (iii) to require Contractor to provide such information to the Department within a reasonable timeframe.

24.4.0 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.

24.5.0 If the Department preliminarily determines Contractor to be non-responsible, the Department shall provide written notice to Contractor detailing the reason(s) for the preliminary determination, and shall provide Contractor with an opportunity to be heard.

24.6.0 Upon a Determination of Non-responsibility of Contractor, the Department reserves the right to terminate the Agreement in accordance with Article XXI.

ARTICLE XXV: ALL LEGAL PROVISIONS DEEMED INCLUDED

25.1.0 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 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.

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

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

NANCY G. GROENWEGEN
COMMISSIONER

By: _____

Date: _____

[Insert Name of Contractor]

Date: _____

By: _____

Name: _____

Title: _____

STATE OF)
) ss:
COUNTY OF)

On the _____ day of _____, _____, before me personally came _____, to me known, and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for her/himself depose and say that (s)he is the _____ of _____ the corporation or organization described in and which executed the above instrument; and that (s)he signed his/her name thereto.

My commission expires: _____

NOTARY PUBLIC

Approved as to form:

Andrew M. Cuomo
ATTORNEY GENERAL

By: _____

Date: _____

Approved:

Thomas P. DiNapoli
STATE COMPTROLLER

By: _____

Date: _____

SECTION VIII: Decision Support System RFP Glossary of Terms and Abbreviations

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.

Agreement or Contract means the agreement entered into between the Parties resultant from this RFP.

Application means a program or group of programs designed for end users.

Benefit Plan means an indicator used in the NYS computerized enrollment system (NYBEAS), to indicate the NYSHIP health insurance option (e.g. Empire Plan or a NYSHIP participating HMO) chosen by an individual, or to indicate the particular benefit package within the NYS dental or vision plans that the individual is eligible for.

Benefit Program means an indicator used in the NYS computerized enrollment system (NYBEAS), to specify the entire benefit package the individual is eligible for and typically includes specific health, dental, and vision coverage benefit definitions. The benefit program varies based on multiple factors such as, the individual's bargaining unit /union affiliation, employer status, (e.g. State Agency, Participating Agency, Participating Employer), and employment status, (e.g. active, retired).

Business Day(s) means every Monday through Friday for administrative services, and every Monday through Saturday for DSS operations, under the terms of the contract resultant from this RFP, except for days designated as business holidays by the Department prior to January 1 of each calendar year.

Calendar Year/Annual means a period of 12 months beginning with January 1 and ending with December 31.

Completion Date means the date proposed by the Offeror and agreed upon by the Department, for delivery of a fully functional DSS; the completion date may not, in any case, exceed twelve (12) months after the contract effective date.

Conflict of Interest means a situation which has or may influence or appear to influence, compromise or bias the Offeror's/Contractor's actions and/or judgments in the Offeror's/Contractor's performance of Project Services. Such situations may result from the Offeror's/Contractor's direct or indirect interests, including but not limited to, financial, business, proprietary or personal interests, in the operation and/or administration of the New York State Health Insurance Program (NYSHIP). A Conflict of Interest can result from relationships between the Offeror/Contractor and any individual, entity or organization that existed prior to or that may arise during the term of the Contract.

Contractor means the Offeror selected in response to this RFP with which the Department intends to enter into an agreement to provide a decision support system solution.

Day(s) means calendar days unless otherwise noted.

Data Provider means an entity (an Insurer or the Department) that provides enrollment or claims data to the Contractor for loading into the DSS Solution.

DCS or Department means the New York State Department of Civil Service.

Decision Support System (DSS) or DSS Solution means a comprehensive and integrated data management system solution that provides the Department with a flexible, effective and efficient means of storing data, analyzing data, and generating business intelligence to be used by the Department and its designated Users.

Disaster Recovery Plan means a plan for continued operation in the event of a situation which incapacitates part or all of a contractor's resources including, but not limited to, personnel, IT equipment, data records, and the building or other physical infrastructure.

Empire Plan means the experience-rated health plan administered by the NYS Department of Civil Service to provide health insurance benefits for the employees, retirees and eligible dependents of New York State and NYSHIP Participating Agencies and Participating Employers. It has four components, the Medical Program, the Hospital Program, the Managed Mental Health and Substance Abuse Program, and the Prescription Drug Program.

Employee Benefits Division (EBD) means the division of the New York State Department of Civil Service responsible for administering the New York State Health Insurance Program.

ET means prevailing Eastern Time.

Excelsior Plan means a variation of the Empire Plan available to local government units which choose to participate in NYSHIP. The Excelsior Plan offers many of the same features of the Empire Plan with a higher degree of cost sharing between the employer and plan participants.

Firewall means a system designed to prevent unauthorized access to or from a private network based upon a set of rules and other criteria. Firewalls can be implemented in either hardware or software, or a combination of both.

Hardware means tangible objects such as disks, disk drives, display screens, keyboards, printers and chips.

Insurer means one of the several insurers or benefit administrators contracted by the Department to provide health insurance services for the NYSHIP.

Key Subcontractors means those vendors with whom the Contractor subcontracts to provide Project Services and incorporates as a part of the Contractor's Project Team.

Level 1 User means an individual designated by the Department to utilize the most advanced features of applications provided by the Vendor under the terms of the Contract and have the highest level of security permissions.

Level 2 User means an individual designated by the Department to have full access to all features/functions of the delivered DSS but with restricted security permissions,(e.g. the user will not have access to any individually identifying information).

Level 3 User means an individual designated by the Department to have access to limited functions of the DSS, (e.g. access to simple, predefined queries and standard reports, and would have the most restricted security permissions).

Licensed Product means software transferred upon the terms and conditions set forth in the Contract. “Licensed Product” includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g. patches, fixes, PTFs, programs, code or data conversion, or custom programming).

Licensee means the New York State Department of Civil Service on behalf of the State of New York.

New Product Releases (Product Revisions) means any commercially released revisions to the version of a Product as may be generally offered and available to the market. New releases involve a substantial revision of functionality from a previously released version of the Product.

New York State Health Insurance Program (NYSHIP) means the health insurance program established by NYS to provide health insurance protection to employees, retirees and eligible dependents of New York State and participating agencies and participating employers. The program is administered by the NYS Department of Civil Service. NYSHIP provides health insurance coverage through the Empire Plan, Health Maintenance Organizations (HMOs); and the Student Employee Health Plan (SEHP).

Normal Business Hours means Monday – Friday 7:00 a.m. – 7:00 p.m. ET and Saturday 7:00 a.m. – 5:00 p.m. ET, unless specified otherwise by the Department.

NYBEAS means the New York Benefits Eligibility & Accounting System, a computerized enrollment system utilized by the Department for the administration of employee benefits.

NYS means New York State.

Offeror means a person or entity that submits a Proposal in response to this RFP.

“Or Equal” means that where a copyright brand name, trade name, catalog reference, or patented Product is referenced, references to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. A comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Department’s decision as to acceptance of the Product as equal shall be final.

Plan means the Empire Plan.

Plan Sponsor means the Council on Employee Health Insurance which is composed of the President of the Civil Service Commission, Director of the Governor’s Office of Employee Relations, and the Director of Division of the Budget.

Plan Year means the period from January 1 to December 31 of each Year, unless specified otherwise by the Department.

President means the President of the Civil Service Commission and the Commissioner of the Department.

Product means a deliverable under the Contract which may include commodities, services and/or technology. The term “Product” includes licensed software.

Project Services means the entire package of decision support system services to be provided by the Contractor in accordance with the contract resultant from this RFP.

Proposal 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 means the Request For Proposals, entitled New York State Decision Support System, dated June 30, 2010.

Software means computer instructions or data that can be stored electronically.

State means the State of New York.

Student Employee Health Plan (SEHP) means a health insurance plan for graduate student employees of the New York State University system, and as of January 1, 2009, for graduate student employees of the City University of New York that provides benefits through the various Empire Plan Insurance Contracts. Like the Empire Plan, the SEHP includes hospital, medical, managed mental health and substance abuse benefits, and prescription drug benefits. SEHP is administered by the New York State Department of Civil Service, Employee Benefits Division.

User means an individual designated by the Department to utilize application programs provided by the Contractor under terms of the contract resultant from this procurement.

Virus means any computer code, whether or not written or conceived by Contractor, which disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

APPENDIX A
STANDARD CLAUSES FOR ALL NEW YORK STATE CONTRACTS

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

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

2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance law.

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

4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration, or repair of any public building or public work, or for the manufacture, sale, or distribution of materials, equipment, or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract, as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex, or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (A) *FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.* All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number; i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(B) *PRIVACY NOTIFICATION.* (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purpose and for any other purpose authorized by law; (2) the personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease "the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the Work) except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

Department of Economic Development
Division for Small Business
30 South Pearl Street – 7TH Floor
Albany, New York 12245
Tel. 518-292-5220

A directory of certified minority and women-owned business enterprises is available from:

Department of Economic Development
Minority and Women's Business Development Division
30 South Pearl Street – 2nd Floor
Albany, New York 12245
<http://www.empire.state.ny.us>.

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383 respectively) require that they be denied contracts which they would otherwise obtain. Contact the Department of Economic Development for a current list of jurisdictions subject to this provision.

22. **PURCHASES OF APPAREL.** In accordance with State Finance Law Section 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) Such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hour laws and workplace safety laws; and (ii) Vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized for this contract by the bidder.

Revised June 2006

APPENDIX B
STANDARD CLAUSES FOR ALL DEPARTMENT CONTRACTS

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1. INTEGRATION

The contract executed between the Department and the Contractor (or Purchase Order issued by the Department) is hereinafter referred to as this Agreement. This Agreement, including all Exhibits and Appendices, copies of which are attached hereto, and incorporated herein by reference, constitutes the entire agreement between the Parties. All prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

All statements made by the Department shall be deemed to be representations and not warranties.

2. EXECUTORY PROVISION

Section 112 of the State Finance Law requires that any contract made by a State department which exceeds fifty thousand dollars (\$50,000) in amount be first approved by the Comptroller of the State of New York before becoming effective. The Parties recognize that, if this Agreement is for fifty thousand dollars or more, it is wholly executory until and unless approved by the Comptroller of the State of New York.

3. CHOICE OF LAW

The Parties agree that this Agreement shall be interpreted according to the laws of the State of New York, except where the federal supremacy clause requires otherwise. The Contractor shall be required to bring any legal proceeding against the Department arising from this Agreement in New York State courts located in Albany County.

4. DISPUTE RESOLUTION

Except as otherwise provided in this Agreement, any dispute raised by the Contractor concerning any question of fact or law arising under this Agreement which is not disposed of by mutual agreement of the Parties shall be decided initially by the designee of the President of the Civil Service Commission (President). A copy of the written decision shall be furnished to the Contractor. The Parties shall proceed diligently with the performance of this Agreement and shall comply with the provisions of such decision and continue to comply pending further resolution of any such dispute as provided herein. The decision of the designee of the President shall be final and conclusive unless, within ten (10) Days from the receipt of such decision, the Contractor furnishes the President a written appeal. In the event of an appeal, the President shall promptly review the initial decision, and confirm, annul, or modify it. The decision of the President shall be final and conclusive unless, as determined by a court of competent jurisdiction,

it violates one of the provisions of Section 7803 of the Civil Practice Law and Rules. Pending final decision of any Article 78 proceeding hereunder, both Parties shall proceed diligently with the performance of this Agreement in accordance with the President's decision.

5. WAIVER OF BREACH

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by a Party to, or waiver of, a breach under this Agreement shall constitute a consent to, a waiver of, or excuse for any other, different or subsequent breach.

6. NEW YORK STATE REQUIREMENTS

The Contractor acknowledges that it is bound by the terms of Appendix A, Standard Clauses For All New York State Contracts, which is attached and incorporated by reference to this Agreement.

7. OUTSIDE OF SCOPE

The Contractor agrees that any and all work performed outside the scope of this Agreement shall be deemed to be gratuitous and not subject to any charge, cost or payment of any kind.

8. NON-ASSIGNABILITY

Neither the rights nor the obligations of the Contractor under this Agreement may be conveyed, assigned, delegated, or otherwise transferred in any manner whatsoever by the Contractor, either in whole or in part, without the prior written approval of the Department.

9. NOTIFICATION

All notices permitted or required by this Agreement to be given by one Party to the other shall be in writing and shall be transmitted either (1) via certified or registered mail, return receipt requested; (2) by facsimile transmission; (3) by personal delivery; (4) by expedited delivery service; or (5) by e-mail.

10. INDEMNIFICATION

The Contractor agrees to indemnify, defend and save harmless the Department, the State, its officers, agents and employees, for any claims or losses the Department, the State or any individuals may suffer when such claims or losses result from the claims of any person or organization for any and all injuries or damages caused by the negligent acts or omissions of the

Contractor, its officers, employees, agents, consultants and/or sub-contractors in performance of this Agreement. Furthermore, the Contractor agrees to indemnify, defend and save harmless the Department and the State, its officers, agents, and employees from any and all claims or losses caused by the acts or omissions of any and all contractors, sub-contractors, consultants and any other persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement and from all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement, and against any loss, damages or actions, including, but not limited to, costs and expenses, for violation of proprietary rights, copyrights, patents, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any material, information or data furnished under this Agreement, or based on any libelous or otherwise unlawful matter contained in such material, information or data, except as otherwise provided in the Article entitled "Patent Copyright or Proprietary Rights Infringement".

The Contractor also shall provide indemnification against all losses, and/or cost expenses (including reasonable counsel fees) that may be incurred by reason of the Contractor's breach of any term, provision, covenant, warranty, or representation contained herein and/or in connection with the enforcement of this Agreement or any provision hereof.

The Department does not agree to any indemnification provisions in any documents attached hereto that require the Department or the State of New York to indemnify or save harmless the Contractor or third parties.

Notwithstanding anything to the contrary in this Agreement, neither the Department nor The Contractor shall be liable to the other for any special, consequential, or punitive damages, or loss of profits or revenues, whether such damages are alleged as a result of tort (including strict liability), contract, warranty, or otherwise, arising out of or relating to either Party's acts or omissions under this Agreement.

11. PATENT, COPYRIGHT OR PROPRIETARY RIGHTS INFRINGEMENT

The Contractor, solely at its expense, shall defend any claim or suit which may be brought against the Department or the State for the infringement of United States patents, copyrights or proprietary rights arising from the Contractor's or the Department's use of any software,

equipment, data, materials and/or information of any kind prepared, developed or furnished by the Contractor in connection with performance of this Agreement and, in any such suit, shall satisfy any final judgment for such infringement. The Department shall give the Contractor written notice for such claim or suit and full right and opportunity to conduct the defense thereof, together with full information and all reasonable cooperation.

If principles of governmental or public law are involved, the State of New York may participate in the defense of any action identified under this Article, but no costs or expenses shall be incurred upon the account of the Contractor without the Contractor's written consent.

If, in the Contractor's opinion, any software, equipment, data, materials and/or information prepared, developed or furnished by the Contractor is likely to or does become the subject of a claim of infringement of a United States patent, copyright or proprietary right, then, without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Department's prior written approval, substitute other equally suitable software, equipment, materials, data and/or information. In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any software, equipment, materials and/or information under this Agreement infringes on any patent, copyright, or proprietary right, such action shall be forwarded by the Department to the Contractor for defense and indemnification under this Article and to the Office of the Attorney General of the State of New York together with a copy of this Agreement. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the defense and indemnification set forth herein, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York, in writing, and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Agreement. The Contractor shall in such event protect the interests of the State of New York and shall take the steps necessary to secure a continuance to permit the State of New York to appear and defend its interest in cooperation with the Contractor, as is appropriate, including any jurisdictional defenses which the State shall have.

12. DATE/TIME WARRANTY

The Contractor warrants that products furnished pursuant to this Agreement shall be able to accurately process, date/time data (including, but not limited to, calculating, comparing, and

sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific products and/or services must perform as a package or system, this warranty shall apply to the products and/or services as a system.

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

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

13. VIRUS WARRANTY

Licensed Product contains no viruses, either known to the Contractor or which reasonably should have been known to the Contractor exercising due diligence. The Contractor is not responsible for viruses introduced at Licensee's site.

14. TITLE AND OWNERSHIP WARRANTY

The Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to the Department under this Agreement. The Contractor shall be solely liable for any costs of acquisition associated therewith. The Department may require the Contractor to furnish appropriate written documentation establishing the above rights and interests as a condition of payment. The Department's request or failure to request such documentation shall not relieve the Contractor of liability under this warranty.

15. USE RESTRICTIONS AND INTELLECTUAL PROPERTY

The Parties agree that all work by the Contractor for the Department is intended as work for hire. The Parties agree that the Contractor's work is specifically ordered and commissioned for use as contributions to a collective work, or is other such work as specified by Section 101(2) of the U.S. Copyright Act [17 U.S.C. 101(2)], and is intended to be a work for hire that is made for the use and ownership of the State of New York and the Department. Furthermore, the Department and the Contractor agree that the State of New York and the Department are the owners of all copyrights regarding the work. The Contractor warrants to the State of New York and the Department that the Contractor, and all of its subcontractors and their employees, who have been, or may be used in regard to this Agreement, forfeits all past or future claims of title or ownership to the work produced.

Materials such as forms and publications used by the Contractor in the course of its performance under this Agreement which have been agreed upon by the Parties as generic materials are specifically excluded from this provision.

16. OWNERSHIP/TITLE TO PRODUCT DELIVERABLES

For purposes of this section, the term "Department" is understood to mean the Department acting on behalf of the State.

(A) Definitions

1. Products:

A deliverable furnished under this Agreement by or through the Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment; b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); c) third party software; d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

2. Existing Products:

Tangible Products and intangible licensed Products which exist prior to the commencement of work under this Agreement. The Contractor retains the burden of proving that a particular product existed before commencement of the Agreement.

3. Custom Products:

Products, preliminary, final or otherwise, which are created or developed by The Contractor, or its subcontractors, partners, employees, or agents under this Agreement for the benefit of the Department.

(B) Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the Department to perform services detailed in this Agreement. Unless otherwise specified in writing in this Agreement, the Department shall have ownership and/or license rights as follows:

1. Existing Products:

- a) Hardware - Title and ownership of Existing Hardware Product shall pass to Department upon acceptance.
- b) Software - Title and ownership to Existing Software Product(s) delivered by The Contractor under this Agreement which is normally commercially distributed on a license basis by the Contractor or other independent software vendor/proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or other independent software vendor/proprietary owner ("ISV"). Effective upon acceptance, such Product shall be licensed to the Department in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Department a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless the Contractor advises the Department as part of the Contractor's bid proposal that adaptation will violate existing agreements or statutes and the Contractor demonstrates such to the Department's satisfaction) and distribute Existing Licensed Product to the Department up to the license capacity stated in the work order with all license rights necessary to fully effect the general business purpose(s) stated in this Agreement and (b) recognize the State of New York as the licensee. Where these rights are not otherwise covered by the ISV's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Department shall reproduce all copyright

notices and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Products:

Effective upon creation of Custom Products, the Contractor hereby conveys, assigns and transfers to State the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its agents, employees, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under this Agreement in the course of the Contractor's business.

Where payment for Custom Product does not involve COPS or other third party financing, the Department may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of State taking exclusive ownership and title to such Products. In such case, the Department shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated herein.

In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value as determined by the Parties at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the State which complies with the terms of this paragraph.

3. Documentation, Data & Reports

The Department shall own title to all documentation, drawings, (e.g., engineering drawings, system diagrams, logic/schematics, plans, reports, training, maintenance or operating manuals), including network design, equipment configurations and other documentation prepared or developed pursuant to this Agreement, whether preliminary, final or otherwise. The Contractor shall deliver to the possession of the Department all

work-in-progress documentation as it becomes available, but in no case longer than thirty (30) days after creation.

17. FORCE MAJEURE

Neither Party to this Agreement shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, wars, riots, civil disturbances, insurrections, accident, fire, explosions, earthquakes, floods, the elements, acts or omissions of public utilities or strikes, work stoppages, slow downs or other labor interruptions due to labor/management disputes involving entities other than the Parties to this Agreement, or any other causes not reasonably foreseeable or beyond the control of a Party. The Parties are required to use best efforts to eliminate or minimize the effect of such events during performance of this Agreement and to resume performance of this Agreement upon termination or cessation of such events.

18. TIME OF THE ESSENCE

The Department and the Contractor acknowledge and agree that time is of the essence for the Contractor's performance under this Agreement.

19. RIGHTS AND REMEDIES

The rights, duties and remedies set forth in this Agreement shall be in addition to, and not in limitation of, rights and obligations otherwise available at law.

20. FEDERAL AND STATE COMPLIANCE

The Contractor shall ensure that its employment practices comply with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended.

The Contractor shall ensure compliance with the Americans With Disabilities Act (42 USC §2101 et. seq.) such that programs and services provided during the course of performance of this Agreement shall be accessible under Title II of the Americans With Disabilities Act and as otherwise applicable under the Americans With Disabilities Act.

21. TAXES

It shall be understood that the Department, as an agency of the State of New York, is not liable for the payment of any sales, use, excise, or other form of tax however designated, levied or

imposed, and shall agree to reimburse the Contractor for same only if taxes would have been incurred through the Department's normal business operations.

22. INDEPENDENT CONTRACTOR

The Parties agree that the Contractor is an independent contractor, and the Contractor, its officers, employees, agents, consultants and/or sub-contractors in the performance of this Agreement shall act in an independent capacity and not as agents, officers or employees of the State or the Department. Neither the Contractor nor any sub-contractor shall thereby be deemed an agent, officer, or employee of the State. The Contractor agrees, during the term of this Agreement, to maintain at the Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Department with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, State, and local taxes, and all FICA contributions.

23. NO THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, corporation, other than the Parties hereto and their successors in interest and assigns, any rights or remedies under or by reason of this Agreement.

24. HEADINGS OR CAPTIONS

The headings or captions contained within this Agreement are intended solely for convenience and reference purposes and shall in no way be deemed to define, limit or describe the scope or intent of this Agreement or any provisions thereof.

25. PARTIAL INVALIDITY

Each Party agrees that it shall perform its obligations under this Agreement in accordance with all applicable federal and State laws, rules, and regulations, policies and/or guidelines now or hereafter in effect. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding such term or provision, this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken.

26. CONFLICT OF INTEREST

The Contractor shall ensure that its officers, employees, agents, consultants and/or sub-contractors comply with the requirements of the New York State Public Officers Law ("POL"), as amended, including but not limited to Sections 73 and 74, as amended, with regard to ethical standards applicable to State employees, and particularly POL sections 73(8)(a)(i) and (ii) regarding post-employment restrictions affecting former State employees. Additionally, the Contractor shall ensure that no violation of these provisions will occur by reason of the Contractor's proposal for or negotiation and execution of this Agreement or in its delivery of services pursuant to this Agreement. If, during the term of this Agreement, the Contractor becomes aware of a relationship, actual or potential, which may be considered a violation of the POL or which may otherwise be considered a conflict of interest, the Contractor shall notify the Department in writing immediately. Should the Department thereafter determine that such employment is inconsistent with State law; the Department shall so advise the Contractor in writing, specifying its basis for so determining, and may require that the contractual or employment relationship be canceled. Failure to comply with these provisions may result in suspension or cancellation of this Agreement and criminal proceedings as may be required by law.

The Contractor is required to make full disclosure of any circumstances that could affect its ability to perform in complete compliance with the POL. Any questions as to the applicability of these provisions should be addressed by the Contractor to the New York State Ethics Commission, 540 Broadway, Albany, NY 12207 (518) 408-3976.

27. AUDIT AUTHORITY

The Contractor acknowledges that the Department and the Office of the State Comptroller have the authority to conduct financial and performance audits of the Contractor's delivery of Program Services in accordance with this Agreement and any applicable State and federal statutory and regulatory authorities. Such audit activity may include, but not necessarily be limited to, the review of documentary evidence to determine the accuracy and fairness of all items on the Contractor's submission of claims for payment under this Agreement, and the review of any and all activities relating to the Contractor's administration of this Agreement.

The Contractor shall make available documentary evidence necessary to perform such reviews. Documentation made available by the Contractor may include, but is not limited to, source

documents, books of account, subsidiary records and supporting work papers, claim documentation and pertinent contracts and correspondence.

The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the Office of the State Comptroller as set forth in Appendix A of this Agreement - Standards Clauses for All New York State Contracts.

28. CONFIDENTIALITY

All records maintained by the Contractor and relating to this Agreement are confidential and shall be used by the Contractor and its officers, employees, and subcontractors or agents solely for the purpose of carrying out its obligations under this Agreement. Except as directed by a court of competent jurisdiction or as may be permitted or required by applicable New York State or federal law or regulations, no such records may be otherwise used or released to any person by the Contractor, its employees, subcontractors or agents, either during the term of this Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the Department, be grounds for termination of this Agreement.

The Contractor shall promptly advise the Department of all requests made to the Contractor for information regarding the performance of services under this Agreement, including any information provided by the Department, except as required by subcontractors or agents solely for the purpose of carrying out obligations under this Agreement or as required by law.

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 conforms strictly to the provisions of this article.

29. INFORMATION SECURITY REQUIREMENTS

In accordance with the Information Security Breach and Notification Act (ISBNA) (General Business Law §889-aa, State Technology Law §208), Contractor shall be responsible for complying with provisions of the ISBNA and the following terms contained herein with respect to any private information (as defined in ISBNA) received by Contractor under this Project (Private Information) that is within the control of the Contractor either on the Department's information security systems or the Contractor's information security system (System). In the event of a breach of the security of the System (as defined by ISBNA), Contractor shall

immediately commence an investigation, in cooperation with the Department, to determine the scope of the breach and restore security of the System to prevent any further breaches. Contractor shall also notify the Department of any breach of the security of the System immediately following discovery of such breach.

Except as otherwise instructed by the Department, Contractor shall, to the fullest extent possible, first consult with and receive authorization from the Department prior to notifying any individuals, the State Office of Cyber Security and Critical Infrastructure Coordination (CSCIC), the State Consumer Protection Board and the Office of the Attorney General (OAG) or any consumer reporting agencies of a breach of the security of the System or concerning any determination to delay notification due to law enforcement investigations. Contractor shall be responsible for providing the notice to all such required recipients and for all the costs associated with providing such notice. Contractor shall be liable for any other costs associated with noncompliance of ISBNA if caused by the Contractor or Contractor's agents, officers, employees, or subcontractors. Nothing herein shall in any way impair the authority of the OAG to bring an action against the Contractor to enforce the provisions of ISBNA or limit Contractor's liability for any violation of the ISBNA. Additional information relative to the law and the notification process is available at: <http://www.cscic.state.ny.us/security/securitybreach>

Contemporaneous with the execution of this Agreement, the Contractor and its designees shall execute the Department's Third Party Connection and Data Exchange Agreement and any other protocol required by the Department, and shall ensure its employees, agents and designees complete the related Third Party Acceptable Use Policy and Agreement if applicable, to ensure the security of data transmissions and other information related to the administration of this Agreement. This request may be waived by the Department in its sole discretion.

30. NONDISCLOSURE OF CONFIDENTIAL INFORMATION

Except as may be required by applicable law or a court of competent jurisdiction, the Contractor, its officers, agents, employees, and subcontractors shall maintain strict confidence with respect to any Confidential Information to which the Contractor, its officers, agents, employees, and subcontractors have access in the course of The Contractor's performance under this Agreement. For purposes of this Agreement, all State information of which The Contractor, its officers, agents, employees and subcontractors becomes aware during the course of performing services for the Department shall be deemed to be Confidential Information (oral, visual or written).

Notwithstanding the foregoing, information that falls into any of the following categories shall not be considered Confidential Information:

- (a) information that is previously rightfully known to the receiving party without restriction on disclosure;
- (b) information that becomes, from no act or failure to act on the part of the receiving party, generally known in the relevant industry or is in the public domain; and
- (c) information that is independently developed by The Contractor without use of confidential information of the State.

The Contractor shall hold the State and the Department harmless from any loss or damage to the State or the Department resulting from the disclosure by the Contractor, its officers, agents, employees, and subcontractors of such Confidential Information.

The Contractor shall provide for its officers, agents, employees, and subcontractors to acknowledge and execute a nondisclosure agreement containing substantially the terms described in this section, if requested to do so by the Department or the State.

This representation shall survive termination of this Agreement.

31. FREEDOM OF INFORMATION LAW

Disclosure of information and material provided to the Department by the Contractor in the course of the Contractor's performance under this Agreement shall be permitted consistent with the laws of the State of New York, and specifically the Freedom of Information Law (FOIL), Article 6 of the Public Officers Law. The Department shall take reasonable steps to protect from public disclosure any of the records relating to the Contractor's performance under this Agreement that otherwise are exempt from disclosure under FOIL.

If the Contractor believes that any information or material provided to the Department constitutes trade secret information that should be exempted from FOIL disclosure, the Contractor must, at the time of the materials' submission, request the exemption in writing, specifically identifying the material by page number, line, or other appropriate designation, and provide a particularized explanation as to why the material constitutes trade secret information and how the disclosure of the identified information would cause substantial injury to the Contractor's competitive position. The material sought to be protected from disclosure must be clearly marked in yellow highlighter

on a duplicate copy of the submission and may be provided in hardcopy or on a CD. Generically marking all material as “Confidential” will not be considered adequate for the purpose of this section.

The Department’s receipt of the Contractor’s submission of material and the Contractor’s request for protection of the material from FOIL disclosure does not constitute a determination that the information is exempt from disclosure under FOIL. In the event any information or 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.

32. TERMINATION OF AGREEMENT

In addition to any termination provisions specified elsewhere in this Agreement, the following provisions also shall apply:

The Agreement may be terminated by mutual written agreement of the Parties.

The Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including any exhibits incorporated herein, provided that the Department shall give the Contractor written notice via registered or certified mail, return receipt requested, or hand delivery, such written notice to specify the Contractor’s failure and the termination of this Agreement. Termination shall be effective ten (10) Business Days after receipt of such notice unless the Contractor, in the opinion of the Department, has cured such failure. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination. Upon termination for cause, the Department shall have the right to award a new contract to another contractor. Termination for cause shall create a liability upon the Contractor for actual damages incurred and for all reasonable additional costs incurred in reassigning this Agreement.

The Agreement may be terminated if the Department deems that termination would be in the best interest of the State 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.

The Agreement may be terminated immediately in the event the Department determines that funds are unavailable. The Department agrees to provide notice to the Contractor as soon as it becomes aware that funds are unavailable in the event of termination under this paragraph. If the initial notice is via oral notification, the Department shall provide written notice immediately thereafter. The Department shall be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination or received either orally or in writing by the Contractor from the Department.

In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion. The Contractor agrees, after consultation with the Department, to cancel such outstanding obligations as the Contractor deems appropriate in the exercise of sound business judgment.

Upon termination of this Agreement each Party shall, if applicable, return to the other all papers, materials, and other properties of the other Party held by each for purposes of performance under this Agreement. In addition, each Party shall assist the other Party in orderly termination of this Agreement and the transfer of all aspects hereof, tangible, and intangible, as may be necessary to ensure the orderly administration of the State program.

33. CONTRACTOR PERSONNEL

The Contractor shall designate an Account Executive, who shall be the contact person for all matters arising under this Agreement.

The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its personnel. These functions shall be carried out by the Contractor in accordance with the provisions of this Agreement and with all applicable federal and State laws and regulations.

The Contractor is required to commit key personnel for the administration of all aspects of this Agreement. In the event that any of the key personnel will be or are unavailable for the performance of their duties, the Contractor will designate and propose to the Department an equally qualified alternate with full authority to act for the unavailable key person.

The Contractor shall notify the Department in writing of any changes in the key personnel designated for performance of this Agreement. This shall include any changes in the personnel designated to bind the Contractor.

The Department reserves the right to demand the reassignment or cancellation of assignment to duties under this Agreement of any Contractor personnel so assigned. The Department shall not exercise the authority unreasonably. The Contractor agrees to replace any employees so reassigned or canceled with an employee of equal or better qualifications. If the Department exercises its right under this provision, it agrees to provide written notice to the Contractor setting forth its reasons with specificity.

34. OPERATIONAL CONTACTS

The Contractor shall maintain appropriate corporate and/or legal authority, which shall include, but not be limited to, the maintenance of an administrative organization capable of delivering Program Services in accordance with this Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which these Services are to be delivered pursuant to this Agreement. The Contractor also shall maintain operations, financial and legal staff that shall be directly available to the Department's operations, financial and legal staff, respectively. For purposes of this Agreement, maintenance of such staff and staff availability by the Contractor shall in no way create any agency relationship between the Department and the Contractor.

The Contractor acknowledges and agrees that no aspect of the Contractor's performance under this Agreement is contingent upon Department personnel or the availability of Department resources, with the exception of all proposed actions of the Contractor specifically identified in this Agreement as requiring the Department approval. With respect to such approval, the Department shall act promptly and in good faith.

The Contractor must cooperate fully with any other contractors who may be engaged by the Department relative to the State program and this Agreement.

The Contractor must ensure that all contacts by the Contractor personnel with other New York State agencies, external organizations (Federal Agencies, Unions, etc.) which result in any charge, cost or payment of any kind, must receive prior written authorization from the Department's Contract Manager.

35. **SUB-CONTRACTORS**

The Contractor may arrange for specified portions of its responsibilities under this Agreement to be subcontracted to a qualified organization. In such situations, said sub-contractors must be clearly identified and the nature and extent of their involvement in and/or proposed performance under this Agreement must be fully explained by the Contractor to the Department. The Contractor retains the ultimate responsibility for all services performed under this Agreement. The Department reserves the right to approve any subcontracts entered into by the Contractor for the delivery of Program Services under this Agreement.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this Agreement. Such functionally identical and consistent provisions shall include, but not be limited to, the following provisions of this Agreement: Appendix A - Standard Clauses For All New York State Contracts; Appendix B - Standard Clauses for All Department Contracts; the Articles pertaining to Audit Authority and Confidentiality, and such other Agreement Articles as may be specified by the Department.

A copy of any proposed subcontract relating to the Contractor's performance under this Agreement shall be furnished to the Department before its execution for the Department's review and approval. The Department will review the document(s) and advise the Contractor of its approval or disapproval within 30 days.

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract or which may affect the performance of the Contractor's duties under this Agreement.

The Department's requirement of prior approval of any subcontract under this Agreement shall not make the Department or the State of New York a party to any subcontract or create any right, claim, or interest in the sub-contractor or proposed sub-contractor against the Department. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of this Agreement.

36. PUBLICITY AND COMMUNICATIONS

The Contractor shall ensure that all requests for the Contractor's participation in events where the Contractor will be participating on behalf of the Department receive prior written authorization from the Department.

No public discussion or news releases relating to this Agreement shall be made or authorized by the Contractor or the Contractor's agent without the prior written approval of the Department, which written approval shall not be unreasonably withheld or delayed provided, however, that Contractor shall be authorized to provide copies of this Agreement and answer any questions relating thereto to any State or federal regulators or, in connection with its financial activities, to financial institutions for any private or public offering.

37. CONSULTANT DISCLOSURE REQUIREMENTS

Unless directed otherwise by the Department, the Contractor shall demonstrate its compliance with Chapter 10 of the Laws of 2006 throughout the term of this Agreement by submitting to the Department and to the Office of the State Comptroller a "State Consultant Services - Contractor's Annual Employment Report" for each State Fiscal Year. Such report shall be due no later than May 15th of each year following the end of the State Fiscal Year being reported. Such report shall be required of any contract that includes services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health and mental health services, accounting, auditing, paralegal, legal, or similar services. Such report shall conform with Bulletin No. G-226 – Form B as issued by the Office of the State Comptroller. The report must be submitted to the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th floor, Albany, NY 12236, ATTN: Consultant Reporting; and to the Department's Contract Manager.

38. Procurement Lobbying Restrictions Under State Finance Law sections 139-j and 139-k

The Contractor certifies that all information that it has provided or will provide to the Department pursuant to State Finance Law sections 139-j and 139-k is complete, true, and accurate, including but not limited to information regarding prior determinations of non-responsibility within the past four years based upon (i) impermissible contacts of other violations of SFL section 139-j, and (ii) the intentional provision of false or incomplete information to a governmental entity.

The Department reserves the right to terminate this Agreement in the event it is found that the Contractor's certification of its compliance with SFL sections 139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its right to terminate this Agreement by providing written notification to the Contractor in accordance with Section 9 of this Appendix.

39. VENDOR RESPONSIBILITY

The Contractor is required to provide the Department with an updated Vendor Responsibility Questionnaire when requested to do so by the Department throughout the term of this Agreement. Regardless, the Contractor is required to report to the Department any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

40. TAX LAW SECTION 5-A - CERTIFICATION REGARDING SALES AND COMPENSATING USE TAXES

In the event the value of this Agreement exceeds \$100,000, the Contractor must file a properly completed Form ST-220-CA with the Department and a properly completed Form ST-220-TD with the Department of Taxation & Finance before this Agreement may take effect.

In addition, after this Agreement has taken effect, the Contractor must file a properly completed Form ST-220-CA with the Department if this Agreement'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.

41. CONTRACT PAYMENT

Contractor shall provide complete and accurate billing invoices to the Department in order to receive payment. Billing invoices submitted to the Department must contain all information and supporting documentation required by the Contract, the Department and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by e-mail at

epunit@osc.state.ny.us, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

January 2010



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

THIS AGREEMENT (the “Agreement”) by and between the NYS Department of Civil Service (“DCS”), with principal offices in Albany, NY 12239, and

with principal offices at

(hereinafter “Third Party”), is entered into as of the date last written below (“the Effective Date”).

This Agreement consists of this signature page and the following attachments incorporated by reference:

1. Attachment 1: Third Party Connection and Data Exchange Agreement Terms and Conditions
2. Attachment 2: Third Party Connection and Data Exchange Request Requirements Document
3. Attachment 3: Third Party Acceptable Use Policy and Agreement
4. Attachment 4: DCS Equipment Loan Agreement (Applicable: ☐ Yes ☐ No)

This Agreement may only be modified by a written document executed by the parties hereto. Any disputes arising out of or in connection with this Agreement shall be governed by New York State law without regard to choice of law provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed. Each party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

Third Party Name:	NYS Department of Civil Service (DCS)
Authorized Signature	Authorized Signature
Name (Print)	Name (Print)
Date	Date



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 1 – SECURITY REQUIREMENTS

1. *Right to Use Connection*

Third Party may only use the connection and the information obtained from DCS for business purposes as outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2).

2. *Data Exchange*

2.1 Third Party may only use the data obtained for purposes outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2) and the contract or Memoranda of Understanding, if any, that exists between DCS and Third Party for the provision of goods or services or governing conduct between DCS and Third Party with respect to the access to and use of DCS data.

2.2 Data exchange may be conducted only by methods and/or services outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2). Third Party should expect that access to information and services may be limited, as determined or required by DCS.

3. *Network Security*

3.1 Third Party will allow only its own employees approved in advance by DCS (“Third Party Users”) to access the Network Connection or any DCS-owned equipment. Third Party shall be solely responsible for ensuring that Third Party Users are not security risks, and upon DCS’ request, Third Party will provide DCS with any information reasonably necessary for DCS to evaluate security issues relating to any Third Party User.

3.2 Third Party will promptly notify DCS whenever any Third Party User leaves Third Party’s employ or no longer requires access to the connection or DCS-owned Equipment.

3.3 Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such party’s use of the connection (and Third Party’s use of DCS-owned Equipment) is secure and is used only for authorized purposes, and (b) such Party’s business records and data are protected against improper access, use, loss alteration or destruction.

3.4 The preferred connectivity method is via the Internet to a DCS-approved or DCS-provided Virtual Private Network (VPN) device. If the device is DCS-provided, DCS will loan the Third Party, in accordance with the DCS Equipment Loan Agreement, the required client software for establishing VPN connections with DCS. Normal DCS perimeter security measures will control access to the internal network.

3.5 Extranet – Designated routers are used in combination with firewall rules to allow access to be managed. A second authentication may be required.



- 3.6 Remote Access - Using the DCS-provided remote access software, Third Party will connect via an Internet browser. The account may be disabled until usage is required and controls are placed and managed by DCS. Third Party will be required to follow procedures to enable the account for each use.
- 3.7 Third Party Connections will be audited. All remote access user accounts for Third Parties will be given an expiration time. Renewals must be requested by Third Party and approved by the Department Sponsor. Obsolete Third Party connections will be terminated.
- 3.8 Software versions on all Third Party computers that connect to the DCS network must be versions that are currently supported by the software manufacturer, and all available security updates and hot fixes for that software must be applied in a timely fashion. Software and firmware for all Third Party networking equipment that is part of the connection to the DCS network must be kept up to date, especially with patches that fix security vulnerabilities.
- 3.9 Anti-virus software and firewalls must be installed and enabled at all times on DCS-owned computers and on Third Party computers that connect to the DCS network. Additionally, virus definition files must be kept up to date.
- 3.10 In no case may a Third Party Connection to DCS be used as an Internet Connection for Third Party or for a Third Party User.

4. Notifications

- 4.1 Third Party shall notify DCS in writing promptly of any change in its Users for the work performed over the Network Connection or whenever Third Party believes a change in the connection and/or functional requirements of the connection is necessary.
- 4.2 Any notices required by this Agreement shall be given in hand, sent by first class mail, or via facsimile to the applicable address set forth below.

Third Party Name:	NYS Department of Civil Service Albany, New York 12239
Address:	
Attention:	Attention:



5. *Citizen Notifications*

If Third Party maintains "identifying personal information" on behalf of the Department and such information is compromised, Third Party shall notify the Department immediately that the information has been compromised, the circumstances under which the information was compromised, and the measures undertaken by Third Party to address those circumstances and to otherwise mitigate the effects of the compromise. If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and the information will be considered compromised through unauthorized access. If the Department requests Third Party to do so, Third Party shall notify the persons whose identifying information was compromised. Such notification shall be communicated via postal service or email, as directed by the Department, and shall otherwise be executed in accordance with the Department's direction. Notification shall be delayed if a law enforcement agency determines that such notification may impede a criminal investigation. For the purpose of this section, "identifying personal information" shall be any information concerning an individual which, because of name, number, symbol, mark or other identifier in combination with any of the following, is unencrypted: (1) Social Security Number; or (2) driver's license number; or (3) financial account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account; or (4) password which would permit access to the individual's account.

6. *Payment of Costs*

Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the connection.

7. *Confidentiality*

- 7.1 Information exchanged for the business purposes outlined in Attachment 2 will be held confidential by the Parties to the maximum extent permitted by law. Each Party may internally use the information received from the other Party hereunder in connection with and as specifically necessary to accomplish the Business Purpose set forth in Attachment 2 and for no other purposes. Each Party may otherwise share such information with other third parties (e.g. consultants, subcontractors, control agencies) as required or permitted by law in order to effect the business purposes outlined in Attachment 2 and for no other purposes, provided that such third parties agree to the confidentiality restrictions set forth herein and as may be required otherwise by State and federal law.
- 7.2 Third Party must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the sensitive information that it creates, receives, maintains, or transmits on behalf of DCS.
- 7.3 Unencrypted DCS information must not be transmitted over email.
- 7.4 Third Party must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it and report to the DCS Help Desk any security incident of which it becomes aware.



8. *Third Party Users*

- 8.1 Third Party must require that each Third Party User executes a Third Party Acceptable Use Policy and Agreement (Attachment 3). Third Party must ensure that DCS is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection & Data Exchange Agreement.
- 8.2 All aspects of Third Party connections within DCS control may be monitored by the appropriate DCS support group and/or the DCS Information Security Officer. Any unauthorized use or change to devices will be investigated immediately.
- 8.3 All Third Party Connections will be reviewed on a regular basis and information regarding specific Third Party connection will be updated as necessary. Obsolete Third Party connections will be terminated.

9. *DCS-owned Equipment*

- 9.1 DCS may, in DCS' sole discretion, loan to Third Party certain equipment and/or software for use on Third Party premises (the DCS-owned Equipment) under the terms of the DCS Equipment Loan Agreement set forth in Attachment 4. DCS-owned equipment will only be configured for TCP/IP, and will be used solely by Third Party on Third Party's premises or other locations authorized by DCS for the purposes set forth in this Agreement. DCS is responsible for ensuring that it has the right under applicable software licenses to permit third party use.
- 9.2 Third Party may modify the configuration of the DCS-owned equipment only after notification and approval in writing by authorized DCS personnel.
- 9.3 Third Party will not change or delete any passwords set on DCS-owned equipment without prior approval by authorized DCS personnel. Promptly upon any such change, Third Party shall provide DCS with such changed password.

10. *Term, Termination and Survival*

- 10.1 This Agreement will remain in effect until terminated by either Party, but in no event prior to the termination or expiration of any contract or agreement between the Parties for the purchase of goods or services that provides the business purpose for the exchange of data between the Parties, unless both Parties mutually agree to so terminate this Agreement.
- 10.2 Upon termination, Third Party shall return all tangible DCS data to DCS within a timeframe specified by DCS for that purpose, and further shall certify in writing to DCS that all other DCS data in whatever form has been destroyed. Additionally, any DCS-owned equipment and/or software shall be promptly returned to DCS at Third Party's expense.
- 10.3 Notwithstanding the above, the Parties' obligations to safeguard the confidentiality of the data subject to this Agreement shall survive the termination of this Agreement, and shall bind the Parties' employees, subcontractors, agents, heirs, successors and assigns.



11. Severability

If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.

12. Waiver

The failure of any Party to enforce any of the provisions of this Agreement will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions.

13. Assignment

Third Party may not assign this Agreement, in whole or in part, without the prior written consent from DCS. Any attempt to assign this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement is for the benefit of and will be binding upon the parties' respective successors and permitted assigns.

14. Force Majeure

Neither Party will be liable for any failure to perform its obligations if such failure results from any act of God or other cause beyond such Party's reasonable control (including, without limitation, any mechanical, electronic or communications failure) which prevents such party from transmitting or receiving any data.

15. Partial Invalidity

If this Agreement is entered into as a consequence of Third Party's provision of goods or services to DCS pursuant to a contract or other written agreement, that Agreement supersedes this Agreement to the extent the agreements' provisions may be inconsistent.



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 2 – REQUEST REQUIREMENTS

In accordance with the DCS *Third Party Connection and Data Exchange Policy*, all requests for Third Party connections and data exchanges must be accompanied by this completed requirements document. This document should be completed by the DCS person or group requesting the Third Party connection and/or data exchange. The DCS Department Sponsor must be the Director of the Division whose business requires the Third Party connection and/or data exchange. DCS Divisions are encouraged to work with their IRM Liaison to complete the information in this document.

Part 1 – Business Justification

A. DCS Sponsor (*Division Director*)

Name:

Division:

Office Location:

Phone Number:

Email Address:

Back-up Point of Contact: (Data Custodian)

Name:

Division:

Office Location:

Phone Number:

Email Address:

B. Business Reason for Connection (*To be completed by Sponsor*)

State the purpose of establishing the connection and the purpose of the data transmission. Specify the business needs of the proposed connection. Use additional sheets of paper if needed.

C. Specify the details of the work to be accomplished via the connection. What applications will be used? What information will be used? What transactions will be accomplished?



D. Specify the Third Party Controls to be Implemented for Safeguarding DCS Data:

Access Controls:

Audit Controls:

Working procedures or practices for handling printed material and verbal exchanges:

Method of Disposal of media and paper:

User Account Management, including review of accounts:

Physical Security:

Other:

E. Estimated number of hours of use each week?

☐ 1 – 20

☐ 21 – 40

☐ More than 40 hours per week

F. Anticipated normal hours of use?

☐ M – F, 8:00 – 5:00 pm Eastern time

☐ Other (specify):

G. What is the requested installation date? (Minimum lead-time is 30 days)

H. Approximately how long will the connection be needed?

☐ Up to 6 months

☐ 6 – 12 months

☐ More than 12 months

☐ Specific time period:

Note: If a connection is needed for more than a year, the Connection Agreement must be renewed annually.



I. Other useful information

J. Third Party Information

Name of Third Party:

Main Phone Number:

Main Office Address:

Management Contact

Name:

Department:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Backup Contact

Name:

Department:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Technical Contact

Name:

Department:

Address:

Email Address:

Phone Number:

Manager's Name:

Manager's Phone:

Technical Support Hours:

Escalation List:

Domain name(s):

Host name(s):



User Names and Contact Information. *(List all employees of the Third Party who will use this access.)*

User 1 *(name, phone, email):*

User 2 *(name, phone, email):*

User 3 *(name, phone, email):*

User 4 *(name, phone, email):*

User 5 *(name, phone, email):*

User 6 *(name, phone, email):*

User 7 *(name, phone, email):*

User 8 *(name, phone, email):*

User 9 *(name, phone, email):*

User 10 *(name, phone, email):*

K. Other information



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

This Policy and Agreement applies to all forms of computer and networking use, including local access at the Department of Civil Service (DCS) premises, remote access via public or private networks, access using DCS equipment, access using individual or group accounts, and access via other methods.

A signed paper copy of this form must be submitted by any individual (1) for whom authorization of a new user account is requested, (2) who will use a shared third party account, and/or (3) who is requesting reauthorization of an existing use. Modifications to the terms and conditions of this agreement will not be accepted by DCS management.

Indicate here if this is a notification that the User named below no longer requires access: ☐

User's Name (<i>print</i>):			
Organization:			
Telephone Number:	Area code	Number	Extension
Office Address:			

<i>The undersigned acknowledges that he or she has read, understands, and agrees to comply with this Third Party Acceptable Use Policy and Agreement governing the use of DCS computing resources.</i>	
User Signature:	Date:

You must sign this signature page and send it to DCS. Retain a copy of the signature page and the attached Policy for your records. This form must be delivered either by fax or mail to:

MAIL: NYS Department of Civil Service, Albany, NY 12239
Attention: Help Desk
FAX: 518-485-5588



THIRD PARTY CONNECTION AND DATA EXCHANGE AGREEMENT

ATTACHMENT 3 – THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT

I. *Protection of DCS Information*

All records and information maintained in DCS systems accessed by the User are confidential and shall be used by the User solely for the purpose of carrying out the User's official duties. Users may not use any such records and information for any other purpose. No such records or information may otherwise be used or released to any person by the User or by the User's employer or agent, except as may be required by applicable State or federal law or by a court of competent jurisdiction. All accounts and connections will be regularly reviewed.

II. *DCS Log-on Banner*

All users will follow the guidelines of the DCS Log-on Banner as stated below.

NOTICE * The contents of this banner have been recommended to all State agencies by the Office for Technology in the NYS Preferred Standards and Procedures for Information Security. * This electronic system, which includes hardware, software and network components and all data contained therein (the "system"), is the property of the New York State Department of Civil Service (DCS). * Unauthorized use or attempted unauthorized use of this system is not permitted and may constitute a federal or state crime. Such use may subject you to appropriate disciplinary and/or criminal action. Use of this system is only permitted to the extent authorized by DCS. * Use is limited to conducting official business of DCS. Under the Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510, et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private confidential electronic communication. Any use, whether authorized or not, may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner, and used or disclosed in any manner, by authorized DCS personnel without additional prior notice to users. In this regard, users have no legitimate expectation of privacy during any use of this system or in any data on this system. * Use, whether authorized or unauthorized, constitutes expressed consent for DCS to monitor, intercept, record, read, copy, access or capture and use or disclose such information. * DCS policy regarding this matter can be reviewed on the DCS internal website. Copies can also be obtained from the Office of Human Resources Management. Such policies are subject to revision. This notice is consistent with the Acceptable Use Policy issued to DCS employees regarding acceptable use, June 15, 2005. I have read and understand this notification and department policy.

III. *Passwords*

The User is not permitted to share his/her password with anyone. Passwords must never be written down. The User must not use the same password for multiple applications. The User must use passwords that are not easily guessed and must not use their email address as their password.



IV. *Shared Accounts*

All use of shared accounts must be authorized by DCS. Users of shared accounts must be identified to DCS via the completion and signing of this policy/agreement. Third Parties are responsible for notification to DCS when the user base changes. Passwords for shared accounts must not be provided to individuals who have not been identified by Third Party to DCS and who have not completed and signed this policy/agreement.

V. *Virus Protection*

Anti-virus software must be installed and enabled at all times on DCS-owned computers and on third party computers used to conduct DCS business. Virus definition files must be kept up to date. DCS Information Resource Management (IRM) provides anti-virus software and maintains the configuration of that software for all DCS-owned computers.

VI. *Acceptable Use*

DCS computers, computing systems and their associated communication systems are provided to support the official business of DCS. All uses inconsistent with DCS' business activities and administrative objectives are considered to be inappropriate use.

Examples of unacceptable behavior include, but are not limited to the following.

- Any illegal activities that could result in legal actions against and/or financial damage to DCS.
- Computer usage that reasonably harasses or offends other employees, users, or outsiders, or results in public embarrassment to DCS.
- Computer usage that is not specifically approved and which consumes significant amounts of computer resources not commensurate with its benefit to DCS' mission or which interferes with the performance of a worker's assigned job responsibilities.
- Use in connection with compensated outside work or unauthorized not-for-profit business activities.
- Use of sniffers, spyware, ad-ware or other related technology.

VII. *Software Protection*

The User is responsible for complying with copyright, licensing, trademark protection, and fair use restrictions.

VIII. *Reporting Incidents*

Users are required to report incidents of system errors, data discrepancies, application performance problems, to the DCS Help Desk, at 518-457-5406 phone; 518-485-5588 fax.



IX. *DCS Rights*

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq.), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. DCS has access to all access attempts, messages created and received, and information created or stored using DCS resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

DCS reserves the right to log and monitor use. DCS reserves the right to remove a user account from the network. DCS assumes no responsibility or liability for files or information deleted.

The DCS will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions, or caused by the way the user chooses to use DCS computing facilities.

DCS reserves the right to change its policies and rules at any time.

X. *Penalties*

The User shall hold the State and DCS harmless from any loss or damage to the State and/or DCS resulting from the User's inappropriate disclosure of information covered by this User Agreement. Further, the User's non-compliance with this Agreement may result in the revocation of system privileges, termination of employment or contract with DCS, and/or criminal and/or civil penalties.



Name And Address Of Borrower	DCS Business Unit (Loaning Organization)	
	Point Of Contact	
	Work Location	Telephone
Shipping Address (<i>If different from borrower's</i>)	Manager's Name	
	Date To Be Loaned	
	Date To Be Returned	
Equipment To Be Loaned		
Quantity	Description	Value
Purpose Of Loan		
CONDITIONS OF LOAN		
1. The Borrower of the above equipment agrees to return same in like condition as received from DCS, normal wear and tear excepted, on or before the above return date, unless the loan period is formally extended. 2. Upon termination of this Agreement, Borrower shall uninstall all DCS software included in this Agreement from Borrower's computer and/or network equipment. 3. The Borrower shall not make any copies of DCS software included in this Agreement. 4. In case of loss or damage beyond repair, DCS shall be reimbursed by Borrower at the current price of replacement. 5. The equipment shall not be loaned or transferred to a third party without the written consent of DCS. 6. The right is reserved to cancel the loan or recall the equipment upon ____ days notice. 7. The Borrower shall assume all shipping and/or transportation costs involved. 8. Other conditions:		



State of New York
Department of Civil Service
The State Campus
Albany, New York 12239

ADMINISTRATIVE SERVICES DIVISION
Third Party Connection and Data Exchange Agreement
Attachment 4 –Equipment Loan Agreement
ADM-125 (4/06)

Appendix C
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Agreed (Borrower)	Approved (DCS)
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date
RECEIPT OF EQUIPMENT	
Borrower <i>(Upon initial receipt)</i>	DCS Lender <i>(Upon termination of Agreement)</i>
Borrowing Organization	Loaning Organization
Signature Of Authorized Official	Signature Of Authorized Official
Title	Title
Date	Date

July 2005

**Appendix D Procurement Lobbying Policy:
Restrictions on Contacts During the Procurement Process**



State of New York
Department of Civil Service
Albany, NY 12239

ADMINISTRATION DIVISION

**Procurement Lobbying Policy: Restrictions
on Contacts During the Procurement Process**

ADM-982.1 (12/06)

**Policy on Restrictions on Contacts During the Procurement Process
Procurement Lobbying, Ch.1, L. 2005 State Finance Law (SFL) Sections 139-j and 139-k**

I. Definitions. For the purpose of this policy, the following definitions apply:

“Contacts” means any oral, written, or electronic communication with DCS or any other State governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the procurement. However, any communications received by DCS from members of the State legislature or legislative staff, when acting in their official capacity, shall not be considered to be a “contact” and shall not be recorded by DCS staff pursuant to this policy.

“Contract” means any contract or other agreement to purchase a service or commodity that involves an estimated annualized expenditure in excess of \$15,000. Grants, contracts entered into under SFL Article 11-B, and intergovernmental agreements shall not be deemed “contracts” for the purpose of this policy,

“Offeror” means any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts DCS or any other State governmental entity about a governmental procurement during that procurement’s restricted period. “Offeror” includes prospective offerors prior to the due date for the submission of offers/bids in response to the solicitation document.

“Procurement” means:

- a) the preparation or terms of the specifications, solicitation documents, or evaluation criteria for a contract;
- b) the solicitation for a contract;
- c) the evaluation of a contract;
- d) the award, approval, denial, or disapproval of a contract;
- e) the approval or denial of an assignment, amendment (other than amendments that were authorized and payable under the terms of the contract as it was awarded or approved by the State Comptroller), renewal or extension of a contract, or any other material change in the contract resulting in a financial benefit to the Offeror/Contractor.

Appendix D Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process

“Restricted period” means the period of time commencing with the earliest written notice or advertisement of a Request for Proposal or Invitation for Bids, or the issuance of a solicitation document requesting bids or proposals, or any other method for soliciting a response from Offerors intending to result in a procurement contract with DCS, and ending with the final contract award by DCS and, where applicable, approval by the State Comptroller.

- II. For each procurement, DCS shall designate a person or person(s) who may be contacted by Offerors regarding the procurement. Each Offeror who contacts the DCS or any other State governmental entity during a procurement’s restricted period is permitted to contact only the person(s) designated by the DCS for that purpose. Such contacts must comply with the requirements established by SFL sections 139-j and 139-k, and with the requirements set forth by DCS in the solicitation document.
- III. As a threshold requirement to participating in a procurement, DCS shall require each Offeror to provide written confirmation of its understanding of and agreement to comply with the DCS’ policy and procedures regarding permissible contacts during the procurement’s restricted period. This may be done by use of a registration period at the beginning of the procurement, or some other procedure by which written confirmation is received by DCS early in the procurement process.
- IV. Upon any contact during the procurement’s restricted period, DCS staff shall obtain the name, address, telephone number, place of principal employment, and occupation of the person or organization making the contact, and also shall inquire whether the person or organization making the contact was the Offeror or was retained, employed, or designated by or on behalf of the Offeror to appear before or contact the DCS about the procurement. All recorded contacts shall be recorded on the appropriate form(s) and included in the procurement record.
- V. DCS staff shall ensure that all solicitation documents require Offerors to disclose findings of nonresponsibility made within the previous four years by any State governmental entity where such prior finding of non-responsibility was due to:
 - a) a violation of the procurement lobbying requirements established at SFL section 139-j;
 - b) the intentional provision of false or incomplete information to a government entity.
- VI. The failure of an Offeror to timely disclose accurate or complete information to the DCS regarding the above shall be considered by DCS in its determination of the Offeror’s responsibility. No procurement contract shall be awarded to any such Offeror, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders unless the DCS finds that the

Appendix D Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process

award of the contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe, provided however, that the DCS shall include in the procurement record a statement describing the basis for such finding.

- VII. A contract award subject to SFL sections 139-j and 139-k shall contain a certification by the successful Offeror that all information provided to the DCS with respect to the procurement lobbying requirements established by those sections is complete, true and accurate.
- VIII. Each contract shall contain a provision authorizing the DCS to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The DCS shall include in the procurement record a statement describing the basis for such termination.
- IX. Any employee of DCS who becomes aware that an Offeror has made an impermissible contact(s) during the procurement shall immediately notify the DCS Ethics Officer and the DCS Director of Internal Audit. If an Offeror violates these requirements with regard to permissible contacts at a governmental entity other than the DCS, the employee of that entity who becomes aware of the violation shall notify that entity's Ethics Officer, Inspector General, if any, or other official of that entity responsible for reviewing or investigating such matters, who shall in turn notify the DCS Ethics Officer and the DCS Director of Internal Audit.
- X. DCS Review of Alleged Violations and the Imposition of Sanctions
 - a) If the DCS Ethics Officer and/or the DCS Director of Internal Audit receive notification of an allegation that an Offeror has made an impermissible contact during the procurement's restricted period as described above, the DCS Director of Internal Audit shall immediately investigate such allegation. If the position of Director of Internal Audit is vacant, the Ethics Officer shall conduct the investigation, or the Commissioner may appoint a designee to investigate the allegation. In no event shall the person conducting the investigation be someone who has participated in the preparation of the solicitation document, the evaluation of Proposals, or the selection decision.
 - b) If the investigation indicates that sufficient cause exists to believe that the allegation is true, the DCS shall give the Offeror reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. At the DCS' discretion, such opportunity to be heard may be provided by giving the Offeror the opportunity to meet with the DCS staff conducting the investigation or by the Offeror's submission of a written statement, or both. The Offeror may, but need not, be represented by counsel during the investigation.

Appendix D Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process

Any and all issues concerning the manner in which the investigation process is conducted shall be determined solely by the DCS staff conducting the investigation.

- c) If it is found that an Offeror has knowingly and willfully made an impermissible contact in violation of these requirements, then the DCS staff making such findings shall report to the President of the Civil Service Commission related instances, if any, of any DCS employee's violation of Public Officers Law sections 73(5) and 74.

XI. Sanctions

- a) A finding that an Offeror has knowingly and willfully made an impermissible contact shall result in a determination of non-responsibility for such Offeror. Concomitantly, such Offeror and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders, shall not be awarded the procurement contract, unless the DCS finds that the award of the procurement contract to that entity is necessary to protect public property or public health or safety, and that the entity is the only source capable of supplying the required article of procurement within the necessary timeframe. If such in the case, the DCS shall include in the procurement record a statement describing the basis for such a finding.
- b) Any subsequent determination of an Offeror's non-responsibility due to violation of these requirements within four years of a prior determination of non-responsibility due to a violation of these requirements shall result in the Offeror being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second non-responsibility determination.

- XII. DCS staff shall ensure that the model language set forth below is included in all solicitation documents issued by DCS, subject to final review by the Office of Counsel.

(Model language for solicitation documents):

Restrictions on Contacts Between Offerors and State Staff During the Procurement Process

- a) Pursuant to State Finance Law sections 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 issuance of the solicitation document until the date of the contract's final approval by the State

Appendix D Procurement Lobbying Policy: Restrictions on Contacts During the Procurement Process

Comptroller) to other than designated staff of the DCS and the Executive Branch of New York State government, unless the contact falls within certain statutory exceptions (“permissible contacts”). Staff 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. The DCS’ policy and procedures are attached as Exhibit XXX to this RFP. Further information about these requirements can be found at:

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

- b) In order to ensure public confidence and integrity in the procurement process, DCS will control strictly all communications between any Offeror and participants in the evaluation process from the date the RFP is released until the end of the procurement. “Offeror” includes prospective offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts and inquiries concerning the procurement must be made to the Procurement Manager. DCS shall disqualify any Offeror who fails to comply with this requirement.

(Name of Procurement Manager)
(Name of Division)
NYS Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239
Telephone: xxx-xxx-xxxx
Fax: xxx-xxx-xxxx
E-mail: (special email address for procurement)

Additionally, any Offeror is strictly prohibited from making any contacts or inquiries concerning the procurement with any member, officer or employee of any governmental entity other than the DCS from the date the RFP is released until the end of the procurement, subject only to the specific exceptions listed below. Further, any Offeror shall not attempt to influence the procurement in any manner that would result in a violation or an attempted violation of Public Officers Law sections 73(5) or 74.

**Appendix D Procurement Lobbying Policy:
Restrictions on Contacts During the Procurement Process**

- c) The following contacts are exempted from the provisions of paragraph (b):
- (1) the submission of written proposals in response to the solicitation document;
 - (2) the submission of written questions as set forth in the solicitation document when all written questions and responses are to be distributed to all Offerors who have expressed an interest in the procurement;
 - (3) participation in a conference provided for in the solicitation document;
 - (4) complaints by an Offeror regarding the failure of the DCS Procurement Manager to respond an Offeror's authorized contacts, when such complaints are made in writing to the DCS' Office of the General Counsel, provided that any such written complaints shall become a part of the procurement record;
 - (5) communications by a successful Offeror(s) who has been tentatively awarded a contract and is engaged in communications with DCS solely for the purpose of negotiating the terms of the contract after having been notified of tentative award;
 - (6) contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;
 - (7) (a) contacts by an Offeror in protests, appeals or other review proceedings (including the apparent successful Offeror and its representatives) before DCS 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 State Attorney General, Inspector General, District Attorney, or to a court of competent jurisdiction; or
 - (c) written protests, appeals or complaints to the State Comptroller's office during the process of contract approval, where the State Comptroller's approval 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 section 163.



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help?* on back).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address			Covered agency telephone number

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

☐ The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____

(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities or services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Page 2 of 2 ST-220-CA (6/06)

Individual, Corporation, Partnership, or LLC Acknowledgment

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

On the ____ day of _____ in the year 20____, 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:

[Mark an X in the appropriate box and complete the accompanying statement.]

- ☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- ☐ (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 a _____
 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 purposes set forth
 therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said
 partnership as the act and deed of said partnership.
- ☐ (If a limited liability company): _he is a duly authorized member of _____,
 LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument
 on behalf of the limited liability company 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 limited liability company as the act and deed of said limited
 liability company.

 Notary Public

 Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

Internet access: www.nystax.gov
 (for information, forms, and publications)



Fax-on-demand forms: 1 800 748-3676



Telephone assistance is available from
 8:00 A.M. to 5:00 P.M. (eastern time),
 Monday through Friday. 1 800 698-2931

To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications
 device for the deaf (TDD) callers only): 1 800 634-2110



Persons with disabilities: In compliance with the
 Americans with Disabilities Act, we will ensure that our lobbies,
 offices, meeting rooms, and other facilities are accessible to
 persons with disabilities. If you have questions about special
 accommodations for persons with disabilities, please call 1 800 972-1233.

**Contractor Certification**(Pursuant to Section 5-a of the Tax Law, as amended,
effective April 26, 2006)**For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need help? below).**

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency or state agency	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they 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, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and Individual, Corporation, Partnership, or LLC Acknowledgement on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227****Privacy notification**

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227.

Need help?**Internet access:** www.nystax.gov
(for information, forms, and publications)**Fax-on-demand forms:** 1 800 748-3676**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M.
(eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Complete Sections 1, 2, and 3 below. Make only one entry in each section.

Section 1 — Contractor registration status

- ☐ The contractor has 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- ☐ The contractor has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- ☐ The contractor does not have any affiliates.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates having 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- ☐ The contractor does not have any subcontractors.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- ☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Schedule A — Listing of each entity (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

[illegible]

Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
 : SS.:
COUNTY OF }

On the ____ day of _____ in the year 20____, 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:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

☐ (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (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 a _____
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 purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): _he is a duly authorized member of _____
LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company 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 limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No. _____



State of New York
Department of Civil Service
Albany, NY 12239

**State Consultant Services – Contractor’s Planned
Employment From Contract Start Date Through End
of Contract Term – “Form A”**

ADM-985 (1/07)

OSC Use Only:

Reporting Code:

Category Code:

Date Contract Approved:

State Agency Name:

Agency Code:

Contractor Name:

Contract Number:

Contract Start Date: / /

Contract End Date: / /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page			\$
Grand Total			\$



State of New York
Department of Civil Service
Albany, NY 12239

**State Consultant Services - Contractor's Annual
Employment Report - "Form B"**
(due by May 15th each year for prior calendar year)

ADM-986 (1/07)

OSC Use Only:

Reporting Code:

Category Code:

Report Period: April 1, to March 31,

Contracting State Agency Name: Agency Code:

Contract Number:

Contract Term: / / to / /

Contractor Name:

Contractor Address:

Description of Services Being Provided:

Scope of Contract (Choose one that best fits):

Analysis ☐ Evaluation ☐ Research ☐ Training ☐

Data Processing ☐ Computer Programming ☐ Other IT consulting ☐

Engineering ☐ Architect Services ☐ Surveying ☐ Environmental Services ☐

Health Services ☐ Mental Health Services ☐

Accounting ☐ Auditing ☐ Paralegal ☐ Legal ☐ Other Consulting ☐

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
Grand Total			

Name of person who prepared this report:

Preparer's Signature: _____

Title: _____ Phone #: _____

Date Prepared: / /

Use additional pages if necessary)

Page of

NYS Empire Plan
Number of Paid Services and Claims⁽¹⁾

Paid Services

YEAR PAID	Hospital Services	Medical Claims	MHSA Services	Rx Services	Total
2002	1,617,598	12,700,956	875,655	11,048,102	26,242,311
2003	1,621,847	13,095,276	931,978	11,570,697	27,219,798
2004	1,649,459	13,825,338	941,092	12,600,539	29,016,428
2005	1,647,442	14,683,919	955,434	12,283,378	29,570,173
2006	1,700,832	15,823,308	983,164	12,608,478	31,115,782
2007	1,709,810	16,079,301	1,004,253	13,360,830	32,154,194
2008	1,759,082	16,706,767	1,103,818	13,762,893	33,332,560
2009	1,828,052	17,471,255	1,161,099	14,170,950	34,631,356
2010 ⁽²⁾	584,711	5,806,939	388,661	5,084,941	11,865,252
Projection for 2010	1,754,133	17,420,817	1,165,983	15,254,823	35,595,756

Approximate Annual Growth Rate

YEAR PAID	Hospital	Medical	MHSA	Rx	Total
2002					
2003	0.00%	3.00%	6.00%	5.00%	4.00%
2004	2.00%	6.00%	1.00%	9.00%	7.00%
2005	0.00%	6.00%	2.00%	-3.00%	2.00%
2006	3.00%	8.00%	3.00%	3.00%	5.00%
2007	1.00%	2.00%	2.00%	6.00%	3.00%
2008	3.00%	4.00%	10.00%	3.00%	4.00%
2009	4.00%	5.00%	5.00%	3.00%	4.00%
Projection for 2010	-4.00%	0.00%	0.00%	8.00%	3.00%
Average ⁽³⁾	1.13%	4.25%	3.63%	4.25%	4.00%

Footnotes:

⁽¹⁾ A claim may be composed of one or more services.

⁽²⁾ Actual # of paid claims through April 30, 2010

⁽³⁾ Includes 2010 projected growth rate.

Appendix J NYSHIP Empire Plan Data Elements

<u>Source</u>	<u>Contents</u>	<u>Frequency</u>	<u>Media</u>	<u>Size</u> (Average Load)
Empire Blue Cross Blue Shield (Hospital Benefit)	Hospital Paid / Adj Claims	Monthly	FTP	112,000 records @ 500 bytes each
GHI ¹ (Mental Health & Substance Abuse Benefit)	MHSA Paid / Adj Claims	Monthly	FTP	110,000 records @ 463 bytes each
United HealthCare (Mental Health & Substance Abuse Benefit)	MHSA Paid / Adj Claims	Monthly	FTP	110,000 records @ 670 bytes each
United HealthCare (Medical Benefit)	Medical Claims Summary All Processing by Ref. Number	Monthly	FTP	1,700,000 records @ 216 bytes each
United HealthCare (Medical Benefit)	Medical Claims Detail All Processing each claim line	Monthly	FTP	3,500,000 records @ 600 bytes each
Caremark ² (Prescription Drug Benefit)	Paid / Adj drug claims	Semimonthly (2 cycles per Month)	FTP	550,000 records @ 744 bytes each
MEDCO (Prescription Drug Benefit)	Paid / Adj drug claims	Biweekly (26 cycles per Year)	FTP	520,760 records @ 1330 bytes each

¹ Current Mental Health & substance Abuse insurer, as of 1/1/09, is United Health Care. Data will continue to be provided by previous insurer, GHI, due to claims “run-out” (i.e. transmission of data from the prior insurer/data provider) which requires integration of the data into the DSS Solution for one or more years coincident with acquisition and integration of data from the new insurer/data provider

² Current PBM, as of 1/1/08, is MEDCO. Data will continue to be provided by previous PBM, Caremark, due to claims “run-out” (i.e. transmission of data from the prior insurer/data provider) which requires integration of the data into the DSS Solution for one or more years coincident with acquisition and integration of data from the new insurer/data provider

[June 2010]

<u>Source</u>	<u>Contents</u>	<u>Years</u>	<u>Average Annual Size</u>	<u>Estimated Storage Size</u>
Empire Blue Cross Blue Shield (Hospital Benefit)	Hospital Paid / Adj Claims	1997 thru 2009	1,344,000 records	19,128,000 records 8,064,000,000 bytes
GHI (Mental Health & Substance Abuse Benefit)	MHSA Paid / Adj Claims	1999 thru 2001 and 2003 thru 2008 ¹	1,320,000 records	11,880,000 records 5,432,533,333 bytes
United HealthCare (Mental Health & Substance Abuse Benefit)	MHSA Paid/Adj Claims	2009	1,320,000 records	1,320,000 records 543,253,333 bytes
United HealthCare (Medical Benefit)	Medical Claims Summary All Processing by Ref. Number	1997 thru 2009	20,400,000 records	244,800,000 records 52,876,800,000 bytes
United HealthCare (Medical Benefit)	Medical Claims Detail All Processing each claim line	1997 thru 2009	42,000,000 records	504,000,000 records 325,167,694,429 bytes
ESI (Prescription Drug Benefit)	Paid / Adj drug claims	1995 thru 2005	14,000,000 records	154,000,000 records 277,200,000,000 bytes
Caremark (Prescription Drug Benefit)	Paid / Adj drug claims	2006 and 2007	14,550,000 records	29,000,000 records 21,650,400,000 bytes
MEDCO (Prescription Drug Benefit)	Paid / Adj drug claims	2008 thru 2009	13,539,749 records	27,079,498 records 36,015,731,960 bytes

¹ 2002 Claims data was not loadable

[June 2010]

Empire Plan Hospital Program Claims
(Empire Blue Cross Blue Shield)

<u>Field Name</u>	<u>Type/Size</u>
ENC_SUB_ID	CHAR(9 BYTE)
GROUP_NUMB	CHAR(9 BYTE)
ENROL_STAT	CHAR(1 BYTE)
PAT_STAT	CHAR(1 BYTE)
PAT_DOB	NUMBER(8)
PAT_SEXREL	CHAR(1 BYTE)
C_PLANCODE	NUMBER(3)
R_PLANCODE	NUMBER(3)
CLAIM_NUMB	CHAR(14 BYTE)
INC_FROM	NUMBER(8)
DISC_TO	NUMBER(8)
DISP_CODE	CHAR(1 BYTE)
PLACE_1	CHAR(2 BYTE)
TYPE_1	CHAR(3 BYTE)
CLASS_PROV	CHAR(1 BYTE)
PRIM_DIAG	CHAR(5 BYTE)
PRIM_PROC	CHAR(5 BYTE)
ACCOM_1	CHAR(1 BYTE)
TOT_SERV	NUMBER(3)
DATE_PAID	CHAR(8 BYTE)
TOT_COVER	NUMBER(9,2)
TOT_AMT_PD	NUMBER(9,2)
SAV_BEN_T1	CHAR(1 BYTE)
SAV_BEN_A1	NUMBER(9,2)
SAV_BEN_T2	CHAR(1 BYTE)
SAV_BEN_A2	NUMBER(9,2)
DATE_SURG	CHAR(8 BYTE)
COINS_AMT	NUMBER(7,2)
PROV_ID	CHAR(10 BYTE)
PROV_ID_TP	CHAR(1 BYTE)
DIAG_2	CHAR(5 BYTE)
DIAG_3	CHAR(5 BYTE)
TYPE_REIMB	CHAR(1 BYTE)
DATE_CL_RE	NUMBER(8 BYTE)
PAT_F_NAME	CHAR(5 BYTE)
TOT_EOP_CH	NUMBER(9,2)
PROC_CODE2	CHAR(5 BYTE)
NUMB_SERV1	CHAR(3 BYTE)
TOT_CHG_AL	NUMBER(9,2)
PROV_ZIP	CHAR(9 BYTE)
SUB_ZIP	CHAR(9 BYTE)
PRE_TOT_PD	NUMBER(9,2)
PRE_DAT_PD	CHAR(8 BYTE)
AMT_PD_OCA	NUMBER(9,2)
COB_INV_CD	CHAR(2 BYTE)
ANC_CODE_1	CHAR(3 BYTE)
EL_ANC_CH1	NUMBER(9,2)
PD_ANC_CH1	NUMBER(9,2)
ANC_CODE_2	CHAR(3 BYTE)
EL_ANC_CH2	NUMBER(9,2)
PD_ANC_CH2	NUMBER(9,2)
SAV_BEN_T3	CHAR(1 BYTE)

Empire Plan Hospital Program Claims
(Empire Blue Cross Blue Shield)

<u>Field Name</u>	<u>Type/Size</u>
SAV_BEN_A3	NUMBER(9,2)
IP_PRO_IND	CHAR(1 BYTE)
DRG_CODE	CHAR(3 BYTE)
TYPE_ADMIT	CHAR(1 BYTE)
SAV_BEN_T4	CHAR(1 BYTE)
CATEGORY	NUMBER(1)
EE_FRST_IN	CHAR(1 BYTE)
EE_SEX	NUMBER(1)
MAR_STATUS	NUMBER(1)
EE_BIRTH	NUMBER(8)
AGENCY	NUMBER(5)
HOME_AGENC	NUMBER(5)
NU	CHAR(2 BYTE)
EMP_DATE	CHAR(8 BYTE)
CONT_STAT	NUMBER(1)
EE_STAT	NUMBER(1)
FAM_START	CHAR(8 BYTE)
FAM_END	CHAR(8 BYTE)
EE_AGE	NUMBER(3)
PAT_AGE	NUMBER(3)
BPI	NUMBER(3)
OPTION_BC	NUMBER(2)
COVERAGE	NUMBER(3)
NBR_MEDS	NUMBER(1)
ENR_START	CHAR(8 BYTE)
ENR_END	CHAR(8 BYTE)
ENR_MED	NUMBER(1)
DEP_FIRST	CHAR(7 BYTE)
DEP_TYPE	NUMBER(1)
DEP_SEX	NUMBER(1)
DEP_BIRTH	CHAR(8 BYTE)
DEP_START	CHAR(8 BYTE)
DEP_END	CHAR(8 BYTE)
UMS_CONT	CHAR(1 BYTE)
UMS_SOURCE	CHAR(1 BYTE)
UMS_FILE_N	CHAR(6 BYTE)
UMS_DISP	CHAR(2 BYTE)
UMS_ADMIT	NUMBER(2)
UMS_APP_DY	NUMBER(3)
UMS_COP_DY	NUMBER(6,2)
UMS_ALOS	NUMBER(3)
UMS_DENIED	NUMBER(3)
UMS_CNT_DT	CHAR(8 BYTE)
UMS_INC_DT	CHAR(8 BYTE)
UMS_SEX_RE	CHAR(1 BYTE)
UMS_DIS_CD	NUMBER(2)
UMS_DIS_DT	CHAR(8 BYTE)
UMS_MO_PRO	NUMBER(2)
UMS_YR_PRO	NUMBER(2)
REIMB_DATE	CHAR(8 BYTE)

Empire Plan Hospital Program Claims
(Empire Blue Cross Blue Shield)

<u>Field Name</u>	<u>Type/Size</u>
FAC_CARE_I	CHAR(3 BYTE)
PROCESS DATE	CHAR(8 BYTE)
ITSIND	CHAR(1 BYTE)

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Appendix M

File Layout

Empire Plan Mental Health and Substance Abuse Program (2009 – Present)
Paid/Adjusted Claims Data
(United HealthCare – Optum Health)

<u>Field Name</u>	<u>Type/Size</u>
POLICY_NUMBER	CHAR(9 BYTE)
PLAN_VAR_CD	CHAR(5 BYTE)
REPORT_CD	CHAR(5 BYTE)
ALTID_NUMBER	CHAR(9 BYTE)
SUBSCRIBER_ID	CHAR(9 BYTE)
MBR_FIRST_NAME	CHAR(25 BYTE)
MBR_LAST_NAME	CHAR(25 BYTE)
MEMBER_NUMBER	CHAR(2 BYTE)
MBR_REL_CODE	CHAR(4 BYTE)
MBR_DOB	NUMBER(10)
MBR_GDR_CD	CHAR(1 BYTE)
SBSCR_GDR_CD	CHAR(1 BYTE)
SBSCR_BTH_DT	NUMBER(10)
SBSCR_ZIP_CD	CHAR(5 BYTE)
SUBSCRIBER_STATUS	CHAR(5 BYTE)
PTNT_ACCT_NBR	CHAR(10 BYTE)
PRDCT_CD	CHAR(5 BYTE)
CLAIM_NUMBER	CHAR(20 BYTE)
PROC_DT	NUMBER(10)
CLM_ORIG_CD	CHAR(5 BYTE)
BIL_RECV_DT	NUMBER(10)
TRANSACTION TYPE	CHAR(3 BYTE)
PROV_TYP_CD	CHAR(5 BYTE)
PROVIDER_FULL_NAME	CHAR(70 BYTE)
PROVIDER_TAX_ID	CHAR(9 BYTE)
PROVIDER_ZIP_CODE	CHAR(5 BYTE)
PROV_DISCIPLINE	CHAR(3 BYTE)
PROVIDER_NUMBER	CHAR(8 BYTE)
PAR_IND	CHAR(5 BYTE)
AUTH NUMBER	CHAR(8 BYTE)
SYS_DRG_CD	CHAR(5 BYTE)
DSCHRG_STS_CD	CHAR(5 BYTE)
PROC_1_CD	CHAR(5 BYTE)
PLACE_OF_SERVICE	CHAR(5 BYTE)
PROC_CD	CHAR(5 BYTE)
PROC_MOD_CD	CHAR(5 BYTE)
FDOS	NUMBER(10)
LDOS	NUMBER(10)
QTY_BILLED	NUMBER(8)
DIAG_1_CD	CHAR(5 BYTE)
DIAG_2_CD	CHAR(6 BYTE)
DIAG_3_CD	CHAR(7 BYTE)
SUBMITTED_AMT	NUMBER(13)
NOT_COVERED_AMT	NUMBER(13)
REASON_FOR_DENIAL	CHAR(10 BYTE)
DISCOUNT_AMT	NUMBER(13)
AMT_ALLOWED	NUMBER(13)
AMT_DEDUCT	NUMBER(13)
COPAY_AMT	NUMBER(13)
COINS_AMT	NUMBER(13)

Appendix M

File Layout

Empire Plan Mental Health and Substance Abuse Program (2009 – Present)
Paid/Adjusted Claims Data
(United HealthCare – Optum Health)

<u>Field Name</u>	<u>Type/Size</u>
OTHER_INS_AMT	NUMBER(13)
STD_COB_TYP_CD	CHAR(5 BYTE)
NET_AMT_PAID	NUMBER(13)
DTL_LN_NBR	CHAR(2 BYTE)
PYMT_RVNU_CD	CHAR(6 BYTE)
SRVC_PROV_NPI_NBR	CHAR(15)
DEA_NBR	CHAR(20)
PROCEDURE_MODIFIER_CODE_(2)T	CHAR(5 BYTE)
DERIVED FIELD	CHAR(25 BYTE)
DATA LOAD DATE	NUMBER(8)

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Empire Plan Mental Health and Substance Abuse Program (1999 - 2008)
Paid/Adjusted Claims Data
(GHI)

<u>Field Name</u>	<u>Type/Size</u>
CLAIM_NUMBER	CHAR(10 BYTE)
CLAIM_INDICATOR	CHAR(1 BYTE)
ADJUSTMENT_INDICATOR	CHAR(1 BYTE)
PROC_DATE	NUMBER(8)
PROVIDER_NUMBER	NUMBER(9)
PROVIDER_LAST_NAME	CHAR(30 BYTE)
PROVIDER_ADDRESS_LINE1	CHAR(30 BYTE)
PROVIDER_ADDRESS_LINE2	CHAR(30 BYTE)
PROVIDER_ADDRESS_LINE3	CHAR(30 BYTE)
PROVIDER_ADDRESS_LINE4	CHAR(30 BYTE)
PROVIDER_ZIP_CODE	CHAR(9 BYTE)
PROVIDER_TAX_ID	NUMBER(9)
PATIENT_FIRST_NAME	CHAR(11 BYTE)
PATIENT_LAST_NAME	CHAR(10 BYTE)
MEMBER	CHAR(9 BYTE)
MEMBER_CODE	CHAR(4 BYTE)
REL_CODE	CHAR(1 BYTE)
PATTENT_ZIP_CODE	CHAR(9 BYTE)
SUBSCRIBER_STATUS	CHAR(1 BYTE)
FDOS	NUMBER(8)
LDOS	NUMBER(8)
QTY_BILLED	NUMBER(3)
PROCEDURE_CODE	CHAR(5 BYTE)
PLACE_OF_SERVICE	CHAR(2 BYTE)
INCURRED_DATE	NUMBER(8)
ADMIT_DATE	NUMBER(8)
DISCHARGE_DATE	NUMBER(8)
AMT_SUBMIT	NUMBER(9)
AMT_ALLOWED	NUMBER(9)
AMT_DEDUCT	NUMBER(9)
CO_INS	NUMBER(9)
AMT_PAID	NUMBER(9)
COVERED_DAYS	NUMBER(3)
DIAG	CHAR(5 BYTE)
SEX	CHAR(1 BYTE)
STATUS	CHAR(1 BYTE)
CATAGORY	CHAR(5 BYTE)
GROUP_NUMBER	CHAR(9 BYTE)
TARGET_SRV	CHAR(2 BYTE)
PAR_IND	CHAR(1 BYTE)
DOB	NUMBER(8)
TOP	CHAR(2 BYTE)
MEMBER_NUMBER	NUMBER(2)
DISCIPLINE	CHAR(7 BYTE)
REASON_FOR_DENIAL	CHAR(4 BYTE)
DENIAL_EXPLANATION	CHAR(50 BYTE)

Empire Plan Mental Health and Substance Abuse Program (1999 - 2008)
Paid/Adjusted Claims Data
(GHI)

<u>Field Name</u>	<u>Type/Size</u>
CLAIM_IND	CHAR(1 BYTE)
CPT4_IND	CHAR(1 BYTE)
ICD9_IND	CHAR(1 BYTE)
TREATMENT_PLAN_NUM	CHAR(14 BYTE)
ALTID_NUMBER	CHAR(9 BYTE)

Empire Plan Medical Program
Claims Summary Data
(United HealthCare)

<u>Field Name</u>	<u>Type/Size</u>
REPORT_CODE	CHAR(4 BYTE)
EMPLOYEE_ID	CHAR(11 BYTE)
EMPLOYEE_STATUS	CHAR(2 BYTE)
MEMBER_RELATION_CODE	CHAR(2 BYTE)
MEMBER_FIRST_NAME	CHAR(12 BYTE)
MEMBER_DOB	CHAR(8 BYTE)
MEMBER_SEX	CHAR(1 BYTE)
MEDICARE_ELIG_IND	CHAR(1 BYTE)
CLAIM_REF_NUMBER	CHAR(17 BYTE)
DATE_PROCESSED	CHAR(8 BYTE)
DATE_CLAIM_RECEIVED	CHAR(5 BYTE)
DOC_CONTROL_SER_NUM	CHAR(5 BYTE)
FILMING_OFFICE_NUM	CHAR(4 BYTE)
BILLED_AMOUNT	NUMBER(9,2)
NOT_COVERED_AMOUNT	NUMBER(9,2)
RECONSID_NOT_COV_AMT	NUMBER(9,2)
BENEFITS_LIMITATIONS	NUMBER(9,2)
DISCOUNT_AMOUNT	NUMBER(9,2)
ALLOWABLE_EXPENSES	NUMBER(9,2)
DEDUCTIBLE	NUMBER(9,2)
COPAY	NUMBER(9,2)
COINSURANCE	NUMBER(9,2)
GROSS_BENEFITS_PAYABLE	NUMBER(9,2)
OTHER_INSURANCE_AMOUNT	NUMBER(9,2)
MISC_REDUCTIONS_AMOUNT	NUMBER(9,2)
NET_PAID	NUMBER(9,2)
OUT_POCKET_OFFSET_AMT	NUMBER(9,2)
ALT_ID	CHAR(11 BYTE)
CLAIM_STAT_IND	CHAR(1 BYTE)
EMPIRE_NET_IND	CHAR (1 BYTE)
EMPIRE_PARTIC_IND	CHAR (1 BYTE)
REASONABLE_CUST_ALLWD_AMT	NUMBER(13,2)
SSP_RECOMEND_AMT	NUMBER(13,2)
PRICE_SELECTED_CODE	CHAR (1 BYTE)
REPRICING STATUS CODE	CHAR (1 BYTE)
REASON CODE	CHAR (5 BYTE)

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Empire Plan Medical Program
Claims Detail Data
(United HealthCare)

<u>Field Name</u>	<u>Type/Size</u>
POLICY_NUMBER	CHAR(7 BYTE)
REPORT_SUFFIX	CHAR(7 BYTE)
REPORT_ACCOUNT	CHAR(6 BYTE)
PLAN_VARIATION_CODE	CHAR(4 BYTE)
REPORT_CODE	CHAR(4 BYTE)
FRANCHISE_CODE_ONE	CHAR(3 BYTE)
FRANCHISE_CODE_TWO	CHAR(4 BYTE)
UNET_REGION_CODE	CHAR(1 BYTE)
FINANCIAL_ARRANG_CODE	CHAR(1 BYTE)
ALT_ID	CHAR(9 BYTE)
EMPLOYEE_ID	CHAR(11 BYTE)
EMPLOYEE_LAST_NAME	CHAR(20 BYTE)
EMPLOYEE_SEX	CHAR(1 BYTE)
EMPLOYEE_DOB	CHAR(8 BYTE)
EMPLOYEE_ZIP_CODE	CHAR(5 BYTE)
EMPLOYEE_STATUS	CHAR(2 BYTE)
DEPENDENT_NUMBER	NUMBER(2)
MEMBER_RELATION_CODE	CHAR(2 BYTE)
MEMBER_FIRST_NAME	CHAR(12 BYTE)
MEMBER_DOB	CHAR(8 BYTE)
MEMBER_SEX	CHAR(1 BYTE)
MEDICARE_ELIG_IND	CHAR(1 BYTE)
MEMBER_MARKET	CHAR(7 BYTE)
PATIENT_NUMBER	CHAR(11 BYTE)
EMPLOYEE_POS_IOAREA_IND	CHAR(1 BYTE)
EMPLOYEE_PPO_IOAREA_IND	CHAR(1 BYTE)
MEMBER_PRODUCT_CODE	CHAR(3 BYTE)
CLAIM_REF_NUMBER	CHAR(17 BYTE)
DATE_PROCESSED	CHAR(8 BYTE)
ELCTRONIC_BILL_IND	CHAR(1 BYTE)
CLAIMS_OFFICE_NUM	CHAR(3 BYTE)
TRANSACTION_CODE	CHAR(2 BYTE)
DATE_CLAIM_RECEIVED	CHAR(5 BYTE)
CLAIM_ADJUSTER_NUM	CHAR(7 BYTE)
PROCESSING_OFFICE_NUM	CHAR(3 BYTE)
UNIQUE_CHECK_IDENT	NUMBER(13)
TRANSACTION_TYPE	CHAR(1 BYTE)
STATE_TAX_ELIG_IND	CHAR(1 BYTE)
DOC_CONTROL_SER_NUM	CHAR(5 BYTE)
FILMING_OFFICE_NUM	CHAR(4 BYTE)
PROVIDER_TYPE	CHAR(3 BYTE)
PROVIDER_FULL_NAME	CHAR(30 BYTE)
PROVIDER_TAX_ID_PRFX	CHAR(1 BYTE)
PROVIDER_TAX_ID	CHAR(9 BYTE)
PROVIDER_TAX_ID_SUFY	CHAR(5 BYTE)
PROVIDER_IPA	NUMBER(5 BYTE)
PROVIDER_ZIP_CODE	CHAR(5 BYTE)
PROVIDER_SPECIALTY	CHAR(4 BYTE)

Empire Plan Medical Program
Claims Detail Data
(United HealthCare)

<u>Field Name</u>	<u>Type/Size</u>
PROVIDER_MARKET	CHAR(7 BYTE)
MPIN	CHAR(9 BYTE)
PROVIDER_NET_PART_IND	CHAR(1 BYTE)
COVERING_PHYSIC_IND	CHAR(1 BYTE)
NATIONAL_DRUG_CD	CHAR(11 BYTE)
HOSPITAL_DRG	CHAR(3 BYTE)
CAUSE_CODE	CHAR(1 BYTE)
DISCHARGE_STATUS	CHAR(2 BYTE)
PRIMARY_SURG_PROC_CD	CHAR(5 BYTE)
SECONDARY_SURG_PROC_CD	CHAR(5 BYTE)
TERTIARY_SURG_PROC_CD	CHAR(5 BYTE)
PLACE_OF_SERVICE	CHAR(2 BYTE)
SERVICE_CODE	CHAR(5 BYTE)
SERVICE_CODE_MODIFIER	CHAR(2 BYTE)
DATE_OF_SERVICE_FROM	CHAR(8 BYTE)
DATE_OF_SERVICE_TO	CHAR(8 BYTE)
SERVICE_COUNT	NUMBER(3)
PRIMARY_DIAGNOSIS	CHAR(5 BYTE)
SECONDARY_DIAGNOSIS	CHAR(5 BYTE)
TERTIARY_DIAGNOSIS	CHAR(5 BYTE)
CAPITATED_ENCOUNTER_IND	CHAR(1 BYTE)
BILLED_AMOUNT	NUMBER(9,2)
NOT_COVERED_AMOUNT	NUMBER(9,2)
REMARK_CODE	CHAR(3 BYTE)
CHARGE_LEVEL_REMARK_CD	CHAR(3 BYTE)
RECONSID_NOT_COV_AMT	NUMBER(9,2)
RECONSID_REMARK_CODE	CHAR(3 BYTE)
CLAIM_LEVEL_REMARK_CD	CHAR(3 BYTE)
BENEFITS_LIMITATIONS	NUMBER(9,2)
DISCOUNT_AMOUNT	NUMBER(9,2)
DISCOUNT_TYPE	CHAR(1 BYTE)
PROVIDER_CONTRACT_TYPE	CHAR(1 BYTE)
ALLOWABLE_EXPENSES	NUMBER(9,2)
DEDUCTIBLE	NUMBER(9,2)
COPAY	NUMBER(9,2)
COINSURANCE	NUMBER(9,2)
GROSS_BENEFITS_PAYABLE	NUMBER(9,2)
OTHER_INSURANCE_AMOUNT	NUMBER(9,2)
OTHER_INSURANCE_IND	CHAR(1 BYTE)
OTHER_INSURANCE_TYPE	CHAR(1 BYTE)
MISC_REDUCTIONS_AMOUNT	NUMBER(9,2)
NET_PAID	NUMBER(9,2)
BENEFIT_PLAN_COMPL_IND	CHAR(1 BYTE)
PAYEE_TYPE	CHAR(1 BYTE)
TAX_RECORD_IND	CHAR(1 BYTE)
OUT_POCKET_OFFSET_AMT	NUMBER(9,2)
OVERRIDE_CODE	CHAR(3 BYTE)
SERVICE_ORDER	NUMBER(2)

Empire Plan Medical Program
Claims Detail Data
(United HealthCare)

<u>Field Name</u>	<u>Type/Size</u>
PAYOUT_SUMMARY_CAT	CHAR(5 BYTE)
CHECK_SUPPRESSION_IND	CHAR(1 BYTE)
PCP_TAX_ID_PREFIX	CHAR(1 BYTE)
PCP_TAX_ID	CHAR(9 BYTE)
PCP_TAX_ID_SUFFIX	CHAR(5 BYTE)
REVENUE_CODE_1	CHAR(4 BYTE)
REVENUE_CODE_2	CHAR(4 BYTE)
REVENUE_CODE_3	CHAR(4 BYTE)
REVENUE_CODE_4	CHAR(4 BYTE)
REVENUE_CODE_5	CHAR(4 BYTE)
REVENUE_CODE_6	CHAR(4 BYTE)
REVENUE_CODE_7	CHAR(4 BYTE)
BILLED_PROC_CODE_1	CHAR(5 BYTE)
BILLED_PROC_CODE_2	CHAR(5 BYTE)
BILLED_PROC_CODE_3	CHAR(5 BYTE)
BILLED_PROC_CODE_4	CHAR(5 BYTE)
BILLED_PROC_CODE_5	CHAR(5 BYTE)
DEA_NUMBER	CHAR(9 BYTE)
PHI_IND	CHAR(1BYTE)
CLAIM_STAT_IND	CHAR(1BYTE)
EMPIRE_NET_IND	CHAR(1BYTE)
EMPIRE_PARTIC_IND	CHAR(1BYTE)
HRA_AMT	NUMBER(9,2)
NPI_NUMBER	CHAR(10BYTE)
REASONABLE_CUST_ALLWD_AMT	NUMBER(13,2)
SSP_RECOMEND_AMT	NUMBER(13,2)
PRICE_SELECTED_CODE	CHAR(1BYTE)
PROCEDURE_MOD_2_CODE	CHAR(2BYTE)
PROCEDURE_MOD_3_CODE	CHAR(2BYTE)
PROCEDURE_MOD_4_CODE	CHAR(2BYTE)
REPRICE_STATUS_CODE	CHAR(1 BYTE)
REASON_CODE	CHAR(5 BYTE)
MEDICARE APPROVED	NUMBER(9,2)
MEDICARE PAID	NUMBER(9,2)

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Empire Plan Prescription Drug Program (2008 – Current)
 Claims Data
 (Medco)

RECORD_IDENTIFIER	NUMBER (1)
JULIAN_DATE	CHAR (5 BYTE)
RX_NUMBER	CHAR (9 BYTE)
DATE_OF_SERVICE	CHAR (8 BYTE)
NDC	CHAR (11 BYTE)
PRODUCT_NAME	CHAR (70 BYTE)
NEW_REFILL_CD	CHAR (2 BYTE)
QUANTITY_DISPENSED	NUMBER (13, 3)
DAYS_SUPPLY	NUMBER (4)
COST_TYPE_INV_TO_NYS	CHAR (10 BYTE)
CLIENT_INGREDIENT_COST	NUMBER (11, 2)
DISPENSING_FEE	NUMBER (11, 2)
COPAY_AMT	NUMBER (11, 2)
SALES_TAX	NUMBER (11, 2)
INVOICE_AMT	NUMBER (11, 2)
FIRST_NAME	CHAR (15 BYTE)
MIDDLE_INITIAL	CHAR (1 BYTE)
DATE_OF_BIRTH	CHAR (8 BYTE)
GENDER_CD	CHAR (1 BYTE)
MEMBER_SUBSCRIBER_ID	CHAR (20 BYTE)
PERSON_CD	CHAR (3 BYTE)
BENEFIT_PROGRAM	CHAR (18 BYTE)
PRESCRIBER_ID	CHAR (15 BYTE)
SUBSCRIBER_FIRST_NAME	CHAR (15 BYTE)
SUBSCRIBER_MIDDLE_INITIAL	CHAR (1 BYTE)
DATE_WRITTEN	CHAR (8 BYTE)
PRODUCT_SELECTION_DAW_CD	CHAR (1 BYTE)
CLAIM_STATUS	CHAR (1 BYTE)
PRIOR_AUTHORIZATION_ID	CHAR (11 BYTE)
ORIG_BATCH_NUM	CHAR (18 BYTE)
PROVIDER_ID	CHAR (15 BYTE)
GCN	CHAR (14 BYTE)
SUBMITTED_INGREDIENT_COST	NUMBER (11, 2)
PROVIDER_CLASS	CHAR (3 BYTE)
DATE_RECEIVED	CHAR (8 BYTE)
DATE_SUBMITTED	CHAR (8 BYTE)
ROUTE_OF_ADMIN_CD	CHAR (2 BYTE)
RELATIONSHIP_CD	CHAR (1 BYTE)
MULTI_SOURCE_CD	CHAR (1 BYTE)
NYS_GENERIC_BRAND_CD	CHAR (1 BYTE)
PROVIDER_ZIP_CD	CHAR (10 BYTE)
PHARMACY_COST_TYPE_CD	CHAR (10 BYTE)
DRUG_STRENGTH	CHAR (13 BYTE)
CALCULATED_AWP	NUMBER (13, 2)
NETWORK	CHAR (6 BYTE)
CUSTOMER_ID	CHAR (15 BYTE)
BILL_DATE	CHAR (8 BYTE)
PHARMACY_CORPORATE_ID	CHAR (12 BYTE)
THERAPEUTIC_CLASS	CHAR (6 BYTE)
FORMULARY_STATUS_CD	CHAR (1 BYTE)
ANCILLARY_AMT	NUMBER (11, 2)
MEMBER_ALT_ID	CHAR (20 BYTE)
PROVIDER_NAME	CHAR (25 BYTE)

CLAIM_ORIGINATION_FL	CHAR (1 BYTE)
SUB_NUM_REFILLS_AUTH	NUMBER (3)
GENERIC_NAME	CHAR (60 BYTE)
COMPOUND_INDICATOR	CHAR (1 BYTE)
OTHER_COVERAGE_CD	CHAR (1 BYTE)
AWP	NUMBER (13, 5)
DISPENSER_TYPE	CHAR (3 BYTE)
PRIOR_AUTH_REASON_CD	CHAR (2 BYTE)
REBATE_CLASS_SYSTEM	CHAR (60 BYTE)
LABEL_NAME	CHAR (30 BYTE)
SUBMITTED_UC	NUMBER (11, 2)
SUBMITTED_AMT_DUE	NUMBER (11, 2)
DEPENDENT_SSN	CHAR (10 BYTE)
PHARMACY_STATE_CD	CHAR (2 BYTE)
PART_B_IND	CHAR (1 BYTE)
ORANGE_BOOK_EQUIV_CD	CHAR (2 BYTE)
PHARMACY_NPI	CHAR (15 BYTE)
PRESCRIBER_NPI	CHAR (15 BYTE)
SPECIALTY_INDICATOR	CHAR (1 BYTE)
PACKAGE_SIZE	NUMBER (12, 3)
DOSAGE_FORM	CHAR (4 BYTE)
MAINTENANCE_DRUG_INDICATOR	CHAR (1 BYTE)
OBSOLETE_DATE	CHAR (8 BYTE)
REPACKAGE_INDICATOR	CHAR (1 BYTE)
CLIENT_COST_TIER	CHAR (3 BYTE)
GRANDFATHERED_GENERIC_IND	CHAR (2 BYTE)
ANDA	CHAR (8 BYTE)
NDA	CHAR (8 BYTE)
NY_ELIGIBILITY_SEQ_NUM	CHAR (3 BYTE)
UHC_SPECIALTY_INDICATOR	CHAR (1 BYTE)
RECORD_TYPE_CODE	CHAR (1 BYTE)
CARRIER_NUMBER	CHAR (8 BYTE)
CONTRACT_NUMBER	CHAR (8 BYTE)
GROUP ID	CHAR (15 BYTE)
ADJUSTMENT_TYPE	CHAR (1 BYTE)
ADJUSTMENT_REASON_CODE	CHAR (3 BYTE)
ADJUSTMENT_CODE	CHAR (2 BYTE)
ADJUSTMENT_INDICATOR	CHAR (1 BYTE)
REVERSAL_STATUS	CHAR (1 BYTE)
DISPENSING_STATUS	CHAR (1 BYTE)
DIRECT_CLAIM_PAYMNT_RELEASE_DT	CHAR (8 BYTE)
CLAIM_OVERRIDE_CD1	CHAR (2 BYTE)
CLAIM_OVERRIDE_CD2	CHAR (2 BYTE)
CLAIM_OVERRIDE_CD3	CHAR (2 BYTE)
UNIT_MEASURE	CHAR (2 BYTE)
SINGLE_SOURCE_GENERIC_CD	CHAR (2 BYTE)
CARDHOLDER_GENDER	CHAR (1 BYTE)
COVERAGE_CODE	CHAR (1 BYTE)
GROSS_COST	NUMBER (10, 2)
CLIENT_AMT_DUE	NUMBER (10, 2)
OTHER_PAYER_AMT_PD	NUMBER (10, 2)
INGREDIENT_COST_DIFF_AMT	NUMBER (10, 2)
AMT_EXCEEDING_BEN_MAX	NUMBER (10, 2)
DEDUCTIBLE	NUMBER (10, 2)
AMT_ATTRIBUTED_PRODCUT_SELECT	NUMBER (10, 2)
AMT_ATTRIBUTED_SALES_TAX	NUMBER (10, 2)
PATIENT_PD_AMT	NUMBER (10, 2)

MEMBER_SUBMIT_AMT	NUMBER (10,2)
MAC_PRICE	NUMBER (13,5)
COB_PRIMARY_CLAIM_TYPE	CHAR (1 BYTE)
COB_INDICATOR	CHAR (1 BYTE)
ADJUSTMENT_SOURCE	CHAR (1 BYTE)
ADJUSTMENT_BATCH_NUMBER	CHAR (12 BYTE)
ROW_NUMBER	NUMBER (8)
TRANSACTION_ID	CHAR (18 BYTE)
TRANSACTION_ID_XREF	CHAR (18 BYTE)
SUBMITTED_CLARIFY_CODE	CHAR (2 BYTE)
CONCAT_ID	CHAR (40 BYTE)
DISPENSED_NDC	CHAR (11 BYTE)
MEDIA_TYPE	CHAR (1 BYTE)
MAIL_RESOLUTION_CODE	CHAR (5 BYTE)
ACQ_UNIT_PRICE	NUMBER (13)
CALCULATED_ACQ_PRICE	NUMBER (13)
METRIC_DECIMAL_QUANTITY	NUMBER (13)
HALF_TAB_INDICATOR	CHAR (1 BYTE)
PRIOR_AUTH_CODE	CHAR (72 BYTE)

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Empire Plan Prescription Drug Program (2006 – 2007)
Claims Data
(Caremark)

<u>Field Name</u>	<u>Type/Size</u>
RECORD_IDENTIFIER	NUMBER(1)
JULIAN_DATE	CHAR(5 BYTE)
RX_NUMBER	CHAR(9 BYTE)
RX_NUMBER_QUALIFIER	CHAR(1 BYTE)
DATE_OF_SERVICE	CHAR(8 BYTE)
NDC	CHAR(11 BYTE)
PRODUCT_NAME	CHAR(70 BYTE)
NEW_REFILL_CD	CHAR(1 BYTE)
QUANTITY_DISPENSED	NUMBER(13)
DAYS_SUPPLY	NUMBER(4)
COST_TYPE_INV_TO_NYS	CHAR(10 BYTE)
CLIENT_INGREDIENT_COST	NUMBER(11,2)
DISPENSING_FEE	NUMBER(11,2)
COPAY_AMT	NUMBER(11,2)
SALES_TAX	NUMBER(11,2)
INVOICE_AMT	NUMBER(11,2)
FIRST_NAME	CHAR(15 BYTE)
MIDDLE_INITIAL	CHAR(1 BYTE)
DATE_OF_BIRTH	CHAR(8 BYTE)
GENDER_CD	CHAR(1 BYTE)
MEMBER_SUBSCRIBER_ID	CHAR(20 BYTE)
PERSON_CD	CHAR(3 BYTE)
CLIENT_GROUP_ID	CHAR(18 BYTE)
PRESCRIBER_ID	CHAR(15 BYTE)
SUBSCRIBER_FIRST_NAME	CHAR(15 BYTE)
SUBSCRIBER_MIDDLE_INITIAL	CHAR(1 BYTE)
DATE_WRITTEN	CHAR(8 BYTE)
PRODUCT_SELECTION_DAW_CD	CHAR(1 BYTE)
CLAIM_STATUS	CHAR(1 BYTE)
PRIOR_AUTHORIZATION_ID	CHAR(11 BYTE)
RX_CLAIM_NUM_SEQ_NUM	CHAR(18 BYTE)
PROVIDER_ID	CHAR(15 BYTE)
DRUG_GPI	CHAR(14 BYTE)
SUBMITTED_INGREDIENT_COST	NUMBER(11,2)
PROVIDER_CLASS	CHAR(3 BYTE)
DATE_RECEIVED	CHAR(8 BYTE)
DATE_SUBMITTED	CHAR(8 BYTE)
ROUTE_OF_ADMIN_CD	CHAR(2 BYTE)
RELATIONSHIP_CD	CHAR(1 BYTE)
MULTI_SOURCE_CD	CHAR(1 BYTE)
BRAND_TRADE_NAME_CD	CHAR(1 BYTE)
NYS_GENERIC_BRAND_CD	CHAR(1 BYTE)
PROVIDER_ZIP_CD	CHAR(10 BYTE)
PHARMACY_COST_TYPE_CD	CHAR(10 BYTE)
MEMBER_SUBMISSION_CAT	CHAR(2 BYTE)
DRUG_STRENGTH	NUMBER(13,2)

Empire Plan Prescription Drug Program (2006 – 2007)

Claims Data

(Caremark)

<u>Field Name</u>	<u>Type/Size</u>
CALCULATED_AWP	NUMBER(11,2)
NETWORK	CHAR(6 BYTE)
CUSTOMER_ID	CHAR(15 BYTE)
BILL_DATE	CHAR(8 BYTE)
PHARMACY_CORPORATE_ID	CHAR(12 BYTE)
THERAPEUTIC_CLASS	CHAR(6 BYTE)
FORMULARY_STATUS_CD	CHAR(1 BYTE)
ANCILLARY_AMT	NUMBER(11,2)
MEMBER_ALT_ID	CHAR(20 BYTE)
PROVIDER_NAME	CHAR(25 BYTE)
CLAIM_ORIGINATION_FL	CHAR(1 BYTE)
SUB_NUM_REFILLS_AUTH	NUMBER(3)
GENERIC_NAME	CHAR(60 BYTE)
COMPOUND_INDICATOR	CHAR(1 BYTE)
OTHER_COVERAGE_CD	CHAR(1 BYTE)
AWP	NUMBER(11,2)
DISPENSER_TYPE	CHAR(3 BYTE)
PRIOR_AUTH_REASON_CD	CHAR(2 BYTE)
REBATE_CLASS_SYSTEM	CHAR(60 BYTE)
MED_PART_D_SUBSIDY_IND	CHAR(1 BYTE)
MED_PART_D_COV_DRUG_IND	CHAR(1 BYTE)
LABEL_NAME	CHAR(30 BYTE)
SUBMITTED_UC	NUMBER(11,2)
SUBMITTED_AMT_DUE	NUMBER(11,2)
REJECT_CD_1	CHAR(3 BYTE)
REJECT_CD_2	CHAR(3 BYTE)
REJECT_CD_3	CHAR(3 BYTE)
RIDER_CODE	CHAR(10 BYTE)
PHARMACY_STATE_CODE	CHAR(2 BYTE)
PART_B_INDICATOR	CHAR(1 BYTE)
REIMBURSEMENT_FLAG	CHAR(1 BYTE)
ORANGE_BOOK_EQUIV_CD	CHAR(2 BYTE)
NPI_PROVIDER_ID	CHAR(15 BYTE)

Appendix S

File Layout

Empire Plan Prescription Drug Program (1995 - 2005)
Claims Data
(ExpressScripts, Inc)

<i>Name of Field</i>	<i>Field Format</i>	<i>Field Length</i>	<i>Columns</i>	<i>Definition of Field Value/Comments</i>
Julian Date Calculated using run date	D	5	1 – 5	Batch Number: This number is assigned by the processor. Format = YYDDD where YY = Year, DDD = Julian Date; i.e. 92252=Sept 8, 1992 Note: This number is carried through all processing and returned in each payment detail record.
Rx No	N	7	6 – 12	Prescription number assigned by provider for the dispensed drug
Date of Service (DOS)	D	8	13 – 20	Date of Service for the dispensed drug. Format = CCYYMMDD
Constant	N	1	21 – 21	“0” (zero)
Manufacturing Code	A	5	22 – 26	Manufacturer code for the drug dispensed
Product Code	A	4	27 – 30	Product code for the drug dispensed
Package Code	A	2	31 – 32	Package code for the drug dispensed
Brand Name	A	30	33 – 62	The name for the drug dispensed based on the manufacturing code, product code and package code (with strength)
New/Refill Code	A	1	63 – 63	Indicator that identifies if the prescription was new or a refill on the drug dispensed 0 = New script 1 = Refilled script
Quantity Dispensed	N	11	64 – 74	Metric quantity for the drug dispensed
Days Supply	N	4	75 – 78	Days supply for the drug dispensed
Reimbursement Method	A	2	79 – 80	Reimbursement Method (basis of cost) determination for the drug invoiced 1, 6 = MAC (Maximum Allowable Cost) 2 = AWP (Average Wholesale Price) 3 = Full (Submitted) 4 = U&C (Usual & Customary) 5 = Baseline 7, 9 = WAC (Wholesale Acquisition Cost) 8 = 100% Copay 10 = Pass-thru/Bill as Paid (Provider costs)
Ingredient Client Cost	N	10	81 – 90	The invoiced ingredient cost of the drug dispensed
Dispensing Admin Fees	N	10	91 –100	The invoice administration fees of the drug dispensed (dispensing fee)
Co Pay Amount	N	10	101– 110	The invoiced copay amount of the drug dispensed
Sales Tax	N	10	111 – 120	The invoiced sales tax of the drug dispensed
Invoice Amount	N	10	121 – 130	The Invoice Amount. Amount = ingredient cost + disps fee + + Sales Tax - Copay
First Name	A	11	131 – 141	First name of the member for whom the drug was dispensed
Middle Initial	A	1	142 – 142	Middle initial of the member for whom the drug was dispensed
Date of Birth	D	8	143 – 150	Date of birth for the member. Format = CCYYMMDD
Gender Code	A	1	151 – 151	Gender/sex code 0 = Unknown 1 = Male 2 = Female
Member Subscriber Id	A	9	152 – 160	Contract number for the member. <i>Number is encrypted</i>

Appendix S

File Layout

<i>Name of Field</i>	<i>Field Format</i>	<i>Field Length</i>	<i>Columns</i>	<i>Definition of Field Value/Comments</i>
Client Dependent Code	A	2	161 – 162	Dependent code from the State Health Insurance Card 01 = Cardholder 02 = Dependent #1 03 = Dependent #2, ...
Client Group Id	A	18	163 – 180	Client three digit BP identifier
DEA Identifier	A	10	181 – 190	Unique drug enforcement agency identifier assigned to the physician
Subscriber First Name	A	11	191 – 201	Cardholder's first name
Subscriber Middle Initial	A	1	202 – 202	Cardholder's middle initial
Original Rx Date	D	8	203 – 210	The date the prescription was written is being populated at the time the pharmacy submits the claims. Format = <i>CCYYMMDD</i>
DAW Code	A	1	211 – 211	Drug Dispensed As Written Space = No DAW submitted A = Ancillary charge D = Requested by physician S = Submitted cost paid 0 = No DAW code submitted 1 = Physician requested dispensed as written 2 = Member requested dispensed as written 3 = Requested by pharmacy 4 = No DAW submitted 5 = Requested by other (same as 3) 6 = No DAW submitted 7 = No DAW submitted 8 = No DAW submitted 9 = No DAW submitted
Claim Status	A	1	212 – 212	Claim status for the claim C = Canceled P = Paid R = Reversal
Prior Auth Code	A	8	213 – 220	Prior authorization code to allow the drug dispensed to be paid based on State approved rules (PA #)
Audit Number	N	9	221 – 229	Audit Number (Xmit Id) - Unique identifier assigned by the Express Scripts' System to a prescription received from a pharmacy. A pharmacy submitting on-line will have a unique identifier for each claim status. Manual submitted claims could have the same unique identifier for each claim status.
NABP Number	N	12	230 – 241	Unique assigned number for the pharmacy from the National Association Board Pharmacy. The pharmacy number dispensed the drug.
Drug GCN	N	5	242 – 246	Generic code number for the drug dispensed
Pharm Claim Ingredient Cost	N	10	247 – 256	The claim ingredient cost submitted by the pharmacy
Provider Class	A	3	257 – 259	Provider Class E = Direct Member Submit F = Retail P = Mail Order R = Out of State Pharmacy Chain and Independents (prior to 2004) S = New York Pharmacy Chain (prior to 2004) T = New York Independent Pharmacy (prior to 2004)

Appendix S

File Layout

<i>Name of Field</i>	<i>Field Format</i>	<i>Field Length</i>	<i>Columns</i>	<i>Definition of Field Value/Comments</i>
Date Received	D	8	260 – 267	Date the prescription and receipt was received for manual processing. Format = <i>CCYYMMDD</i>
Processed Date	D	8	268 – 275	The date the prescription was processed by the pharmacy or Express Scripts' Claims Administration department. Format = <i>CCYYMMDD</i>
Constant	A	1	276 – 276	"Y"
Route of Administration Code	A	2	277 – 278	Route of Administration Code A = Intravenous L = Translingual B = Buccal M = Miscell. (Medical Supplies;Non-Drugs) C = Intramuscular 1 = Oral D = Dental 2 = Injection E = Epidural 3 = Rectal F = Perfusion 4 = Mucous Membrane G = Subcutaneous 5 = Topical H = Inhalation 6 = Ophthalmic I = Intracavernosal 7 = Nasal J = Intraarterial 8 = OTIC K = Intraarticular 9 = Intradermal
Client Relationship Code	A	1	279 – 279	Relationship code for the member 0 = Cardholder 1 = Spouse 3 = Son 4 = Daughter 7 = Male Domestic 8 = Female Domestic 9 = Unknown
Constant "0"	N	1	280 – 280	"0" (zero)
GPI code	A	1	281 – 281	The First Data Bank generic product indicator for the pharmacy submitted drug 1 = Generic 2 = Brand 3 = Cross Licensed
Gen Brand Code	A	1	282 – 282	Indicates if the prescription was reimbursed at Brand or Generic 0 = Brand 1 = Generic
Provider Zip Code	A	13	283 – 295	Provider zip code (5 digit zip – 4 digit zip)
Pharmacy Reim Code	A	4	296 – 299	Provider Cost Basis – how the claim was reimbursed 0 = Unspecified 1 = MAC 2 = AWP discount (prior to 2004) 3 = Submitted (prior to 2004) 4 = U&C (prior to 2004) 5 = Baseline (prior to 2004) 7 = Enforced Generic WAC 9 = Standard WAC 11 = Gross Amount Due (GAD) (prior to 2004)

Appendix S

File Layout

<i>Name of Field</i>	<i>Field Format</i>	<i>Field Length</i>	<i>Columns</i>	<i>Definition of Field Value/Comments</i>
Claim Source	A	1	300 – 300	Source of the claim for manual claims A = Allergy C = Coordination of Benefits (COB) M = Member Submit N = Nursing Home O = Out of Network/non-PAR S = State Agency X = Expatriate
Drug Strength	N	10	301 – 310	The drug strength for the drug dispensed
AWP	N	11	311 – 321	The average wholesale price invoiced for the drug dispensed
Network	N	3	322 – 324	The pharmacy network code assigned by Express Scripts 4 = NYK04 (post 2004) 16 = Out of State Chain and Independent Pharmacies 32 = New York Chain and Independent Pharmacies
Customer Id	N	5	325 – 329	Customer Id
Bill Date	D	8	330 – 337	Date that the claim was billed to the client. Format = CCYYMMDD
Pharmacy Corporate ID	N	4	338 – 341	Corporate ID of the Pharmacy that was paid for the claim
Most Common Indicator Description	A	22	342 – 363	The medical condition which is commonly treated by this class of medication (therapy)
Formulary Status Code	A	1	364 – 364	The Formulary Status Code N = Non-Preferred P = Preferred
Ancillary Amount	N	11	365 – 375	Amount paid by the member that was in excess of the maximum allowable cost (MAC) for a brand drug
Member Alternate Id	A	9	376 – 384	Alternate ID number for the member. <i>Number is encrypted</i>
Filler	A	16	385 – 400	Spaces

Department of Civil Service Information Security Policy:

To open the Information Security Policy document in Adobe, click the icon below:



DCS Information Security Policy



DEPARTMENT OF CIVIL SERVICE
INFORMATION SECURITY POLICY

OCTOBER 1, 2007

Nancy Groenwegen
Commissioner

LIST OF POLICIES

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Policy Name	INFORMATION SECURITY POLICY PURPOSE
Category	Security
Policy Number	1.01
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish the purpose of the Department of Civil Service Information Security Policy.

POLICY STATEMENT

The Department of Civil Service (DCS) Information Security Policy implements the New York State policy issued by the Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) and the HIPAA security requirements; and is a collection of over twenty security policies. The purpose of the Information Security Policy is to define a set of minimum security requirements that must be met by the Department.

The primary objectives of the Information Security Policy are to:

1. effectively manage the risk of security exposure or compromise within Department systems;
2. communicate the responsibilities for the protection of Department information;
3. establish a secure processing base and a stable processing environment;
4. to the extent reasonably possible, reduce the opportunity for errors to be entered into an electronic system supporting Department business processes;
5. preserve management's options in the event of an information asset misuse, loss or unauthorized disclosure; and
6. promote and increase the awareness of information security.

The policy applies to all workforce members, business partners, clients, and suppliers.

Where conflicts exist between this policy and Division policies, the more stringent policy takes precedence.

DEFINITIONS

Workforce Member: staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	INFORMATION SECURITY PROGRAM SCOPE
Category	Security
Policy Number	1.02
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish the scope of the Department of Civil Service Information Security Program.

POLICY STATEMENT

All Department information must be protected from unauthorized access to help ensure the information's confidentiality and maintain its integrity. The Department has established an information security function led by the ISO. The scope of the Information Security Program is to:

1. develop, deploy and maintain an information security architecture that will provide security policies, mechanisms, processes, standards and procedures that meet current and future business needs of the Department;
2. provide information security consulting to the Department regarding security threats that could affect the computing and business operations, and make recommendations to mitigate the risks associated with these threats;
3. assist management in the implementation of security measures that meet the business needs;
4. develop and implement security training and awareness programs that educate workforce members and vendors with regard to the information security requirements;
5. investigate and report to management breaches of security controls, and implement additional compensating controls when necessary to help ensure security safeguards are maintained;
6. participate in the development, implementation and maintenance of disaster recovery processes and techniques to ensure the continuity of the Department's business, in the event of an extended period of computing resource unavailability;

The Information Security Program will address all information, regardless of the form or format, which is created or used in support of business activities.

The Security program will contain protocols and procedures that support the implementation of the information security policy for systems and technologies being used within their domains. These security protocols and procedures will be produced and implemented to ensure uniformity of information protection and security management across the different technologies deployed within the Department. The protocols and procedures can be used as a basis for policy compliance measurement.

DEFINITIONS

Availability: The property of being operational, accessible, functional and usable upon demand by an authorized entity, e.g. a system or user.

Confidentiality: The property that information is not made available or disclosed to unauthorized individuals, entities, or processes.

Integrity: The property that data has not been altered or destroyed from its intended form or content in an unintentional or an unauthorized manner.

Workforce Member: staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	INFORMATION SECURITY ORGANIZATION AND RESPONSIBILITIES
Category	Security
Policy Number	1.03
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish the Department of Civil Service Information Security Organization roles and responsibilities.

POLICY STATEMENT

The Commissioner will establish the framework for the Department of Civil Service Information Security Program and appoint an ISO.

The ISO is responsible for the implementation, enhancement, monitoring, and enforcement of the information security policy and protocols of all stored, processed, or transmitted data. The ISO may delegate these responsibilities to others, at the same time ensuring the duties are completed with due diligence. The ISO's responsibilities include:

- Directing the Information Security Program
- Chairing the Information Security Steering Committee
- Producing recommendations for policy, protocols, and processes
- Educating workforce members
- Implementing appropriate safeguards
- Facilitating compliance with safeguards
- Investigating alleged incidents
- Participating in the development, implementation and maintenance of disaster recovery programs
- Reporting on security program activities
- Supporting statewide security initiatives
- Evaluating new threats and counter measures
- Reviewing and approving all external connections to the network
- Providing consulting to all levels of management on information security
- Following New York State cyber-incident reporting requirements
- Being aware of the laws and regulations affecting security controls
- Reporting information security program compliance to the Commissioner

The Information Security Steering Committee include, at a minimum, Office of Human Resources Management, Office of Financial Management, Director of Internal Audit, Information Resource Management (IRM), and Office of the Counsel. The Information Security Steering

Committee will meet regularly. The responsibilities of the Information Security Steering Committee include:

- Developing the Department's information security strategy
- Overseeing the Department of Civil Service Information Security Program
- Formulating the security policies, protocols, and standards

- The responsibilities of the members of the Information Security Team include:
 - Assisting in developing and communicating the Information Security Policy, protocols, standards for the Department
 - Identifying security awareness issues
 - Assisting Division Directors with the development of awareness materials and tools
 - Monitoring the effectiveness of information security measures
 - Conducting security reviews and identifying the need for additional controls
 - Participating in security incident response teams
 - Providing support to new application and system development, acquisition and deployment
 - Assessing security risks
 - Developing the access control strategy, firewall strategy, network deployment strategy, audit control strategy, and other security strategies as identified in the risk assessment
 - Facilitate security planning meetings with various members of Technical Support, the ISO, the CIO, and others as appropriate

- Division Directors/Information Owners have the accountability for all of the security safeguards regarding their information asset. The responsibilities of the Division Director/Information Owner include:
 - Classifying information assets
 - Ensuring consistent labeling and handling of information assets
 - Periodically reviewing security measures for information assets
 - Handling requests for information regarding the information assets
 - Ensuring security controls for third party access to the information asset
 - Assigning and supervising data custodians
 - Ensuring regulatory compliance
 - Implementing Department and Division policies
 - Ensuring adequate controls for the information assets
 - Establishing access privileges for the information assets
 - Ensuring that Division workforce members are informed of the security policies and understand their security responsibilities
 - Establishing and maintaining business continuity plans for their Division
 - Coordinating with the Division Liaison regarding issues related to IRM efforts

- The responsibilities of IRM include:
 - Implementing appropriate security controls in accordance with the Policies
 - Using their privileged access to information systems only as authorized
 - Responding quickly to suspected security incidents and escalating them in accordance with Security Incident Response Guidelines
 - Reporting information security related activity to the ISO
 - Creating a security team or appointing security analysts or security administrators to handle the tasks that support ISO goals.

- Ensuring processes, policies, and requirements are identified and implemented relative to security requirements of the Division Directors/Information Owners.
- Ensuring the proper controls of information are implemented.
- Ensuring the participation of the ISO and Information Security Team in identifying and selecting security controls and procedures.
- Ensuring that critical data and recovery plans are backed up and kept at a secure off site facility.

Workforce members are responsible for understanding of their role in the security of the Department's computing resources and information assets. They are responsible for gaining a clear understanding of what uses are acceptable and what uses are unacceptable. They must understand and adhere to all security policies, actively report suspected security incidents, report misclassification of information, and actively protect all information and resources. All workforce members are responsible for reading, understanding, and signing the security policies appropriate to their position, which includes at a minimum, the *Acceptable Use Policy*.

Refer to *Acceptable Use Policy*, *Security Incident Response Management Policy*, and *Contingency Planning Policy*.

DEFINITIONS

Data Custodian: The individual appointed by the Division Director/Information Owner to make decisions on their behalf.

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	DATA CLASSIFICATION
Category	Security
Policy Number	1.04
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2005
Revision Date	October 1, 2006

PURPOSE

To properly manage all Department information from its creation, through authorized use, to proper disposal.

POLICY STATEMENT

In order to ensure that all Department information is properly managed from its creation, through authorized use, to proper disposal, each information asset must be defined and classified based on its value, sensitivity, consequences of loss or compromise, and/or legal and retention requirements. Each classification will have a set or range of controls, designed to provide the appropriate level of protection of the information and its associated application software commensurate with the value of the information in that classification. Security controls will include considerations regarding identification and authentication, access control, confidentiality, network security, host security, physical security, data integrity, non-repudiation, monitoring and compliance.

All information must have a designated information owner. Division Directors/Information Owners are responsible for classifying all information.

The Division Director/Information Owner will be responsible for assigning the initial information classification, making all decisions regarding security controls, and making daily decisions regarding information management. Division Directors/Information Owners must conduct periodic high-level business impact analyses on the information to determine its relative value and risk of compromise. Based on the results of the assessment, the Division Directors/Information Owners must reclassify the information.

Data sensitivity will be established by assigning levels of confidentiality, integrity, and availability to each information asset. Additional information must be associated with each information asset regarding retention requirements, location, current access control measures, ease of recovery, and other legal requirements governing the handling of the information asset. When making such decisions the information "owner" must consider the external regulatory issues surrounding the data's classification, particularly those surrounding the Freedom of Information Law (FOIL) and the Health Insurance Portability and Accountability Act (HIPAA).

Ratings for confidentiality, integrity, and availability are to follow these definitions:

Confidentiality

- Confidential (High)
 - Unauthorized or unintentional disclosure of the information asset could result in grave loss of public confidence, in fraud, in major legal action, or in major financial loss.

- Internal (Medium)
 - Unauthorized disclosure of the information asset could compromise the Department enough to result in significant financial loss or legal action.
- Public (Low)
 - Unauthorized or unintentional disclosure of the information asset would result in only public relations issues and minor to no financial loss.

Integrity

- High
 - Unauthorized or unintentional modification of the information asset could result in grave loss of public confidence, in fraud, in major legal action, or in major financial loss.
- Medium
 - Unauthorized or unintentional modification of the information asset could compromise the Department enough to result in significant financial loss or legal action.
- Low
 - Unauthorized or unintentional modification of the information asset would result in only minor financial loss and would require only administrative action to correct.

Availability

- High
 - The loss of the information asset could result in grave loss of public confidence, major financial loss or major legal action.
- Medium
 - The lack of the information asset results in a serious compromise of a business function or a likelihood of significant financial loss or legal action.
- Low
 - The business function can continue without the information asset, or
 - The loss of the information asset will result in only minor financial loss.

DEFINITIONS

Data Custodian: The individual appointed by the Division Director/Information Owner to make decisions on their behalf.

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	ACCEPTABLE USE
Category	Security
Policy Number	1.05
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To identify acceptable use and non-acceptable use of the Department of Civil Service's computing resources and information assets, to set expectations regarding privacy while using the Department's email and Internet services, to explain Department rights, to address enforcement and violations provisions, and to set forth the Department's *Acceptable Use Policy* that all Department workforce members are required to read and sign.

POLICY STATEMENT

The use of the Department's computing resources and information assets by any workforce member must be consistent with this *Acceptable Use Policy*. All workforce members must follow this policy at all times while using Department computing resources and information assets. Any misuse of the Department's resources may result in disciplinary action including termination of employment. All workforce members must understand and sign a copy of this *Acceptable Use Policy*.

The Department provides computing resources, information, and technical support to workforce members for Department business purposes only. Personal and casual use is permitted and must be kept to a minimum.

Workforce members must:

- Conduct computer processing activities only within the limits of the access assigned or delegated by management and to inform management of situations necessitating a change in access levels.
- Take required actions to protect information and computing resources from unlawful, unauthorized, or unacceptable actions or events resulting in modification or destruction.
- Be personally accountable for the use and safekeeping of access codes, passwords, keys, or other means used to secure access to computing resources.
- Observe all contractual, regulatory, and legal obligations governing the use of Department information and facilities. Workforce members must comply with all software licenses, copyrights, patent, trade secret, and any state, federal, and international laws governing intellectual property.
- Report suspected security breaches promptly to the attention of management and/or the ISO.

Workforce members must not:

- Disable utilities including anti-virus software installed on their workstations or other computing resources and may not alter computing hardware, software or configurations provided by the Department;

- Install a wireless network or wireless access point and may not download software or utilities;
- Connect dial-up modems to the Department's computer systems connected to a Department local area network or to another internal communication network;
- Store data to local drives unless authorized; or
- Intentionally damage or alter the Department's information assets.

Public Web Site

Workforce members preparing public web site content must be compliant with copyright laws, Department policy, and Department protocols. All content posted on the public web site must be reviewed and approved the ISO or security designee.

Internet Access and Electronic Mail

Internet access and electronic mail (email) are to be used primarily for authorized activities based upon business need. Personal and casual use is permitted and must be kept to a minimum. Internet access is only authorized through the use of an appropriately configured browser as distributed by IRM technical support. Other methods of accessing the Internet using the Department systems are prohibited.

Workforce members are prohibited from using their Internet access in any manner that violates the law or Department policy. Material that is fraudulent, harassing, embarrassing, intimidating, profane, or otherwise unlawful or inappropriate may not be created, maintained, transmitted, displayed, downloaded, or stored on Department computing resources nor disseminated through the email system. Unacceptable use includes, but is not limited to, the use of computing resources:

- To represent yourself as someone else;
- For sending unsolicited email to persons with whom you do not have a relationship, or without the express permission of your manager;
- For unauthorized attempts to break into any computing system whether the Department's or another organization's;
- For theft or unauthorized copying of electronic files;
- For posting sensitive Department information without authorization from Department;
- To interfere with or disrupt network users, services or equipment;
- For any activity which can create a denial of service, such as "chain letters";
- For "sniffing" or monitoring network traffic;
- For personal gain;
- For representing personal opinions as those of the Department or New York State;
- For solicitation for religious and political causes;
- For private advertising of products or services;
- For marketing or business transactions;
- For harm against any person or entity; and
- To degrade, harass, or embarrass workforce members, other individuals, or groups.

The Department's Internet services are provided on an as is, as available basis. The Department makes no warranties, express or implied, with respect to Internet service, and it specifically assumes no responsibilities for:

- The content of any advice or information received by a workforce member via the Internet or any costs or charges incurred as a result of seeking or accepting such advice;

- Any costs, liabilities or damages caused by the way the workforce member chooses to use his/her agency Internet access;
- Any consequence of service interruptions or changes, even if these disruptions arise from circumstances under the control of the Department.

Workforce members must never set automatic forwarding of email to their personal email accounts unless authorized. Workforce members should anticipate regular automatic deletion of email in inboxes and should take measures to retain email accordingly.

Phishing is a scam in which an email message directs the email recipient to click on a link that takes them to a web site where they are prompted for personal information such as a pin number, social security number, bank account number or credit card number. Both the link and web site may closely resemble an authentic web site however, they are not legitimate. If the phishing scam is successful, personal accounts may be accessed. Workforce members must follow these rules if they receive one of these emails:

- Do not click on the link. In some cases, doing so may cause malicious software to be downloaded to your computer.
- Delete the email message.
- Do not provide any personal information in response to any email if you are not the initiator of the request.

Electronic Devices and Removable Media

Electronic devices must not be attached to a DCS PC unless the device has been issued by DCS and the use has been approved by the ISO. Once approved, electronic devices must always be secured and locked at the desk. Removable media, such as floppies and CD's must be issued by DCS, must be encrypted and must not be discarded via the trash. Workforce members must place discarded removable media in the security scrap box/container for removable media.

When mobile computing facilities such as notebooks, PDA's, blackberries, laptops and mobile phones are used in public places, care must be taken to avoid the risk of unauthorized persons viewing information on the screen. Such equipment must not be left unattended, must be physically locked when not in use, must be encrypted, and must be configured with a password supplied by the Help Desk to enable the equipment to function. All personal, private or sensitive business information (PPSI) must be stored only in encrypted form, and only on external (removable) storage media supplied by the Help Desk. No such information is to be stored on any internal (non-removable) storage devices.

Workforce members in the possession of portable, laptop, notebook, PDA's, blackberries, and other transportable computers must not check these computers in airline luggage systems. These computers must remain in the possession of the traveler as hand luggage unless other arrangements are required by federal or state authorities.

If using telephones outside the Department for business reasons, workforce members should take care that they are not overheard when discussing sensitive or confidential matters, avoid use of any wireless or cellular phones when discussing sensitive or confidential information, and avoid leaving sensitive or confidential messages on voicemail systems. Workforce members must not disclose non-public Department information over an instant messaging, electronic team-room or conferencing system. If sensitive or confidential information will be discussed during a teleconference, workforce members must not send teleconference call-in numbers and pass-codes to a pager.

Clear Desk

At the end of the workday, workforce members must clear their desk of sensitive material. When away from the desk for any length of time, removable media with personal, private or sensitive information (PPSI) must be secured.

Faxing and Printing

Workforce members must not use Internet fax services to send or receive PPSI, must not use third party fax services to send or receive PPSI, and must not send PPSI via wireless fax devices. If sending PPSI documents via fax, workforce members are to verify the phone number of the destination fax and contact the recipient to ensure protection of the fax either by having it picked up promptly or by ensuring that the fax output is in a secure area. When printing a document with PPSI, the document must be picked up immediately.

Passwords

Workforce members must follow password best practices whenever technology permits. These password best practices include but are not limited to:

- Do not write down passwords;
- Use passwords that are not easily guessed or subject to disclosure through a dictionary attack;
- Keep passwords confidential and do not share individual passwords with another individual;
- Change passwords at regular intervals;
- Change temporary passwords at the first logon;
- When technology permits, passwords should contain a mix of alphabetic, numeric, special, and upper/lower case characters; and
- Do not include passwords in any automated logon process, e.g., stored in a macro or function key, web browser or in application code.
- Whenever you leave your desk, press ctrl-alt-delete to lock your computer.

When Working From a Remote Location

Working from a remote location must not occur unless first authorized by the Department. Once approved by the Department, workforce members must ensure that, at a minimum, the following security controls are in place at the remote location:

- PPSI must not be in view of family, friends, or other guests at the home or remote location.
- Passwords must not be written down nor kept in visible locations at the remote location or home.
- Files, printed documents, external storage devices with PPSI must be secured.
- When transporting PPSI, such as files, printed documents, and external storage devices, in a car, these items must be secured.
- All external storage devices must be encrypted.
- Encryption keys must not be stored with external storage devices.
- Paper or media with PPSI must not be discarded at home but must be brought back to the site and disposed via the security scrap mechanisms provided by the Department.
- Home computers used for work must have current anti-virus software, a method for maintaining current signature files, and an active firewall.

Reporting Incidents

Each workforce member must understand his/her role and responsibilities regarding information security issues and protecting the Department's information. Workforce members are required to report any observed or suspected incidents to a manager and/or the ISO or security designee immediately. Workforce members must not attempt to prove a suspected weakness or incident.

Examples of suspected security incidents are:

1. Unsecured computing resources
2. Any unsupervised or otherwise unauthorized person in a server area or a protected area
3. Release of internal directories or other documentation that provides locations of server areas
4. Attempts by an unauthorized individual to obtain access credentials, e.g., ID badges, security access codes, keys.
5. Unauthorized attempts to gain access to DCS network systems or facilities
6. Unapproved hardware connected to the DCS network
7. Computer hardware left in an unsecured area
8. A potential fire or water hazard
9. Damaged equipment, facilities or utilities
10. Loss or misplacement of media (e.g. disks, tapes, paper) containing PPSI that has not been encrypted
11. Inappropriate use of the computing environment
12. Disclosure of PPSI

Reporting Computer Problems

Workforce members are to contact the Help Desk if they notice that their machine is compromised. Possible symptoms of a compromised computer are if the machine is:

- Slow or non-responsive
- Running programs that aren't expected
- Showing signs of high level of activity to the hard drive that is not the result of anything that was initiated by the user
- Displaying messages on the screen that the user hasn't seen before
- Running out of disk space unexpectedly
- Unable to run a program because of lack of memory – and this doesn't happen normally
- Rejecting a valid and correctly entered password

Management

Division Directors and Managers are accountable for enforcing this policy and reporting incidents to the ISO.

Monitoring of Workforce Member Activity

Workforce members should not have an expectation of privacy in anything they create, store, send, or receive on the Department's computing resources. The Department may monitor any and all aspects of its computer systems, including, but not limited to sites visited by workforce members on the Internet, chat groups or newsgroups, material downloaded or uploaded by workforce members to the Internet, or email sent and received by workforce members. The Department conducts content filtering of all Internet activity and outbound and inbound email.

Inspection, monitoring, or reviewing may be done as part of an investigation into allegations of misconduct, fraud, or other wrongdoing; for technical or maintenance purposes; to assure system security; to comply with Department policy and/or legal requirements; or for training purposes. Notifying workforce members that their electronically stored files or communications are being examined will occur optionally at the Department's discretion.

Department of Civil Service Rights

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. The Department has access to all access attempts, messages created and received, and information created or stored using the Department's resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

The Department reserves the right to log and monitor use. The Department reserves the right to remove a user account from the network. The Department assumes no responsibility or liability for files or information deleted.

The Department will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions. Use of any information obtained is at the user's risk. The Department makes no warranties, either express or implied, with regard to software obtained from the internet.

The Department makes no warranties, express or implied, with respect to Internet service, and it specifically assumes no responsibilities for:

- The content of any advice or information received by a user outside NYS or any costs or charges incurred as a result of seeking or accepting such advice;
- Any costs, liabilities or damages caused by the way the user chooses to use his/her agency Internet access;
- Any consequence of service interruptions or changes, even if these disruptions arise from circumstances under the control of the Department. The Department's Internet services are provided on an as is, as available basis.

Clear violations of this policy will result in disciplinary actions as appropriate. The Department reserves the right to change its policies and rules at any time.

DEFINITIONS

Electronic devices: Electronically controlled devices that store data, run programs, execute commands, or transmit information. Electronic devices include but are not limited to USB port memory sticks, laptops, personal digital assistants (PDA), and camera phones.

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Local Drive: A storage drive or device that is connected to one's local computer, rather than on a network server managed by IRM.

PPSI: Personal, private or sensitive information.

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq).
- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation.
- New York State Cyber Security Policy P03-002.
- Information technology – Code of practice for information security management, ISO/IEC 17799.



State of New York
Department of Civil Service
Alfred E. Smith Building
Albany, New York 12236

OFFICE OF HUMAN RESOURCE MANAGEMENT

Acceptable Use Policy Signature Page

ADM-240 (6/05L)

I have read and understand the Acceptable Use Policy, Security Policy 1.05, dated October 1, 2007 that outlines the rights, responsibilities and governance of DCS computing resources and information assets.

I understand that I must do certain things to protect the Department's data and systems. For example, I understand that I am to lock away any floppies that I use when I am away from my desk, lock my computer when I am away from my desk, clear my desk of sensitive material at the end of the day, and report security incidents.

I understand that there are actions that I must **not** take as well. For example, I understand that I must not install programs or change programs already installed on my computer, plug in a piece of equipment to my computer, or disclose my password to others.

I understand that the Department can monitor my actions. I have had the opportunity to ask questions.

I have read and understand this *Acceptable Use Policy*:

Workforce Member's Signature	Date
Workforce Member's Name (print)	
Division/Unit	
Telephone Number	Ext.

Please sign and return this page to Office of Human Resources Management. This page will be filed in your personal history folder. Keep the policy for your use. Please do not hesitate to ask questions to clarify items in this policy.

Policy Name	SECURITY AWARENESS
Category	Security
Policy Number	1.06
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008
Replaces	

PURPOSE

To ensure that workforce members are aware of information security threats and concerns, and are equipped to support organizational security policy in the course of their work.

POLICY STATEMENT

An information security awareness program that addresses the needs of all DCS workforce members must be developed, implemented and maintained. The program will include supplements to the new employee orientation program. When appropriate, the training will be role specific. The program must address security procedures, the workforce member's role and responsibilities regarding the protection of DCS's information assets, and the proper use of its computing resources and facilities. At a minimum, security awareness training must be reinforced annually.

All workforce members must complete the assigned information security awareness training. Division Directors/Information Owners must identify any information security awareness or training needs that arise in their Division. Division Directors must ensure that all Division workforce members complete the assigned information security awareness training, according to the prescribed security awareness program. The ISO will oversee the design and deployment of the information security awareness training. The Information Security Team and the Planning and Training Unit will collaborate in the design and deployment of the awareness program.

DEFINITIONS

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002

- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	PHYSICAL SECURITY
Category	Security
Policy Number	1.07
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To prevent physical breaches to the Department's computing resources and information assets.

POLICY STATEMENT

Critical or sensitive business information processing facilities should be housed in secure areas, protected by a defined security perimeter, with appropriate security barriers and entry controls. They must be physically protected from unauthorized access, damage and interference. The protection provided must be commensurate with the identified risks in the ongoing risk assessment.

Physical barriers must be established around the Department's premises and information processing facilities and facility access controls must be implemented. Access rights for all workforce members must be based on the workforce member's function and must be approved by the Division Director. Access rights should be reviewed and updated regularly. All workforce members must wear Department-issued visible identification. All visitors entering and exiting the building must be supervised or cleared and a record of the visit should be maintained. Workforce members must inquire about the location or activities of any unsupervised non-workforce member in the building. Unexplained activity of any kind must be reported.

All site or building digital access must be disabled immediately upon termination, resignation, or separation from a project, keys or key cards must be collected, and access codes must be changed.

All networking and server resources, whether it be in production, in development, or stored, must be secured in designated secure areas that are locked and either alarmed or monitored. Equipment receiving and distributing procedures should include a registration process and documentation of the personnel receiving and distributing the equipment. The receiving process for equipment must include a central holding and receiving area where incoming equipment can be inspected before moving it to the point of use. The external door(s) of a holding area should be secured when the internal door is opened. Equipment that is not expected must be turned away and not received. On receipt of all equipment, all appropriate inventories must be updated in a timely manner.

All doors to computer rooms must be fire doors and should slam shut. Barriers or walls securing computer rooms must be extended from real floor to real ceiling to prevent unauthorized entry and environmental contamination such as that caused by fire and flooding. Windows throughout the building must be locked and must not be opened. Computer rooms must have up-to-date fire protection. Computer rooms must be located on or above the ground floor. Consideration must

also be given to any security threats presented by neighboring premises, for example, leakage of water from other areas. Equipment must be protected from power failures and other electrical anomalies. Options to achieve continuity of power supplies can be selected based on the risk assessment and business need. Emergency lighting must be provided in case of main power failure. Cabling carrying data or supporting information services should have protective controls commensurate with the risk.

All computing equipment must be raised off of the floor at all times. When closets, drawers, or shelves are used to house production or in development networking equipment, these structures must be secured. Power switches to production servers must be protected from unauthorized and accidental access. All source media for production servers, applications and license keys must be clearly labeled and stored in a secured area. Photographic, video, audio or other recording equipment should not be allowed in server rooms unless authorized. Hazardous or combustible materials should be stored securely at a safe distance from any computing resource. Refer to *Media Handling and Disposal Policy* regarding equipment moves and disposal.

All computing equipment must be maintained in accordance with the supplier's recommended service intervals and specifications to ensure its continued availability and integrity. Only IRM may repair or service computers and records must be kept of all suspected or actual faults and all preventive and corrective maintenance.

All workforce members are involved in the physical security of the Department's security perimeters. Workforce members must not disable or circumvent physical security measures in any manner. These controls must be evaluated annually, during planning stages that may change physical security, or whenever the physical environment changes.

Clear screen technology must be used on all Department workstation screens. Workstation screens that display personal, private or sensitive information (PPSI) must be out of view of public areas. Sensitive material, computer screens, and security scrap deposit boxes must not be placed in an unsupervised common walkway. At the end of the day, workforce members must clear their desk of sensitive material.

Secure faxing procedures must be deployed to secure sensitive faxes that are either being received or being sent. Fax machines that receive or send sensitive information must be positioned out of the line of traffic of both clients and workforce members. Workforce members must retrieve sensitive print and/or faxes immediately upon printing. Access to electronic team-rooms that share sensitive information shall be limited. When working remotely, specific controls are required. Refer to *Acceptable Use Policy* regarding physical security measures when working remotely and when traveling.

Facility repairs relating to physical access must be repaired immediately. If a delay is necessary, additional physical security controls must be established for the time period. All repairs to the building must be supervised and documented. No repair work may occur that is outside of written scope definitions.

DEFINITIONS

Clear screen technology: technology that automatically clears the computer screen based on inactivity.

Electronic team-room: a computer-based multi-user data communication service.

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	ACCESS CONTROL
Category	Security
Policy Number	1.08
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To control access to information systems.

POLICY STATEMENT

The Department's information assets will be protected by logical and physical access control mechanisms commensurate with the value, sensitivity, consequences of loss or compromise, legal requirements and ease of recovery of these assets as identified by the Division Director/Information Owner. Division Directors/Information Owners are responsible for determining who should have access to protected resources within their jurisdiction and what those access privileges will be. These access privileges will be granted in accordance with the user's job responsibilities.

All access methods to the Department's trusted internal network must require all authorized users to authenticate themselves through use of an individually assigned user-ID and an authentication mechanism. Network controls must be developed and implemented that ensure that an authorized user can access only those network resources and services necessary to perform their assigned job responsibilities. Passwords must not be stored in clear text.

Logon banners must be implemented on all systems where that feature exists to inform all users that the system is for Department of Civil Service business or other approved use, and that user activities may be monitored.

When accessing the DCS network remotely, identification and authentication of the entity requesting access must be performed in such a manner as to not disclose the password or other authentication information that could be intercepted.

All remote connections to a computer must be made through managed central points-of-entry. Exceptions require a review by the Information Security Team and a waiver signed by the ISO. In the special case where a server, storage device or other computer equipment has the capability to automatically connect to a vendor to report problems or suspected problems, the review must ensure that connectivity is encrypted and does not compromise the DCS network or other third party connections. Third parties with connections must sign and process a *Third Party Connection and Data Exchange Agreement* with DCS. Every Third Party user must sign a *Third Party Acceptable Use Policy and Agreement*. Refer to *Third Party Connection and Data Exchange Policy* and *Remote Access Policy*.

Access to operating system code, services and commands is restricted to only those individuals for whom such access is necessary in the normal performance of their job responsibilities. All individuals requiring enhanced privileges must be provided with a unique privileged account for their sole use. Usernames must not give any indication of the user's privilege level. If privileged account holders are required to perform business transactions, they must use a second user-ID. Passwords to privileged accounts must not be shared with others unless specific authorization has been given.

In certain circumstances, where there is a clear business requirement or a system limitation, the use of a shared user-ID and password for a group of users or a specific job can be used. Approval by the ISO should be documented in these cases and additional compensatory controls must be implemented to ensure that accountability is maintained.

Where technically feasible, default administrator accounts must be renamed, removed or disabled. The default passwords for these accounts must be changed if the account is retained, even if the account is renamed or disabled.

Access to Department business and systems applications must be restricted to those individuals who have a business need to access those applications or systems in the performance of their job responsibilities. Access to source code for applications and systems must be restricted and additional controls must be placed on this type of access.

Networks will have sufficient controls to maintain a trusted internal network and ensure protection of the services connected to these networks. At a minimum this will contain:

1. Separation of operational responsibility for the networks from computer operations, where practical.
2. Separation of the administration of security from other system administrator roles, where practical.
3. Remote use procedures.
4. Safeguards for data passing across borders to public networks.

Electronic devices must not be attached to a DCS PC unless the use has been approved by the ISO.

Any electronic signature usage and any use of a public key infrastructure (PKI) shall comply with applicable laws and regulations.

Cryptographic controls must be used to protect sensitive information during transmission. A secure environment for controlling cryptographic keys must be created by IRM.

Protocols on network planning, analysis, controls, and deployments must be developed and maintained in a current state by the Information Security Team. The ISO shall be responsible for the analysis, selection, and appropriate use of information security tools. The ISO shall also assist the IRM staff in the establishment of security baselines and controls for networks, hosts, applications and users.

DEFINITIONS

Business Transactions: Procedures, electronic or manual, that are part of the overall mission of the business unit. This type of transaction is defined in order to distinguish it from system administration transactions.

Electronic devices: Electronically controlled devices that either store data, run programs, execute commands, or transmit information. Electronic devices include but are not limited to USB port memory sticks, laptops, personal digital assistants (PDA), and camera phones.

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

Third Party User: an individual that works for the Third Party and uses DCS computing resources and/or data.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	ANTI-VIRUS PROTECTION
Category	Security
Policy Number	1.09
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure that controls are implemented across the Department's computing resources to prevent and detect the introduction of malicious software.

POLICY STATEMENT

Information Resource Management (IRM) must implement anti-virus technical controls to detect and prevent malicious software from being introduced to the Department computing environment. IRM must consider the types of anti-virus technical controls and timeliness of updating of these controls on a routine basis, dependent on the ongoing risk assessment and the sensitivity of the information that could be potentially at risk.

Virus signature files must be updated in a timely manner, based on the ongoing risk assessment. Regular updates are required.

On network production systems or servers, the signature files will be updated in a timely manner, based on the ongoing risk assessment. In the absence of a risk assessment, either daily updates must occur, or when the anti-virus software vendor's signature files are updated and published, whichever is later.

All employees are responsible for abiding by all requirements in the *Acceptable Use Policy* to assist in the protection of the Department's computing resources and information assets in regard to protection against malicious software.

Virus outbreaks must be fully documented and reported to the security incident response team. Refer to *Security Incident Response and Management Policy*.

DEFINITIONS

Anti-Virus Software: Software that can be installed to prevent and detect the introduction of malicious software.

Malicious Software: software such as computer viruses, network worm programs and Trojan horses that can cause serious damage to networks, workstations and business data or could cause the unauthorized disclosure of sensitive information.

Virus: A program that replicates itself on computer systems by incorporating itself into other programs that are shared among computer systems. Once in the new host, a virus may damage data in the host's memory, add data on the local drive and any mapped network drive, display unwanted messages, crash the host or, in some cases, simply lie dormant until a specified event occurs.

Worm: A program similar to a virus that replicates itself over a network, consuming large quantities of network resources.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	MONITORING SYSTEM ACCESS AND AVAILABILITY
Category	Security
Policy Number	1.10
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure the detection of unauthorized activities, system and application unavailability, and to provide information for capacity planning.

POLICY STATEMENT

Systems must be monitored to record and review events to detect deviation from access control policy, to detect deviation from system availability requirements, and to provide evidence in case of security incidents. Monitoring controls must be established and reviewed based on conformity to the access control policy and availability requirements.

The risk factors that are monitored are based on the criticality of the application processes, the sensitivity of the information involved, the past experience of system infiltration and misuse, and the extent of system interconnections.

The areas of risk in monitoring for system access and use and availability will change with technology changes, incident reporting, and deployment of new applications/systems.

Event logging must be designed to support all anticipated investigations of security incidents. Event log accuracy measures must be implemented. Technical or operational procedures must be developed and maintained to synchronize system clocks and to verify that system clocks do not vary significantly.

Routine log review is required. The design of log review must also be responsive to the risk factors and the risk areas. Automated alerts may be implemented.

In monitoring system access and use, the areas in scope must include, but not be limited to: user, date and time of key events, type of event, program/utilities used, use of privileged accounts, system start-up and stop, device attachment, and suspected violations of access control policy. When technically feasible, files accessed should be monitored. In monitoring system availability, the areas in scope must include, but not be limited to console alerts or messages, system log exceptions, network management alarms, and application availability.

Access to the system log(s) is restricted to designated system administrators. A list of approved system administrators must be maintained by the security office. Occasional reviews of the system log access approval list will occur without notice. All access to system logs must be logged and monitored. Additional protections must be applied to protect the system log from alteration, overwriting, or failure to record.

Disabling any type of system logging service without written authorization is prohibited, will be considered a security incident, and will be investigated.

Log files will be retained, deleted and purged according to a schedule. If an investigation has begun, the log files will not be purged for the time period of interest to the investigation.

Workforce members should be advised that monitoring of their system use is occurring. All DCS systems can be subject to user monitoring. This monitoring of system use may include the sites visited.

Division Directors must supervise system use to ensure compliance with this and other related policies. Workforce members may be required to participate in security incident investigations. All workforce members are required to report security incidents to a manager and/or the ISO.

Refer to *Access Control Policy*, *Acceptable Use Policy*, *Security Incident Response and Management Policy*.

DEFINITIONS

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	USER ACCOUNTS
Category	Security
Policy Number	1.11
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To prevent unauthorized access to Department computing resources and information assets.

POLICY STATEMENT

Access to computer systems must be provided through the use of individually assigned unique computer identifiers.

The Department will employ a user management process of generating, distributing, modifying, suspending, and deleting user accounts for access to resources, including privileged user accounts. Users with privileged accounts should only use these accounts to carry out administrative tasks that require privileged access; accounts with non-privileged rights should be used for routine tasks. Privileged accounts shall be monitored and misuse investigated.

The use of shared accounts must be approved by the ISO. User registration standards for external users must be defined by the Division Director/Information Owner. All third party accounts must have a termination date. Refer to *Third Party Connection and Data Exchange Policy*.

All privileged accounts must be monitored and suspected misuse of these accounts must be promptly investigated. Passwords of privileged accounts must be changed regularly.

All accounts must be reviewed periodically.

Password rules must be mandated by automated system controls whenever possible. Refer to *Acceptable Use Policy* for password best practices. Complex passwords must be enforced for remote access to the network. Refer to *Remote Access Policy* and *Third Party Connection and Data Exchange Policy*.

Information Resource Management is responsible for creating, suspending, disabling, and deleting user accounts based on instructions from Office of Human Resources Management. They are also responsible for granting access permissions to users based on instructions from the appropriate authorizing manager. Additionally, these administrators, in conjunction with Director of Internal Audit, are responsible for monitoring information system activity to identify potential security events, verifying that access permissions are being properly implemented, resetting passwords, and assisting users with difficulties involving system and network access.

DEFINITIONS

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Privileged Account: The account of an individual whose job responsibilities require special system authorization, such as a network administrator, security administrator, system administrator.

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Suspending an Account: Making an account not usable while not deleting the account or account information.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

Third Party User: an individual that works for the Third Party and uses DCS computing resources and/or data.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	REMOTE ACCESS
Category	Security
Policy Number	1.12
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish security controls for users accessing the Department of Civil Service's computing resources and information assets from a remote location.

POLICY STATEMENT

Remote access connections to the Department of Civil Service's network must be done in a secure manner to preserve the integrity of the network, data transmitted over that network, and the availability of the network. All remote access requests must be reviewed for appropriateness of access and to ensure that the work environment at the remote location provides adequate security. Of consideration are:

1. physical security of the remote location
2. sensitivity of the information that may be accessed and transmitted
3. current level of risk of unauthorized access to information or resources from other people using the accommodation, e.g. family and friends
4. the suitability of the communication equipment, including methods for securing remote access
5. anti-virus software and method for maintaining current signature files
6. firewalls and intrusion detection techniques at the remote location
7. encryption of personal, private or sensitive information (PPSI) in transit and on the local computer workstation
8. family and visitor access to equipment and information
9. the provision of hardware and software support and maintenance
10. the procedures for back-up
11. audit and security monitoring
12. revocation of authority, access rights and the return of equipment, if applicable, when the remote access activities cease
13. segregation of remote networks accessing the Department networks

Remote access users must have a legitimate business need and be approved by their manager, the applicable Division Director/Information Owner, and the ISO.

All remote access to the Department's network must use designated remote access gateways and authorized user accounts. Centralized and secure mechanisms for dial up must be in place. Individual accountability must be maintained at all times during remote access. Identification and authentication of the entity requesting access must be performed in such a manner as to not disclose the password or other authentication information that could be intercepted and used by a third party. Remote access points shall be monitored.

Remote users connected to the Department's network must not be simultaneously connected to any other network such as third party agency networks or separate dial-up connections to the Internet.

Under no circumstances will a user attempt to add a remote access server to the network.

The remote user must ensure the physical security of the remote location. The remote user must use best practices to protect any password(s) used when working from a remote location. The computer used for the remote access must have a firewall and up-to-date anti-virus software. All workforce members must have signed an *Acceptable Use Policy* prior to gaining approval for remote access. All third party users must have signed a *Third Party Connection and Data Exchange Agreement* prior to gaining approval for remote access. Third party remote access is also addressed in the *Third Party Connections and Data Exchange Policy*.

Division Directors shall be accountable to ensure that employees and contractors are provided with approved access to the Department network.

The ISO shall regularly determine and review the various methods of connectivity into the Department networks for the appropriateness of the controls. A risk assessment must be conducted annually.

DEFINITIONS

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

Third Party User: an individual that works for the Third Party and uses DCS computing resources and/or data.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	THIRD PARTY CONNECTION AND DATA EXCHANGE
Category	Security
Policy Number	1.13
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2005
Revision Date	October 1, 2006

PURPOSE

To ensure that 1) a secure method of network connectivity between the Department of Civil Service and all third parties are used and to provide a formalized method for the request, approval and tracking of such connections, and 2) to ensure secure controls for information that is released outside of DCS.

POLICY STATEMENT

All Third Party connection and data exchange requests must be approved by the ISO or designee. All requests for Third Party connections and data exchanges must be submitted to the ISO by Division Directors/Information Owners. Division Directors/Information Owners may permit a Third Party to create, receive, maintain, or transmit sensitive DCS information only if the Third Party provides satisfactory assurances that the third party will appropriately safeguard the information. The satisfactory assurances must be documented in the Third Party Connection and Data Exchange Agreement and signed by the Third Party.

Division Directors/Information Owners must evaluate and document the level of sensitivity of the information to be created, received, maintained, or transmitted by the Third Party.

Information Resource Management (IRM) is responsible for the security review of the request, account creation, installation and configuration for the Third Party connection, and determination of the data exchange method.

As a part of the request and approval process, the technical and administrative contact within Third Party's organization, if authorized, or an authorized officer of the Third Party will be required to read and sign the Third Party Connection and Data Connection Agreement.

The Third Party must require that each third party user completes a Third Party Acceptable Use Policy and User Agreement. The Third Party must ensure that DCS is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection and Data Exchange Agreement.

1. Right to Use Connection. Third Party may only use the connection and the information obtained from DCS for business purposes as outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2).
2. Data Exchange.

- 2.1 Third Party may only use the data obtained for purposes outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2) and the contract or Memoranda of Understanding, if any, that exists between DCS and Third Party for the provision of goods or services or governing conduct between DCS and Third Party with respect to the access to and use of DCS data.
 - 2.2 Data exchange may be conducted only by methods and/or services outlined by the Third Party Connection and Data Exchange Request Requirements Document (Attachment 2). Third Party should expect that access to information and services may be limited, as determined or required by DCS.
3. Network Security.
 - 3.1 Third Party will allow only its own employees approved in advance by DCS ("Third Party Users") to access the Network Connection or any DCS-owned equipment. Third Party shall be solely responsible for ensuring that Third Party Users are not security risks, and upon DCS' request, Third Party will provide DCS with any information reasonably necessary for DCS to evaluate security issues relating to any Third Party User.
 - 3.2 Third Party will promptly notify DCS whenever any Third Party User leaves Third Party's employ or no longer requires access to the connection or DCS-owned Equipment.
 - 3.3 Each Party will be solely responsible for the selection, implementation, and maintenance of security procedures and policies that are sufficient to ensure that (a) such party's use of the connection (and Third Party's use of DCS-owned Equipment) is secure and is used only for authorized purposes, and (b) such Party's business records and data are protected against improper access, use, loss alteration or destruction.
 - 3.4 The preferred connectivity method is via the Internet to a DCS-approved or DCS-provided Virtual Private Network (VPN) device. If the device is DCS-provided, DCS will loan the Third Party, in accordance with the DCS Equipment Loan Agreement, the required client software for establishing VPN connections with DCS. Normal DCS perimeter security measures will control access to the internal network.
 - 3.5 Extranet – Designated routers are used in combination with firewall rules to allow access to be managed. A second authentication may be required.
 - 3.6 Remote Access - Using the DCS-provided remote access software, Third Party will connect via an Internet browser. The account may be disabled until usage is required and controls are placed and managed by DCS. Third Party will be required to follow procedures to enable the account for each use.
 - 3.7 Third Party Connections will be audited. All remote access user accounts for Third Parties will be given an expiration time. Renewals must be requested by

Third Party and approved by the Department Sponsor. Obsolete Third Party connections will be terminated.

- 3.8 Software versions on all Third Party computers that connect to the DCS network must be versions that are currently supported by the software manufacturer, and all available security updates and hot fixes for that software must be applied in a timely fashion. Software and firmware for all Third Party networking equipment that is part of the connection to the DCS network must be kept up to date, especially with patches that fix security vulnerabilities.
- 3.9 Anti-virus software and firewalls must be installed and enabled at all times on DCS-owned computers and on Third Party computers that connect to the DCS network. Additionally, virus definition files must be kept up to date.
- 3.10 In no case may a Third Party Connection to DCS be used as an Internet Connection for Third Party or for a Third Party User.

4. Notifications.

- 4.1 Third Party shall notify DCS in writing promptly of any change in its Users for the work performed over the Network Connection or whenever Third Party believes a change in the connection and/or functional requirements of the connection is necessary.

Any notices required by this Agreement shall be given in hand, sent by first class mail, or via facsimile to the applicable address set forth below.

Third Party:

NYS Department of Civil Service:
State Campus, Building One
Albany, New York 12239

Attention: _____

Attention: _____

5. Citizen Notification

If Third Party maintains "identifying personal information" on behalf of the Department and such information is compromised, Third Party shall notify the Department immediately that the information has been compromised, the circumstances under which the information was compromised, and the measures undertaken by Third Party to address those circumstances and to otherwise mitigate the effects of the compromise. If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and the information will be considered compromised through unauthorized access. If the Department requests Third Party to do so, Third Party shall notify the persons whose identifying information was compromised. Such notification shall be communicated via postal service or email, as directed by the Department, and shall otherwise be executed in accordance with the Department's direction. Notification shall be delayed if a law enforcement agency determines that such notification may impede a criminal investigation. For the purpose of this section, "identifying personal information" shall be any information concerning an individual which, because of name, number, symbol, mark or other identifier in combination with any of the following, is unencrypted: (1) Social Security Number; or

- (2) driver's license number; or (3) financial account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account; or (4) password which would permit access to the individual's account.
6. Payment of Costs. Each Party will be responsible for all costs incurred by that Party under this Agreement, including, without limitation, costs for phone charges, telecommunications equipment and personnel for maintaining the connection.
7. Confidentiality.
- 7.1 Information exchanged for the business purposes outlined in Attachment 2 will be held confidential by the Parties to the maximum extent permitted by law. Each Party may internally use the information received from the other Party hereunder in connection with and as specifically necessary to accomplish the Business Purpose set forth in Attachment 2 and for no other purposes. Each Party may otherwise share such information with other third parties (e.g. consultants, subcontractors, control agencies) as required or permitted by law in order to effect the business purposes outlined in Attachment 2 and for no other purposes, provided that such third parties agree to the confidentiality restrictions set forth herein and as may be required otherwise by State and federal law.
- 7.2 Third Party must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the sensitive information that it creates, receives, maintains, or transmits on behalf of DCS.
- 7.3 Unencrypted DCS information must not be transmitted over email.
- 7.4 Third Party must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it and report to the DCS Help Desk any security incident of which it becomes aware.
8. Third Party Users
- 8.1 Third Party must require that each Third Party User executes a Third Party Acceptable Use Policy and Agreement (Attachment 3). Third Party must ensure that DCS is notified by fax or mail when the user base changes, following the specifications in the Third Party Connection & Data Exchange Agreement.
- 8.2 All aspects of Third Party connections within DCS control may be monitored by the appropriate DCS support group and/or the DCS ISO. Any unauthorized use or change to devices will be investigated immediately.
- 8.3 All Third Party Connections will be reviewed on a regular basis and information regarding specific Third Party connection will be updated as necessary. Obsolete Third Party connections will be terminated.
9. DCS-owned Equipment.

- 9.1 DCS may, in DCS' sole discretion, loan to Third Party certain equipment and/or software for use on Third Party premises (the DCS-owned Equipment) under the terms of the DCS Equipment Loan Agreement set forth in Attachment 4. DCS-owned equipment will only be configured for TCP/IP, and will be used solely by Third Party on Third Party's premises or other locations authorized by DCS for the purposes set forth in this Agreement. DCS is responsible for ensuring that it has the right under applicable software licenses to permit third party use.
- 9.2 Third Party may modify the configuration of the DCS-owned equipment only after notification and approval in writing by authorized DCS personnel.
- 9.3 Third Party will not change or delete any passwords set on DCS-owned equipment without prior approval by authorized DCS personnel. Promptly upon any such change, Third Party shall provide DCS with such changed password.

DEFINITIONS

Department Sponsor: An individual in the DCS business unit that acts as custodian and requester for the third party connection. Often this is the Information Owner/Division Director or the Data Custodian.

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

Third Party User: an individual that works for the Third Party and uses DCS computing resources and/or data.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	INFORMATION SYSTEM DEVELOPMENT
Category	Security
Policy Number	1.14
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure that security is built into information systems, and to prevent loss, modification or misuse of user data in information systems in production.

POLICY STATEMENT

To ensure that security is built into information systems, statements of business requirements for new information systems, or enhancements to existing information systems. Specifications must address security needs and include requirements for controls. Such specifications must consider the automated controls to be incorporated in the system, and the need for supporting manual controls. Similar considerations must be applied when evaluating software packages for business applications. The ISO must be involved in all phases of the lifecycle of system development, from the requirements definition phase through implementation and eventual application retirement.

Security requirements should reflect the sensitivity of the information assets. The framework used to identify controls is the risk assessment and risk management framework. Refer to *Data Classification Policy* and *Risk Analysis and Management Policy*. Procedural, technical and administrative controls should address:

1. Audit controls
2. Data input validation
3. Internal processing controls
4. Message integrity
5. Output data validation
6. The possible need for cryptographic controls
7. Security of system files

All specific control mechanisms must be documented.

Test Data

Once test data is developed, it must be protected and controlled for the life of the testing to ensure a valid and controlled simulation with predictable outcomes.

Production data may be used for testing only if all of the following controls are applied;

1. A business case is documented and approved in writing by the Division Director/Information Owner and access controls, system configurations and logging requirements for the production data are applied to the test environment; or

2. A business case is documented and approved in writing by the Division Director/Information Owner and Personal, Private or Sensitive Information (PPSI) will be masked or overwritten with fictional information and the data will be deleted as soon as the testing is completed.

Change Control Processes

To minimize the possibility of corruption of information systems, formal change control procedures for business applications must be developed, implemented and enforced. The procedures must ensure that security and control procedures are not compromised, that support programmers are given access only to those parts of a system necessary to perform their jobs, and that formal agreement and approval processes for changes are implemented. These change control procedures will apply to business applications as well as systems software used to maintain operating systems, network software, and hardware changes.

Source Code Libraries

In addition, access to source code libraries for both business applications and operating systems must be tightly controlled to ensure that only authorized individuals have access to these libraries and that access is logged to ensure all activity can be monitored.

Restrictions on Changes to Software Packages

Modifications to software packages are discouraged. Where it is deemed essential to modify a software package, the following points must be addressed:

1. The risk of built-in controls and integrity processes being compromised
2. Whether the consent of the vendor should be obtained
3. The possibility of obtaining the required changes from the vendor as standard program updates
4. The impact if the organization becomes responsible for the future maintenance of the software as a result of changes

Outsourced Software Development

Where software development is outsourced, the following points should be considered:

1. Licensing arrangement, code ownership and intellectual property rights
2. Certification of the quality and accuracy of the work carried out
3. Escrow arrangements in the event of failure of the third party
4. Rights of access for audit of the quality and accuracy of work done
5. Contractual requirements for quality of code
6. Testing before installation to detect Trojan code

DEFINITIONS

Information System: an interconnected set of information resources under the same direct management control that shares common functionality. A system may include hardware, software, information, data, applications or communications infrastructure.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	SECURITY INCIDENT RESPONSE AND MANAGEMENT
Category	Security
Policy Number	1.15
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To minimize the damage from security incidents and malfunctions, and to monitor and learn from such incidents.

POLICY STATEMENT

All workforce members must work to contribute to an effective Department incident response and management process that results in a prompt and organized response to security incidents.

Each workforce member must understand his/her role and responsibilities regarding information security issues and protecting the Department's information. Workforce members are required to report any observed or suspected incidents to a manager and/or the ISO or security designee immediately. Workforce members must not attempt to prove a suspected weakness or incident.

Examples of suspected security incidents are:

1. Unsecured protected computing resources
2. Any unsupervised or otherwise unauthorized person in a server area or a protected area
3. Release of internal directories or other documentation that provides locations of server areas
4. Attempts by an unauthorized individual to obtain access credentials, e.g., ID badges, security access codes, keys.
5. Unauthorized attempts to gain access to DCS network systems or facilities
6. Unapproved hardware connected to the DCS network
7. Hardware left in an unsecured area
8. A potential fire or water hazard
9. Damaged equipment, facilities or utilities
10. Loss or misplacement of media (e.g. disks, tapes, paper) containing Personal, Private, or Sensitive Information (PPSI)
11. Inappropriate use of the computing environment
12. Disclosure of PPSI
13. Other violations to the *Acceptable Use Policy*

Managers receiving a security report must report the incident upward to the ISO. It is the ISO's responsibility to establish an incident investigation and alert Information Resource Management (IRM) and affected Divisions of possible damages. IRM, including the Help Desk, and affected Divisions receiving an alert must act immediately, or as described on the ISO alert.

The ISO must notify the Information Security Team of all reported incidents. The Information Security Team must document the symptoms of the problem and must take steps to isolate the problem immediately. The Information Security Team and other workforce members will be identified to assist with analysis and identification of the cause of the incident, planning and implementation of corrective actions to prevent reoccurrence, collection of audit log information, and communication with those affected by or involved in the recovery from the incident.

To capture recurring incidents and to record lessons learned, the Information Security Team must ensure that all incidents are tracked by type and that information on volumes of security incidents and malfunctions is gathered.

Because the act of testing weaknesses could have unintended consequences, workforce members must not attempt to prove a suspected weakness unless specifically authorized by the ISO to do so.

Disciplinary action, consistent with the Civil Service Law and the negotiated agreements, will be brought against any employee of the Department found to be engaging in such incidents or who retaliates against any employee who reports or complains of activities related to an incident.

Feedback on investigations must be provided regularly and promptly to the ISO. Individuals reporting incidents will be notified when the incident has been closed. The details of the incident review, including the resolution, are confidential and will not be disclosed to the reporting individual.

The Office of Cyber Security Critical Infrastructure and Coordination will receive incident reports from the ISO. The ISO is responsible for all external reporting and notification.

See also Policy 1.24, *Citizen Notification*, for special procedures relating to security breaches that may have disclosed the private information of any New York State residents to unauthorized persons.

DEFINITIONS

Information Security Incident: The attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	CONTINGENCY PLANNING
Category	Security
Policy Number	1.16
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure the continuity of critical operations, the protection of information assets, and the prevention of damage to computing resources in the event of an emergency, disaster, or other occurrence that damages or compromises computing resources, information assets, or business functions.

POLICY STATEMENT

The Department of Civil Service requires each Division to participate in a Department-wide contingency planning effort to establish and implement policies and procedures for responding to an emergency or other occurrence that damages or compromises computing resources, information assets, and business functions. In addition, the Department is committed to compliance with Federal and State regulations including the Health Insurance Portability Accountability Act (HIPAA) Security rule that requires contingency planning for responding to an emergency or other occurrence that damages or compromises systems that contain electronic protected health information. Division contingency planning efforts must result in written plans. These plans may include a Contingency Plan, a Disaster Recovery Plan and a Business Continuity Plan. Plans must be maintained to a current state of readiness.

Contingency plans must be developed and must be written in coordination between other emergency preparedness planning efforts including, but not limited to, emergency preparedness planning and crisis communication planning. Contingency plans must be written with input and support from other planning efforts such as cyber-incident response planning, monitoring planning, and auditing planning. Contingency plans must be developed in relation to sensitivity levels assigned by Division Directors/Information Owners to each information asset. Contingency plans must be compatible with program requirements for the business and support functions.

The scope of the contingency planning must include:

- Organizational framework for contingency efforts including the roles and responsibilities of team members.
- Scope as applied to the type of platform and organizational functions subject to the planning
- Procedures for responding to an emergency or other occurrence that damages or compromises computing resources and/or information assets in the Department.
- List of applications with Private, Personal or Sensitive Information (PPSI) including those with protected health information.

- Procedures for system/application backup planning, including frequency of backups and storage of backup media.
- Procedures for system/application recovery.
- Procedures for the continuity of system support.
- Enabling the continuation of critical business processes for protection of the security of electronic protected health information while operating in emergency mode.
- Coordination with system development projects to ensure that contingency is addressed in each system development lifecycle phase.
- Business recovery goals and procedures, by priority, based on a business impact analysis.
- Notification, plan activation, and plan deactivation procedures.
- Resource requirements, training requirements, exercise and testing schedules.
- Plan maintenance schedule.
- Maintenance and distribution responsibilities.

DEFINITIONS

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799
- National Institute of Standards and Technology (NIST), Contingency Planning Guide for Information Technology Systems, SP 800-34

Policy Name	SYSTEM BACKUP AND RESTORATION
Category	Security
Policy Number	1.17
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure that interruptions to normal business operations are minimized and that sensitive business applications and processes are protected from the effects of major failures.

POLICY STATEMENT

To ensure that interruptions to normal business operations are minimized and that sensitive business applications and processes are protected from the effects of major failures, a comprehensive backup strategy must be developed and maintained, based on a risk assessment and the sensitivity of each information asset. The Division Director/Information Owner, in cooperation with the Information Security Team and Information Resource Management (IRM), must ensure that regular backups are created of all sensitive information that is stored on network file servers or production servers. IRM must develop plans that can meet the backup and recovery requirements of the Division. Retention requirements must be determined by the Division Director/Information Owner. If personal, private or sensitive information (PPSI) is stored on a personal computer, the owner of that data is responsible for backing up that information. All users must follow the instructions of Division Directors/Information Owners on the proper storage and disposal of electronic information.

Routine backups of the operating system, programs, applications, and data files must be performed. Backup tapes and removable media must be stored in a secure facility offsite. A separate network should be used for backups where feasible. Access to the back-up network must be restricted. Back-up equipment, tape library and tapes must be kept in a secure area. Only authorized workforce members will be allowed to enter this secured area. Personnel charged with performing backups will receive training. The backup planning efforts should keep training requirements in mind. Backup and recovery procedures must be fully documented and must be tested regularly. Backup procedures must include procedures to be followed whenever equipment is moved. Requests for data restores must be authorized by the Data Custodian for that information asset.

The ISO and the Information Security Team must review the physical and logical security controls used in the backup strategy and recommend changes to the process when information security considerations warrant the changes.

Refer to *Data Classification Policy*.

DEFINITIONS

Data Custodian: The individual appointed by the Division Director/Information Owner to make decisions on their behalf.

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

Sensitivity: The measurable, harmful impact resulting from disclosure, modification, or destruction of information. There are three measures of sensitivity for every information asset: confidentiality, integrity, and availability.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	AUDIT AND COMPLIANCE
Category	Security
Policy Number	1.18
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To avoid breaches of any criminal and civil law, statute, regulation or contract; to ensure compliance of systems with organizational security policies and standards; and to maximize the effectiveness of and to minimize interference to/from the system audit process.

POLICY STATEMENT

An effective ongoing audit process is an important component of the Department security and risk management program. The Department is subject to both external and internal audits on a regular basis and as deemed necessary by the Director of Internal Audit. At a minimum, the Director of Internal Audit conducts a comprehensive annual review of the Department's computer network policies and procedures.

The Director of Internal Audit performs independent checks of the Information Security Team, using audit software to track administrative activities for unauthorized access and sign-on attempts. Additionally, in the course of normal system maintenance and administration, the Information Security Team must periodically test the effectiveness of the controls of its own logical and administrative security control systems.

On at least an annual basis and whenever operational or environmental changes affect the security of sensitive information, the Department, through the direction of the ISO, shall review security policies and procedures to ensure that they continue to meet all legal and regulatory requirements and relevant best practices.

Regular reporting on the effectiveness of compliance efforts shall be accomplished by the ISO. The Department shall have the expectation of CSCIC reviews. The Department will evaluate compliance against the CSCIC policy annually and develop appropriate mitigation plans.

All workforce members are responsible for ensuring that all relevant security processes and procedures are followed and can expect regular reviews of compliance. Workforce members shall report any compromise or suspected compromise to management. Refer to *Security Incident Response and Management Policy*.

The Director of Internal Audit is responsible for regularly auditing information security controls and practices to ensure compliance with all relevant Department security policies and procedures.

The ISO or his/her designee is responsible for overseeing regular reviews of information system activities to verify compliance with security policies and to be aware the risks to which

information assets are vulnerable. Additionally the ISO or his/her designee is responsible for evaluating the extent to which the information security program and its policies are still in compliance with relevant laws and regulations. The Office of the Counsel will assist the ISO in this effort.

DEFINITIONS

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	POLICY REVIEW AND REVISION
Category	Security
Policy Number	1.19
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish a process for revising the Department's Information Security Policy.

POLICY STATEMENT

Policy revisions may be required as the business needs of the Department change, as the technology environment advances, as additional compliance issues arise, and when business environment changes demand a more robust security orientation. In addition, all information security policies must have a scheduled review date and must be reviewed at that time for revisions. When making the decision to revise these policies, the following should be considered:

- Whether or not there is an acceptable alternative to the established policy
- When a particular business function cannot be performed effectively if the policy is not revised
- When a business function is no longer cost-effective by following the policy as written
- When failure to change the policy would result in an unacceptable level of risk to the Department

Requests for policy changes can be sent to the ISO, briefly stating the underlying business problem and recommended approach. The ISO will be responsible for maintaining overall Information Security Policies. Should any exceptions to these policies be granted, they will be documented and maintained by the ISO.

The Information Security Steering Committee is chaired by the ISO, and includes representatives from Information Resource Management, Office of Human Resources Management, the Office of Financial Administration, Director of Internal Audit, and the Office of the Counsel. The Information Security Steering Committee oversees the activities and deliverables of the Information Security Team and formulates Department of Civil Service information security policy and strategy. The Commissioner's Office has final approval authority over all policies, protocols, standards, guidelines, and procedures.

Exceptions to this policy must be first submitted for approval to the Division Director/Information Owner and then to the ISO. The ISO will be responsible for maintaining this policy and obtaining approval for changes.

DEFINITIONS

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	RISK ASSESSMENT AND MANAGEMENT
Category	Security
Policy Number	1.20
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To enable the Department to identify risks to the confidentiality, integrity, and availability of the Department's information assets and computing resources, and to determine reasonable and appropriate security measures to address those identified risks.

POLICY STATEMENT

The Department must conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of the Department's information assets and computing resources, and then determine and implement security measures sufficient to reduce the risks and vulnerabilities to a reasonable and appropriate level. The scope of the risk assessment should be comprehensive enough to enable these measures to be developed.

The risk assessment and management framework includes:

1. **Risk Assessment:** comprehensive annual review, measurement, and rating of security vulnerability and threats.
2. **Mitigation Strategy Development:** ongoing process of developing and refining a strategy towards resolving and addressing security risks.
3. **Intervention and Mitigation:** execution of the interventions established in the mitigation strategy
4. **Workforce Communication and Training:** utilizing communication and training techniques to explain risk mitigation efforts and to enlist partnership and participation in security risk mitigation
5. **Evaluation and Revision:** determination of success measures and revision of the mitigation strategy

Security domains that must be addressed in the risk assessment and management process include:

1. Security Policy
2. Organizational Security
3. Asset Classification and Control
4. Personnel Security
5. Physical and Environmental Security
6. Communications and Operations Management
7. Access Control
8. Systems Development and Maintenance
9. Business Continuity Management
10. Compliance

The ISO has the responsibility for:

- Overseeing the risk assessment and management process for the Department
- Approving the risk assessment and management strategy
- Endorsing and promoting the risk assessment and management strategy

Each Division Director/Information Owner has the responsibility for:

- Oversight of the risk management program for the Division
- Coordinating risk management activities across the Division
- Assigning of assessment team participants
- Endorsing and promoting the risk assessment processes in the Division
- Approving the risk management processes in their Division

The Information Security Team has the responsibility for:

- Developing and recommending risk management strategies and processes
- Establishing risk assessment schedules and scope
- Conducting risk assessments processes

Each Application Owner has the responsibility for:

- Participating in risk assessment interviews
- Completing risk assessment questionnaires
- Identifying and clarifying security risks
- Assigning assessment team participants

All workforce members have responsibilities to follow the security policies that DCS has established.

To reduce the security risks of new technology and workforce practices, focused security risk assessments must occur as an integral part of the introduction and design of new technologies and workforce procedures. These risk assessments are in addition to the ongoing requirement of risk assessment.

Use of vulnerability scanning and penetration testing methods to assist with risk assessment will be based on an evaluation of the environment and the development of a strategy for the use of the findings. All scanning and penetration testing requires prior approval from the ISO. Workforce members must not attempt to test vulnerabilities.

DEFINITIONS

Information Asset: All categories of information, including but not limited to: records, files, and databases.

Information Owner: The Division Director that has responsibility for making classification and control decisions regarding use of information assets.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	MEDIA HANDLING AND DISPOSAL
Category	Security
Policy Number	1.21
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To prevent disclosure of personal, private or sensitive information (PPSI) and to prevent loss, damage, or compromise of assets and interruption to business activities.

POLICY STATEMENT

All procedures for the handling of computer and server equipment and storage media must be approved by the ISO. Computer and server handling for reassignment, service, or for disposal procedures can only be conducted by authorized Information Resource Management (IRM) individuals. IRM must ensure that hard disk drives are physically destroyed or securely overwritten when no longer to be used. IRM must ensure that PPSI is removed from computers when the computers will be reused or reassigned. Logs must be maintained for all computer and server moves.

Workforce members observed using or moving equipment or other media that is not assigned to their individual use must be reported to the manager immediately.

Workforce members must not dispose of removable media in the trash. Collection boxes for removable media must be provided in each Division and must be secured until pickup. These collection boxes must be clearly marked as security scrap and must be separate from paper security scrap. For pickup, Divisions should tape the box closed and contact Shipping.

Division Director approval must be obtained to use removable media with Department computing resources. All portable or removable media must be encrypted. Encryption keys must not be stored with portable device. Workforce members authorized to use removable media must not leave removable media unsecured on their desktops. Before removing media from the physical site, workforce members must inform their supervisor. On returning media to the physical site, workforce members must scan the media for viruses. Assistance is provided by the Help Desk.

Paper documents and printed output with sensitive information must be disposed of by either shredding the document or using the security scrap boxes supplied to each Division. Security scrap boxes must be stored in supervised areas or locked in rooms during unsupervised hours. They should not be stored within public or commonly used walkways.

When Division policies are more stringent, the Division policy will supersede this policy.

Refer to *Acceptable Use Policy* and *Physical Security Policy*.

DEFINITIONS

Removable media: storage platforms that can be separated easily from the computing resource. Examples include: removable disks of any kind, magnetic tapes, cassettes, CDs, personal digital assistants, film, memory sticks.

Workforce Member: Staff, contractor, volunteer, intern working for or on behalf of the Department of Civil Service.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	OPERATIONAL MANAGEMENT
Category	Security
Policy Number	1.22
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure the correct and secure operation of information processing facilities.

POLICY STATEMENT

All Department information processing facilities must develop and maintain documented operating instructions and management processes for information security incidents. Computing hardware, software or system configurations provided by the Department must not be altered or added to in any way unless exempted by documented written policy or specific approval.

Operational and management responsibilities must be clearly defined for service provisioning by or for the Department. The Division Directors shall implement organizational structures and request system designs that segregate the activities requiring collusion to commit fraud.

Where practical, management and execution duties must be separated. Where separation is difficult to achieve, compensating controls must be implemented. The ISO and the Information Security Team shall not audit itself.

Separation of Development, Test, and Production Environments

Separation must be implemented between development and test functions. A stable quality assurance environment where testing can be conducted and changes cannot be made to the programs being tested must be ensured. Processes must be documented and implemented to govern the transfer of software between environments. The following controls must be used:

1. Development software and tools must be maintained on computer systems isolated from the production environment, either physically separate machines or separated by access controlled domains or directories.
2. Access to compilers, editors and other system utilities must be removed from production systems when not required.
3. Logon procedures and environmental identification must be sufficiently unique for production, testing and development.
4. Controls must be in place to issue short-term access to development staff to correct problems with production systems allowing only necessary access.

System Planning and Acceptance

Advance planning and preparation must be performed to ensure the availability of adequate capacity and resources. The security requirements of new information systems must be established, documented and tested prior to their acceptance and use.

Acceptance criteria must be developed and documented for new information systems, upgrades and new versions of existing systems. Testing to ensure that the security requirements are met must be performed prior to the information system being migrated to the production environment.

Covert Channels and Trojan Code

Where covert channels or Trojan code are a concern, the following must be considered:

1. Buying programs only from a reputable source
2. Buying programs in source code so the code may be verified
3. Using evaluated products
4. Inspecting all source code before operational use
5. Controlling access to, and modification of, code once installed
6. Use staff of proven trust to work on key systems

Software Maintenance

Vendor supplied software must be maintained at a level supported by the vendor. Exceptions require a waiver from the ISO. Maintenance of DCS-developed software will be logged to ensure changes are authorized, tested and accepted by DCS management. All known security patches must be reviewed, evaluated and appropriately applied in a timely manner.

Technical Review of Operating System Changes

All operating system changes must undergo both testing and a technical review. These processes should cover:

1. Review of application control and integrity procedures to ensure that they have not been compromised by the operating system changes
2. Ensuring that annual support planning will cover reviews and system testing resulting from operating system changes
3. Ensuring that notification of operating system changes is provided in time to allow appropriate reviews to take place before implementation
4. Ensuring that appropriate changes are made to the business continuity plans

DEFINITIONS

Trojan Code: Covertly-placed code that when executed performs an unauthorized activity or function. It may be activated by changing a parameter accessible by both secure and insecure elements of a computing system, or by embedding information into a data stream.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	THIRD PARTY ACCEPTABLE USE POLICY AND AGREEMENT
Category	Security
Policy Number	1.23
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish the Third Party Acceptable Use Policy and Agreement as a requirement for individual third party users to sign before providing access to DCS systems and data is provided.

POLICY STATEMENT

This policy and agreement applies to all forms of computer and networking use, including local access at the Department of Civil Service (DCS) premises, remote access via public or private networks, access using DCS equipment, access using individual or group accounts, and access via other methods.

A signed paper copy of this form must be submitted by any individual (1) for whom authorization of a new user account is requested, (2) who will use a shared third party account, and/or (3) who is requesting reauthorization of an existing use. Modifications to the terms and conditions of this agreement will not be accepted by DCS management.

Indicate here if this is a notification that the user no longer requires access: ☐

User's Name (print): _____

Organization: _____

Telephone Number: _____

Area code Number Extension

Office Address: _____

Street Address

Office Address (cont): _____

City

State

Zip

By signing this agreement, the undersigned acknowledges that he or she has read, understands, and agrees to comply with the above principles governing the use of DCS computing resources.

User Signature: _____ Date: _____

You must sign this signature page and send it to DCS. Retain a copy of the signature page and the attached Policy for your records. This form must be delivered either by fax or mail to:

Mail: NYS Department of Civil Service, Alfred E Smith Office Building, 80 Swan Street,
Albany, NY 12239
Attention: Help Desk
FAX: 518-485-5588

Protection of DCS Information

All records and information maintained in DCS systems accessed by the User are confidential and shall be used by the User solely for the purpose of carrying out the User's official duties. Users may not use any such records and information for any other purpose. No such records or information may otherwise be used or released to any person by the User or by the User's employer or agent, except as may be required by applicable State or federal law or by a court of competent jurisdiction. All accounts and connections will be regularly reviewed.

Banners

All users will follow the guidelines of the DCS Log-on Banner as stated below.

NOTICE * The contents of this banner have been recommended to all State agencies by the Office for Technology in the NYS Preferred Standards and Procedures for Information Security. * This electronic system, which includes hardware, software and network components and all data contained therein (the "system"), is the property of the New York State Department of Civil Service (DCS). * Unauthorized use or attempted unauthorized use of this system is not permitted and may constitute a federal or state crime. Such use may subject you to appropriate disciplinary and/or criminal action. Use of this system is only permitted to the extent authorized by DCS. * Use is limited to conducting official business of DCS. Under the Electronic Communications Privacy Act of 1986 (18 U.S.C. 2510, et seq.), notice is hereby given that there are NO facilities provided by this system for sending or receiving private confidential electronic communication. Any use, whether authorized or not, may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner, and used or disclosed in any manner, by authorized DCS personnel without additional prior notice to users. In this regard, users have no legitimate expectation of privacy during any use of this system or in any data on this system. * Use, whether authorized or unauthorized, constitutes expressed consent for DCS to monitor, intercept, record, read, copy, access or capture and use or disclose such information. * DCS policy regarding this matter can be reviewed on the DCS internal website. Copies can also be obtained from the Office of Human Resources Management. Such policies are subject to revision. This notice is consistent with the Acceptable Use Policy issued to DCS employees regarding acceptable use, June 15, 2005. I have read and understand this notification and department policy.

Passwords

The User is not permitted to share his/her password with anyone. Passwords must never be written down. The User must not use the same password for multiple applications. The User must use passwords that are not easily guessed and must not use their email address as their password.

Shared Accounts

All use of shared accounts must be authorized by DCS. Users of shared accounts must be identified to DCS via the completion and signing of this policy/agreement. Third Parties are

responsible for notification to DCS when the user base changes. Passwords for shared accounts must not be provided to individuals who have not been identified by Third Party to DCS and who have not completed and signed this policy/agreement.

Virus Protection

Anti-virus software must be installed and enabled at all times on DCS-owned computers and on third party computers used to conduct DCS business. Virus definition files must be kept up to date. DCS Information Resource Management (IRM) provides anti-virus software and maintains the configuration of that software for all DCS-owned computers.

Acceptable Use

DCS computers, computing systems and their associated communication systems are provided to support the official business of DCS. All uses inconsistent with DCS' business activities and administrative objectives are considered to be inappropriate use.

Examples of unacceptable behavior include, but are not limited to the following.

- Any illegal activities that could result in legal actions against and/or financial damage to DCS.
- Computer usage that reasonably harasses or offends other employees, users, or outsiders, or results in public embarrassment to DCS.
- Computer usage that is not specifically approved and which consumes significant amounts of computer resources not commensurate with its benefit to DCS' mission or which interferes with the performance of a worker's assigned job responsibilities.
- Use in connection with compensated outside work or unauthorized not-for-profit business activities.
- Use of sniffers, spyware, adware or other related technology.

Software Protection

The User is responsible for complying with copyright, licensing, trademark protection, and fair use restrictions.

Reporting Incidents

Users are required to report incidents of system errors, data discrepancies, application performance problems, to the DCS Help Desk, at (518) 457-5406 phone; 518-485-5588 Fax.

DCS Rights

Pursuant to the Electronic Communications Privacy Act of 1986 (18 USC 2510 et seq), notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. DCS has access to all access attempts, messages created and received, and information created or stored using DCS resources, and will monitor use as necessary to assure efficient performance and appropriate use. Information relating to or in support of illegal activities will be reported to the appropriate authorities.

DCS reserves the right to log and monitor use. DCS reserves the right to remove a user account from the network. DCS assumes no responsibility or liability for files or information deleted.

The DCS will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions, or caused by the way the user chooses to use DCS computing facilities.

DCS reserves the right to change its policies and rules at any time.

Penalties

The User shall hold the State and DCS harmless from any loss or damage to the State and/or DCS resulting from the User's inappropriate disclosure of information covered by this User Agreement. Further, the User's non-compliance with this Agreement may result in the revocation of system privileges, termination of employment or contract with DCS, and/or criminal and/or civil penalties.

DEFINITIONS

Remote Access: computing device access from outside the Department's private, trusted network. This access includes modem dial up, web access to applications, and direct connections with remote organizations.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

Third Party User: an individual that works for the Third Party and uses DCS computing resources and/or data.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799

Policy Name	CITIZEN NOTIFICATION
Category	Security
Policy Number	1.24
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To establish citizen notification requirements and procedures in the case of a compromise of identifying personal information.

POLICY STATEMENT

Discovery and reporting of security breach. The Department values the protection of Personal, Private, Sensitive Information (PPSI) and takes considerable measures to secure it. Whenever any Department workforce member learns, or has reason to believe, that there has been a breach of the security of any of the Department's computer systems, (s)he must immediately notify the Information Security Officer, who will then notify the Director(s) of the affected Division(s) and the Director of Information Resource Management. A breach of the security of a system includes unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the confidentiality or integrity of PPSI maintained by the Department. Good faith acquisition of PPSI by an employee or agent of the Department for the purposes of the agency is not a breach of the security of the system, provided that the private information is not used for unauthorized purposes or subject to unauthorized disclosure. This notification shall be made in the most expedient time possible and without unreasonable delay.

Investigation of reported security breach. The Division Director, the Information Security Officer and the Director of Information Resource Management, will investigate the reported security breach to determine the nature and extent of any such unauthorized acquisition of PPSI. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an authorized person or a person without valid authorization, the Department may consider indications of the following factors, among others:

1. The information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
2. The information has been downloaded or copied without authorization; or
3. The information as used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

If encrypted data is compromised along with the corresponding encryption key and encryption software, the data shall be considered unencrypted and information will be considered compromised through unauthorized access.

Notification to New York State residents. At the conclusion of the investigation, if it is determined that a security breach of the Department's computer systems occurred, or is

reasonably likely to have occurred, and that the identifying personal information of one or more New York State residents may have been acquired by an unauthorized person or persons, the Information Security Officer will present the findings of the investigation in writing to the Commissioner or designee of the Commissioner, who shall notify the affected New York State residents.

If a third party maintains information on behalf of the Department and identifying personal information is compromised, the Department or the third party will notify the individual of the compromise.

Method of notification. The notice will be provided directly to the affected persons via 1) written notice, 2) electronic notice if the affected person has expressly consented to receiving the information in electronic form, or 3) telephone notice. If the cost of providing notice would exceed two hundred fifty thousand dollars, or if the affected class of subject persons to be notified exceeds five hundred thousand, or if the Department does not have sufficient contact information to provide direct notice, then upon the approval of the Office of Attorney General, substitute notice may be provided. Substitute notice shall consist of all of the following:

- (1) e-mail notice when such state entity has an e-mail address for the subject persons;
- (2) conspicuous posting of the notice on such state entity's web site page, if such agency maintains one; and
- (3) notification to major statewide media.

Notifications will be made as soon as possible after the Department's internal investigation is complete, but may be delayed if a law enforcement agency determines that the notification might impede a criminal investigation.

Content of notice. Such notifications shall include 1) Department contact information, 2) a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, and 3) the elements of identifying personal information that were, or are reasonably believed to have been, acquired by a person without valid authorization.

The Department will notify the Office of Attorney General, the Consumer Protection Board, and the Office of Cyber Security and Critical Infrastructure Coordination as to the timing, content and distribution of the notices and approximate number of affected persons. If more than 5,000 residents are to be notified at one time, the Department shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such additional notices shall be made without delaying the notice to the affected New York State residents.

SAMPLE NOTICE TO NYS RESIDENTS

Name
Address
City, State Zip

Dear :

We are writing to you because of a recent security incident at the NYS Department of Civil Service.

A. The nature of the incident is as follows:

B. The incident may have involved the following types of private information:

C. The Department of Civil Service is taking the following actions to protect against this type of incident in the future:

To protect yourself from the possibility of identity theft, we recommend that you take the following steps:

If credit card or other financial account information is indicated above, you should immediately contact your credit card or financial account issuers and inform them that an unauthorized person may have your account information.

If a Driver's License or Non-Driver's ID number is indicated, immediately contact your local office of the NYS Department of Motor Vehicles to report the theft.

In all cases, to further protect yourself we recommend that you place a fraud alert on your credit files. A fraud alert informs creditors to contact you before opening any new accounts in your name. Contact the three credit reporting agencies at a number below. You will then be able to receive a free copy of your credit report from each.

Experian: 888-397-3742
Equifax: 800-525-6285
TransUnion: 800-680-7289

When you receive your credit reports, look them over carefully. Look for accounts you did not open. Look for inquiries from creditors that you did not initiate. And look for personal information that is not accurate, such as home address and Social Security number. If you see anything you do not understand, call the credit reporting agency at the telephone number on the report.

For more information on identity theft, we suggest that you visit the Web site of the New York State Consumer Protection Board [www.consumer.state.ny.us] or call them at (518) 474-8583 or (800) 697-1220. Information regarding identity theft is also available from the Federal Trade Commission at www.consumer.gov/idtheft.

If there is anything that the Department of Civil Service can do to assist you, please call **[toll-free phone number]**.

Sincerely,

PLEASE SUBMIT THE FOLLOWING FORM TO ALL THREE (3) STATE AGENCIES as follows:

Fax this form to the Consumer Protection Board (CPB):

Security Breach Notification
Fax: 518-474-2474

Also Fax & Mail this form to:

NYS Office of Cyber Security and Critical Infrastructure Coordination (CSCIC):
30 South Pearl St. Floor P2
Albany, NY 12207
Fax: 518-474-9090

Office of the Attorney General
Asst. Attorney General in Charge
Bureau of Consumer Frauds
120 Broadway - 3rd Floor
New York, NY 10271
Fax: 212-416-6003

**New York State Department of Civil Service
Report of
“Breach of the Security of the System”
Pursuant to the Information Security Breach
and Notification Act (State Technology Law §208)**

Name of State Entity:

Date of Discovery of Breach:

Estimated Number of Affected Individuals:

Date of Notification to Affected Individuals:

Manner of Notification: ☐ written notice
 ☐ electronic notice (email)
 ☐ telephone notice

Are you requesting substitute notice? ☐ Yes ☐ No (If yes, attach justification)

Content of Notification to Affected Individuals: Describe what happened in general terms and what kind of information was involved. Please attach copy of Notice.

Name of Contact Person:

Title:

Telephone number:

Email:

Dated:

Submitted by:

Title:

Address:

Email:

Telephone:

Fax:

Refer to *Security Incident Response and Management Policy*.

DEFINITIONS

Private information: Personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired: (1) social security number; (2) driver's license number or non-driver identification card number; or (3) account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account. Private information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

PPSI: Personal, private or sensitive information.

Third Party: Any entity, such as state agency, department, office, division, board, bureau, commission, vendor that is not governed by the Department of Civil Service. Department of Civil Service workforce members are not third parties.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799
- New York State Information Security Breach and Notification Act (New York State Technology Law Section 208)

Policy Name	BLACKBERRY DEVICES
Category	Security
Policy Number	1.25
Policy Owner	Information Security Officer (ISO)
Policy Level	Department
Effective Date	October 1, 2007
Revision Date	October 1, 2008

PURPOSE

To ensure that guidelines and security controls are in place for the issuance of all personal digital assistant (PDA) devices including Blackberries within the Department.

POLICY STATEMENT

The Department recognizes the importance of utilizing new communication technologies to enable workforce members to increase their productivity and efficiency while away from the office. Blackberry devices used in conjunction with the Blackberry Enterprise Server can give Department staff the ability to maintain e-mail contact with co-workers, to access and update their calendars, and to provide access to limited Department applications while away from the office. To ensure that the security and confidentiality of Departmental data and communication is protected and the investment in these devices provides the maximum benefit to the Department, the following guidelines will be followed.

Assignment of Blackberries

Only Department owned and assigned PDA devices will be used to access Department resources. No personally owned devices will be allowed, since the Department has no control over the security on these devices, and any DCS data downloaded to them may be susceptible to interception, theft or loss.

The cost of procuring, supporting and maintaining these tools is significant. Assignment of these devices to workforce members should be carefully considered and based on business need. The following factors, at a minimum, will be considered in evaluating any request for assignment of a Blackberry:

- 1) The amount of time spent outside of the office.
- 2) The applications, e.g., e-mail, calendar, or other, that the employee needs access to while outside of the office.
- 3) The impact of not having access to the needed applications while outside of the office.
- 4) The availability of the wireless services in the location where the requesting employee will be using while outside of the office.
- 5) The availability of less expensive alternatives, such as remote access to the Department network from a home computer.

Blackberry users must have a legitimate business need and all requests for this equipment must be approved by their manager, the applicable Division Director, the CIO and the ISO.

Security and Passwords

The New York State Information Security Policy requires that all PDA devices must be encrypted. All PDA devices will now require the password and the content protection options to be enabled.

The Blackberry will have an initial password that Desktop Support issues in order to activate the device. The password option must remain enabled. Users will have the ability to change their password under the security settings, however all other settings must not be changed. This password is in addition to, and different from, the employee's normal passwords used to log into the Department network and to access applications. To protect Department data in the event that the device is lost or stolen, the Blackberry will go into a locked mode after a set period of inactivity, and the password will be needed to unlock it.

The Desktop Support Unit will maintain a list of Blackberry users and their device serial numbers. The employee assigned a Blackberry device must not communicate their password to anyone else. In the event the employee forgets the password, the employee must notify the Help Desk for a password reset. In some instances, the Desktop Support Unit can reset the password remotely and the employee will be notified of the new password. Otherwise the Blackberry will have to be returned to the Desktop Support Unit for a password reset. After 5 incorrect password attempts the user must type **blackberry** in order to continue. After 10 incorrect password attempts, all data will be erased from the Blackberry and the unit must be returned to the Desktop Support Unit for reinitialization of the device.

Rules of Use

When PDA devices are used in public places, care must be taken to avoid the risk of unauthorized persons viewing information on the screens. Such equipment must not be left unattended and must be physically locked when not in use. Workforce members must not check these devices in airline luggage systems. These devices must remain in the possession of the traveler unless other arrangements are required by federal or state authorities.

Lost devices

Should a device become lost or stolen it is imperative that the Help Desk (485-1618) be notified immediately so that the device can be deactivated and disallowed from accessing the Department network.

REFERENCES

- Health Insurance Portability and Accountability Act (HIPAA), Security Regulation, Privacy and Security Regulation
- New York State Cyber Security Policy P03-002
- Information technology – Code of practice for information security management, ISO/IEC 17799
- New York State Information Security Breach and Notification Act (New York State Technology Law Section 208)

1. NYSHIP Decision Support System (DSS) Security Measures

The DSS Security Measures document is a supplement to the Department of Civil Service (Department) Information Security Policy requirements that includes detailed requirements specific to the DSS Project. The following protocol identifies detailed requirements for the DSS.

1.1 *Assumptions*

1. The DSS will comply with all requirements in the Department Information Security Policy, dated October 1, 2007.
2. The DSS application is classified with the following sensitivity ratings:
 - Confidentiality = High
 - Integrity = High
 - Availability = High

1.2 *Account Management*

1. The DSS will integrate with the Department authentication and authorization infrastructure.
2. Shared privileged accounts will not be used.
3. Privileged account names will not reveal privilege level.
4. Privileged account passwords must be changed every 90 days.

1.3 *Log Data*

1. Lockout data must be logged.
2. Additional data that must be logged includes authentication events or unsuccessful resource access events. Data to be logged for each of these categories is:
 - i) Authentication Events. All authentication events must be logged. Authentication events can be either successful or unsuccessful. The data to be logged for authentication events is:
 - (1) account or User ID;
 - (2) the type of event;
 - (3) an indication of success or failure of event;
 - (4) the date and time of event;
 - (5) identification of the source of event such as location, IP address, terminal ID or other means of identification.
 - ii) Unsuccessful Resource Access Events. The data to be logged must include:
 - (1) account or User ID;
 - (2) the type of event;
 - (3) the date and time of event;
 - (4) the resource;

Appendix U Protective Security Measures for Applications and High Sensitivity Protocol

- (5) identification of the source of event such as location, IP address, terminal ID or other means of identification.

iii) Privileged Account Use:

- (1) Account ID
- (2) date/time
- (3) successful/unsuccessful
- (4) identification of the source of event such as location, IP address, terminal ID or other means of identification

iv) System starts and stops

v) Hardware attachments and detachments

vi) Successful and unsuccessful access to log files. The data to be logged must include:

- (1) account or User ID;
- (2) the type of event;
- (3) an indication of success or failure of event;
- (4) the date and time of event;
- (5) identification of the source of event such as location, IP address, terminal ID or other means of identification

1.4 *Log Requirements*

- 1. Syslog logs are preferred.
- 2. Logs must be protected from alteration by any user.

1.5 *Backup and Restoration*

- 1. The location of both the application backup media and the data backup media must be off-site.
- 2. Backup media must be encrypted.
- 3. The backup restoration method must be tested and validated to enable all the technical processes of the restoration to be completed within 24 hours of all of the technology being in place.
- 4. Changes to the technology require a re-test of the restoration process.

1.6 *Network Protections*

- 1. The required connectivity method is via the Internet to a Department-approved or Department-provided Virtual Private Network (VPN) device.

Appendix U Protective Security Measures for Applications and High Sensitivity Protocol

2. Strong encryption will be used while data is in transit.
3. The DSS will deploy antivirus and an intrusion prevention software.
4. All servers at the DSS will be uniquely identifiable by a static IP address. The ITS data center will use Civil Service provided IP addressing, or be capable of using Network Address Translation.
5. The vendor will work with the Department to provide a seamless and secure interface to the vendor's application from the Department's web site.
6. The firewall and any related security systems for the DSS will be subject to audit by Civil Service.
7. The DSS will submit network drawings and data flow diagrams for all systems. The firewall and DMZ policies will be subject to Civil Service review and approval.

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. DCS would prefer Offeror submit this insurance verification information with their Proposals if possible. 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.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 Contract 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.

Attachment 1 Procurement Lobbying Offeror's Affirmation of Understanding & Agreement



State of New York
Department of Civil Service
Albany, NY 12239

ADMINISTRATION DIVISION
Procurement Lobbying
Offeror's Affirmation of Understanding & Agreement
ADM-982 (12/06)

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 issuance of the solicitation document until the date of the contract's final 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: _____

**NYS Department of Civil Service
"New York State Health Insurance Program
Decision Support System"**

(Please PRINT/TYPE Firm's Name Above)

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

- ☐ We **ARE INTERESTED & MAY** submit a bid response.
(Note to potential Offerors, please also complete table at end of form)

- ☐ We **ARE NOT INTERESTED & WILL NOT** be submitting a bid response because:
- _____
- _____
- _____

Name of Contact at Firm

Title

_____/_____/_____
Date

Interested Potential Offerors are requested to also provide the following information:

Primary Contact Information		Alternate Contact Information	
Contact Name:		Contact Name:	
Address:		Address:	
Phone Number:		Phone Number:	
Fax:		Fax:	
E-Mail:		E-Mail:	
Preferred Communication Method	☐ E-Mail ☐ Mail	Preferred Communication Method	☐ E-Mail ☐ Mail

Complete the table above and submit it to the DSS Procurement Manager specified in Section II.A.3.b of this RFP. The completed table may be emailed (at: 2010DSSRFP@cs.state.ny.us), faxed (at: 518-402-2835) and/or mailed (see address provided in RFP, §II.A.3.b).

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 DSS Procurement Manager at the address specified in Section II.A.7 of this RFP, with an electronic copy of the Offeror's questions sent to the DSS Procurement Manager's attention at: 2010DSSRFP@cs.state.ny.us.

[TO BE COMPLETED ON OFFEROR'S LETTERHEAD]

Date

DSS Procurement Manager
Employee Benefits Division, Room 641
NYS Department of Civil Service
Alfred E. Smith State Office Building
Albany, New York 12239

**RE: "New York State Health Insurance Program
Decision Support System"
Firm Offer to the State of New York**

[INSERT OFFEROR NAME] hereby submits this firm and binding offer to the State of New York in response to New York State Department of Civil Service Request for Proposals, entitled "New York State Health Insurance Program Decision Support System" (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 this RFP.

[INSERT OFFEROR NAME] accepts the terms and conditions as set forth in RFP, Section VII and Appendices A, B and C, and agrees to satisfy the comprehensive programmatic duties and responsibilities outlined in this RFP in the manner set forth in this RFP.

[INSERT OFFEROR NAME] agrees to execute a contractual agreement composed substantially of the terms and conditions set forth in the draft contract included in the RFP, and accepts as non-negotiable the terms and conditions set forth in Appendices A, B, and C to the draft contract.

[INSERT OFFEROR NAME] further agrees, if selected as a result of the RFP, to comply with 1) the provisions of Tax Law Section 5-a, Certification Regarding Sales and Compensating Use Tax; and 2) the Consultant Disclosure Requirements as set forth in Section II.B.9 of the RFP.

This formal offer will remain firm and non-revocable for a minimum period of 365 days from the Proposal Due Date 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 twelve (12) hard copy volumes [two (2) original and ten (10) copies] and one (1) electronic copy in (disk, CD Rom) format.

Technical Proposal: Total of twelve (12) hard copy volumes [two (2) original and ten (10) copies] and one (1) electronic copy in (disk, CD Rom) format.

Financial Proposal: Total of twelve (12) hard copy volumes [two (2) original and ten (10) copies] and one (1) electronic copy in (disk, CD Rom) format.

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.

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

Date: _____

[INSERT OFFEROR NAME]

By: _____
(signature)

(name)

(title)

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ }

: **SS.:**

COUNTY OF _____ }

On the ____ day of _____ in the year 2010, 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

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 Business Entity Submitting Bid:		
Entity's Legal Form:		☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other _____
No.	RFP Ref.	RFP Requirement:
1.	Section III.B.1	At time of bid submission, Offeror represents and warrants that it: ☐ possesses ☐ does not possess the legal capacity to enter into a contract with the President of the New York State Civil Service Commission ("Commissioner").
No.	RFP Ref.	RFP Requirement:
2.	Section III.B.2	At time of bid submission, Offeror represents and warrants that it: ☐ has ☐ has not completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the NYSHIP Decision Support System and that it will, during the term of the Contract, comply with any requirements imposed upon it by law.
No.	RFP Ref.	RFP Requirement:
3.	Section III.B.3	At time of bid submission, Offeror represents and warrants that it: ☐ has ☐ has not implemented and maintained decision support system services for Health Insurers, Health Plans (including public health plans, Health Maintenance Organizations (HMOs) and/or Benefit Administrators), and large employer groups that use these decision support services for, in aggregate, a minimum of five million (5,000,000) total covered lives in its full book of business as required by this RFP. (Note: Evidence that Offeror can successfully undertake and complete a project of the scope and complexity as that as set forth in this RFP is to be documented in the Offeror's Project References section of the Offeror's Technical Proposal as set forth in Section III.E of this RFP.)

Name of Business Entity Submitting Bid:		
Entity's Legal Form:		☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other _____
No.	RFP Ref.	RFP Requirement:
4	Section III.B.4	At time of bid submission, Offeror represents and warrants that it: ☐ has ☐ does not have prior experience providing the services, which are the subject matter of this RFP, for a large complex client. <i>(Note: Evidence that Offeror has this experience is demonstrated by identification of any and all such client(s) with one hundred thousand (100,000) or more covered lives, and inclusion of named client(s) as reference(s) in response to Section III.E. Offeror's "Project References" (Exhibit O) of the Offeror's Administrative Proposal.)</i>
No.	RFP Ref.	RFP Requirement:
5	Section III.B.5	At time of bid submission, Offeror represents and warrants that it: ☐ will ☐ will not maintain a complete and accurate set of records as may be required by the State to be produced for review by the State pursuant to Appendix A of the draft contract, contained in Section VII of this RFP, including any and all financial records as deemed necessary by the State to discharge its fiduciary responsibilities to NYSHIP participants and to ensure that public dollars are spent appropriately
No.	RFP Ref.	RFP Requirement:
6	Section III.B.6	At time of bid submission, Offeror represents and warrants that, in order to ensure independence in the performance of Project Services, the Offeror, its parent company, and/or any subsidiaries, partners and/or affiliates⁽¹⁾: ☐ is ☐ is not a current Empire Plan carrier, contractor and/or subcontractor, and/or a current Department, Division of the Budget and/or Governor's Office of Employee Relations contractor and/or subcontractor where the purpose of said contract(s)/subcontract(s) is to provide support to or is related to the administration of NYSHIP and/or the delivery of NYSHIP services, including, insurance coverage, either directly or indirectly and in part or in whole. Offerors are advised that the two pre-requisites above apply to any and all proposed subcontractor(s) of the Offeror. ⁽¹⁾ 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.

Name of Business Entity Submitting Bid:		
Entity's Legal Form:		☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other _____
No.	RFP Ref.	RFP Requirement:
7	Section III.B.7.a	At the time of bid submission, Offeror represents and warrants that it: ☐ agrees ☐ does not agree all claims, enrollment, and other data (i.e., materials) provided by the Department or the Department's agents and/or contractors is being provided to the Offeror (Contractor) solely for the purposes of allowing the Contractor to fulfill its duties and responsibilities under the Contract; however, de-identified NYSHIP data may be included in the Contractor's normative database used for their book of business.
No.	RFP Ref.	RFP Requirement:
7	Section III.B.7.b	At the time of bid submission, Offeror represents and warrants that it: ☐ agrees ☐ does not agree that said materials are the sole property of the State.
No.	RFP Ref.	RFP Requirement:
7	Section III.B.7.c	At the time of bid submission, Offeror represents and warrants that it: ☐ agrees ☐ does not agree that provision of said materials to the Offeror (Contractor) does not confer ownership or shared ownership to the Contractor.
No.	RFP Ref.	RFP Requirement:
7	Section III.B.7.d	At the time of bid submission, Offeror represents and warrants that it: ☐ agrees ☐ does not agree that it will not share, sell, release, or make the data available to third parties in any manner without the written authorization of the Director of the Employee Benefits Division of the Department, except as directed by a court of competent jurisdiction, or as necessary to comply with applicable New York State or federal law.
No.	RFP Ref.	RFP Requirement:
8	Section III.B.8	At the time of bid submission, Offeror represents and warrants that the product submitted in response to this RFP: ☐ is ☐ is not an existing product offering of the Offeror; not a proposed and/or yet-to-be-released version of the product.

Date: _____

Signature _____

[INSERT OFFEROR NAME]

[INSERT TITLE]

[INSERT COMPANY NAME]

CORPORATE OR PARTNERSHIP ACKNOWLEDGMENTSTATE OF _____ }
: SS.:

COUNTY OF _____ }

On the ____ day of _____ in the year _____, 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

Please indicate by checkmark that your Proposal meets **each** of the following submission requirements:

- _____ **1. TIMELY SUBMISSION:** Proposal submitted to assure receipt by the Department of Civil Service no later than 3:00 p.m. ET on the Proposal Due Date as indicated in RFP Section II.A.1.
- _____ **2. FORMATTING REQUIREMENTS:** The Offeror's Proposal must be organized in three parts: Administrative Proposal; Technical Proposal and Cost Proposal and each part must each comply with the formatting requirements stated in Section II.A.7.a and.b of this RFP.
- _____ a. Twelve (12) separately bound hardcopies -- two (2) Originals each of the Administrative Proposal, Technical Proposal and Cost Proposal containing original documents (i.e., original signatures, no photocopies) and marked and numbered (i.e., "ORIGINAL #1," "ORIGINAL #2"), ten (10) copies of each Administrative Proposal, Technical Proposal and Cost Proposal marked and numbered (i.e., "COPY #1," "COPY #2," etc.) and a separate CD for the Administrative, Technical and Cost Proposal.
- _____ b. Proposals must be prepared in Adobe Acrobat, as applicable.
- _____ c. Each Administrative, Technical and Cost Proposal must be separately bound and externally labeled with "NYSHIP Decision Support System" and Offeror's name(s). (No cost information [i.e., \$ quotes] can be referenced in the Administrative or Technical Proposal).
- _____ d. Table of Contents
- _____ e. Index Tabs
- _____ f. Pagination
- _____ g. Updates/Corrections
- _____ h. Required Content of Proposals - The Proposal shall consist of three parts: the Administrative Proposal must contain the documentation required in Section III of this RFP. The Technical Proposal must be responsive to the programmatic duties and responsibilities set forth in Section IV of this RFP. The Cost Proposal must demonstrate a commitment to perform all programmatic duties and responsibilities in accordance with Section V of this RFP.
- _____ **3. REQUIRED CONTENT OF THE ADMINISTRATIVE PROPOSAL:** The Administrative Proposal must contain the following information, in the order enumerated below:
- _____ a. **Formal Offeror Letter:** The Offeror must submit a formal offer in the form of the "Formal Offer Letter" as set forth in RFP, Exhibit A in accordance with the requirements set forth in RFP, Section III.A
- _____ b. **Minimum Mandatory Requirements:** The Offeror must submit a completed Exhibit B "Offeror Attestation Form" containing the representations and warranties set forth therein.
- _____ c. **Exhibits:** The Offeror must complete and submit the Exhibits specified in Section III.C as follows:

- _____ Exhibit C - Proposal Submission Requirement Checklist
 - _____ Exhibit D - Freedom of Information Law – Request for Redaction Chart
 - _____ Exhibit E - MacBride Statement and Non-Collusive Bidding Certification
 - _____ Exhibit F - Equal Employment Opportunity (EEO) Obligations – Offeror Certification of Compliance
 - _____ Exhibit G - Workforce Employment Utilization Report
 - _____ Exhibit H - NYS Department of Civil Service Vendor Responsibility Questionnaire
 - _____ Exhibit I - Compliance with Public Officers Law Requirements
 - _____ Exhibit J - Compliance with Americans with Disabilities Act
 - _____ Exhibit K - Omnibus Procurement Act Statement of Acceptance
 - _____ Exhibit L - Certification of Compliance Pursuant to State Finance Law §139-k
 - _____ Exhibit M - Article 15-A of the Executive Law
 - _____ d. **Key Subcontractors:** The Offeror must provide a statement identifying all Key Subcontractors, if any, that the Offeror will be contracting with to provide Project Services and must, for each such subcontractor identified, complete and submit Exhibit N “Key Subcontractors” in accordance with the requirements set forth in RFP, Section III.D. (Note: If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide Project Services, the Offeror must provide a statement to that effect.)
 - _____ e. **Reference Checks:** The Offeror must list five (5) references comprised of a combination of both current and former clients for which the Offeror has supplied decision support services pertaining to medical claims similar to those required in this RFP (Project References). For each Project Reference provided the Offeror must complete and submit Exhibit O “Project References” in accordance with the requirements set forth in RFP, Section III.E.
 - _____ f. **Financial Statements:** The Offeror must provide a copy of the Offeror's last issued GAAP annual audited financial statement. For each Key Subcontractor, if any, that provides any of the Project Services provide the most recent GAAP annual audited statement.

(Note: If the Offeror, or a Key Subcontractor, is a privately held business and is unwilling to provide copies of their annual audited financial statements as part of their Proposal, the Offeror/Key Subcontractor must make arrangements for the procurement evaluation team to review the financial statements.)
- Amended 7-29-10**
- _____ g. **Conflict of Interest:** The Offeror must list and describe all Conflicts of Interest. For each Conflict of Interest identified, the Offeror must describe what Firewalls and/or other controls, policies and procedures which a reasonable person would expect to provide corrective or mitigating action to adequately safeguard or protect the Department against any Conflict of Interest which have been or will be implemented by the Offeror.

- ____ 4. **REQUIRED CONTENT OF THE TECHNICAL PROPOSAL:** The Technical Proposal must be responsive to the duties and responsibilities and submission requirements set forth in Section IV of this RFP and it must contain the following information, in accordance with the submissions associated requirements, and in the order enumerated below:
- ____ A. **Administrative Services:**
 - ____ 1. **Executive Summary**
 - ____ 2. **Project Team Management**
 - ____ 3. **General Qualifications of the Offeror:**
 - ____ B. **Implementation, Operation, and Support Services:**
 - ____ 1. Implementation
 - ____ 2. Data Management
 - ____ 3. User Requirements
 - ____ 4. Analytic Capabilities
 - ____ 5. Query and Reporting Capabilities
 - ____ 6. Consulting Support Services
 - ____ 7. DSS Solution Operational Requirements
 - ____ 8. Security
 - ____ C. **Transition and Termination of Contract**
- ____ 5. **REQUIRED CONTENT OF THE COST PROPOSAL:** The Offeror's Cost Proposal must demonstrate that it will execute the duties and responsibilities set forth in Section V of this RFP and it must contain the following information, in accordance with the submissions associated requirements, and in the order enumerated below:
- ____ a. DSS Implementation Total Not-To-Exceed Amount
 - ____ b. Ongoing Operations Monthly Fee
 - ____ c. Incremental Ongoing Training Rates
 - ____ d. Data Provider Start-up Fee
 - ____ e. Additional User Fees
 - ____ f. Additional Consulting Support Services Fees
 - ____ g. Other Assumptions, Terms and Payment Provisions

Exhibit D Freedom of Information Law – Request for Redaction Chart

(Name of Company)

Proposal Dated _____

In Response to the NYS Department of Civil Service Request for Proposals entitled **New York State Health Insurance Program Decision Support System RFP**, dated June 30, 2010.

- ☐ 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>		
Cost 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 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; and
- j) the ease or difficulty with which the information could be properly acquired or duplicated (not merely copied) for use by others.

Exhibit E MacBride Statement and Non-Collusive Bidding Certification



State of New York
Department of Civil Service
Albany, NY 12239

MacBride Statement and Non-Collusive Bidding Certification

ADM-990 (1/07)

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

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

1. Have business operations in Northern Ireland. Yes _____ or No _____

If yes:

2. 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 _____

Date: _____

(Contractor's Signature)

(Name of Business)

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of 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 bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Date: _____

(Contractor's Signature)

(Name of Business)

Exhibit F Equal Employment Opportunity (EEO) Obligations – Offeror Certification of Compliance



State of New York
Department of Civil Service
Albany, NY 12239

Equal Employment Opportunity (EEO) Obligations – Offeror Certification of Compliance

ADM-988 (1/07)

The Offeror must demonstrate its compliance with the Equal Employment Opportunity Act (EEO) by affirming to the Department that the Offeror's EEO Policy Statement contains, at a minimum, language consistent with the provisions of numbered paragraphs 1, 2, 3, and 4. Failure to comply with this provision will result in rejection of the Offeror's proposal.

1. The Offeror shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, gender, age, disability, or marital status; shall undertake or continue existing programs of affirmative action 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 on the Agreement.
2. The Offeror shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, gender, age, disability, or marital status.
3. The Offeror shall not do business with any employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other Agreement or understanding, that discriminates on the basis of race, creed, color, national origin, gender, age, disability, or marital status.
4. At the request of the DCS, the Offeror agrees to require any 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, gender, age, disability, or marital status and that such union of representative will affirmatively cooperate in the implementation of the Offeror's obligation under the agreement.

The undersigned states that the affirmative statements contained in this certification are true, accurate and complete.

Name of Offeror

Date of Submission

Name & Title of Officer's Representative please print)

Authorized Signature

Exhibit G Workforce Employment Utilization Report



State of New York
Department of Civil Service
Albany, NY 12239

Workforce Employment Utilization Report Service and/or Consultant Firms

ADM-989 (1/07)

Agency: _____ /Code _____ Reporting period: _____
Check One: ☐ Quarterly ☐ Semi-Annual Report

Contractor/Firm
Name: _____ Address: _____
City State Zip

Type of Report: ☐ Contract Specific Work Force ☐ Total Work Force Check if NOT-For- Profit: ☐
Federal ID/Payee ID No. _____ Contract No. _____ Location of Work _____
County Zip

Check One: ☐ Prime Contractor ☐ Subcontractor

Product/Service Provided: _____

Contract Amount: \$ _____ Contract Start Date: _____

Percent of Job Completed _____

Number of Employees											Total Percent Minority Employees	Total Percent Female Employees
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin.												
Professionals												
Technicians												
Sales Worker												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS												

Company
Official's Name: _____ Title: _____
Company Official's
Signature: _____ Date: _____
Telephone
Number: () _____

Exhibit H

EIN: _____

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at <http://www.osc.state.ny.us/vendrep/documents/definitions.pdf>. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

EIN: _____

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION

<u>Legal Business Entity Name*</u>		<u>EIN</u>	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		Telephone ext.	Fax
E-mail		Website	
Additional <u>Legal Business Entity Identities</u> : If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
☐ <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
☐ <u>Limited Liability Company</u> (<u>LLC</u> or <u>PLLC</u>)		Date of Organization	
☐ <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
☐ <u>Sole Proprietor</u>		How many years in business?	
☐ Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			☐ Yes ☐ No
If 'No,' indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
☐ United States State _____			
☐ Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			☐ Yes ☐ No
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			☐ Yes ☐ No
If "Yes," Enter <u>DUNS</u> Number			

*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at <http://www.osc.state.ny.us/vendrep/documents/definitions.pdf>.

EIN: _____

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)		☐ Yes ☐ No ☐ N/A
If "Yes," provide the address and telephone number for one office located in New York State.		
1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise</u> (MBE), <u>Women-Owned Business Enterprise</u> (WBE), <u>New York State Small Business</u> (SB) or a federally certified <u>Disadvantaged Business Enterprise</u> (DBE)? If "Yes," check all that apply: ☐ New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) ☐ New York State certified <u>Women-Owned Business Enterprise</u> (WBE) ☐ <u>New York State Small Business</u> (SB) ☐ Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)		☐ Yes ☐ No
1.6 Identify <u>Officials</u> and <u>Principal Owners</u> , if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.		
Name	Title	Percentage Ownership (<i>Enter 0% if not applicable</i>)

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

II. REPORTING ENTITY INFORMATION

The Reporting Entity for this questionnaire is:

Note: Select only one.

☐ Legal Business Entity

Note: If selecting this option, "Reporting Entity" refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

☐ Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF "REPORTING ENTITY" AND "ORGANIZATIONAL UNIT" FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, "Reporting Entity" refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

☐ Yes ☐ No

If "Yes," enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity. For each person, include name and title. Attach additional pages if necessary.

Name	Title

STABILITY QUESTIONNAIRE ON SENSITIVITY

ity Official or any individual currently or formerly
acts or supporting documentation on behalf of the

e?	☐ Yes ☐ No ☐ Other
<u>process</u> ?	☐ Yes ☐ No ☐ Other
<u>ment entity</u> for a civil or	☐ Yes ☐ No ☐ Other
nvicted of a crime or	☐ Yes ☐ No ☐ Other
t of which was related to	

or been <u>disqualified</u> on any basis, including, but not limited to, the Fair Labor Standards Act or Prevailing Wage laws or New York Labor Law?	☐ Yes ☐ No
Has the contractor been found responsible for a <u>responsibility finding</u> by a federal, state or local agency?	☐ Yes ☐ No
Has the contractor made <u>good faith efforts</u> on any <u>Minority- or disadvantaged Business Enterprise</u> contract?	☐ Yes ☐ No
Is the contractor a <u>government entity</u> ?	☐ Yes ☐ No
Is the contractor responding to an RFP <u>in lieu of responding to an RFP from the government entity</u> ?	☐ Yes ☐ No

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the action(s) taken and the current status of the issue(s). For each “Other,” provide a definitive responding “Yes” or “No.” Provide the explanation at the end of each response, including the Reporting Entity name at the top of any attached pages.

Within the past five (5) years, has any current or former Reporting Entity having the authority to sign, execute or approve bids, proposals, contracts or any other documents on behalf of the Reporting Entity with any government entity been:

3.0 Sanctioned relative to any business or professional permit and/or license?

3.1 Suspended, debarred, or disqualified from any government contracting?

3.2 The subject of an investigation, whether open or closed, by any government for a criminal violation for any business-related conduct?

3.3 Charged with a misdemeanor or felony, indicted, granted immunity, or pardoned, subject to a judgment for:

- a) Any business-related activity; or
- b) Any crime, whether or not business-related, the underlying conduct of which was not truthful?

For each “Yes” or “Other” explain:

Within the past five (5) years, has the Reporting Entity:

- 4.0 Been suspended or debarred from any government contracting process, government procurement, permit, license, concession, franchise or lease or debarment for a violation of New York State Workers' Compensation Law or New York State Procurement Lobbying Law?
- 4.1 Been subject to a denial or revocation of a government prequalification?
- 4.2 Been denied a contract award or had a bid rejected based upon a non-responsible government entity?
- 4.3 Had a low bid rejected on a government contract for failure to make good on a Small Business Enterprise, Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Diversity goal or statutory affirmative action requirements on a previously held contract?
- 4.4 Agreed to a voluntary exclusion from bidding/contracting with a government entity?
- 4.5 Initiated a request to withdraw a bid submitted to a government entity or received a contract information request or subsequent to a formal request to appear before a government entity?

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the Reporting Entity:

5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	☐ Yes ☐ No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	☐ Yes ☐ No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	☐ Yes ☐ No

For each "Yes," explain:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the Reporting Entity:

6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	☐ Yes ☐ No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	☐ Yes ☐ No

For each "Yes," explain:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the Reporting Entity:

7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	☐ Yes ☐ No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	☐ Yes ☐ No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious or willful</u> ?	☐ Yes ☐ No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	☐ Yes ☐ No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	☐ Yes ☐ No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	☐ Yes ☐ No

For each "Yes," explain:

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	☐ Yes ☐ No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	☐ Yes ☐ No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	☐ Yes ☐ No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	☐ Yes ☐ No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	☐ Yes ☐ No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

IX. ASSOCIATED ENTITIES

This section pertains to any entity(ies) that either controls or is controlled by the Reporting Entity.
(See definition of "Associated Entity" for additional information to complete this section.)

9.0 Does the Reporting Entity have any Associated Entities?

☐ Yes ☐ No

Note: All questions in this section must be answered if the Reporting Entity is either:

- An Organizational Unit; or
- The entire Legal Business Entity which controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.

9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

☐ Yes ☐ No

- a) Any business-related activity; or
- b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over \$50,000?

☐ Yes ☐ No

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 Within the past five (5) years, has any Associated Entity:

a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?

☐ Yes ☐ No

b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?

☐ Yes ☐ No

c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?

☐ Yes ☐ No

d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in

☐ Yes ☐ No

e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?

☐ Yes ☐ No

f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?

☐ Yes ☐ No

g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?

☐ Yes ☐ No

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

EIN: _____

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).
Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.

☐ Yes ☐ No

Indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone ext.	Fax
Title	Email	

EIN: _____

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the Reporting Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Reporting Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Reporting Entity; and
- is under obligation to update the information provided herein to include any material changes to the Reporting Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer _____

Printed Name of Signatory _____

Title _____

Reporting Entity Name _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____ 20 _____ ;

Notary Public

Exhibit I Compliance with Public Officers Law Requirements



State of New York
Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239

Compliance with Public Officers Law Requirements

ADM-992 (1/07)

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 establishes 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 this 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.

The Offeror hereby submits its 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.

Please provide below 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. Please attach additional pieces of paper as necessary.

Name of Offeror: _____

Name & Title of Representative: _____

Signature: _____

Date: _____



State of New York
Department of Civil Service
Albany, NY 12239

Compliance with Americans with Disabilities Act

ADM-987 (1/07)

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 Agreement resultant from this RFP shall be accessible under Title II of the Americans With Disabilities Act, and as otherwise may be required under the Americans With Disabilities Act.

Name of Offeror: _____

Name & Title of Representative: _____

Signature: _____

Date: _____



State of New York
Department of Civil Service
Albany, NY 12239

Omnibus Procurement Act Statement of Acceptance

ADM-991 (1/07)

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.

A current list of jurisdictions subject to this provision is available from the New York State Department of Economic Development, or on-line at http://www.nyscr.com/pub_omnibus.aspx.

The Offeror must submit this Statement of Acceptance of the terms and conditions of the Omnibus Procurement Act with its proposal.

Name of Offeror: _____

Name & Title of Representative: _____

Signature: _____

Date: _____



State of New York
Department of Civil Service
Albany, NY 12239

**ADMINISTRATION DIVISION
Procurement Lobbying
Offeror's Certification of Compliance**

ADM-983(12/06)

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/Bidder 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: _____

Subject to the requirements of Article 15-A of the Executive Law, and based on vendor availability, the Department of Civil Service has developed goals for this project. These goals are 0% MBE and 0% WBE. These percentages are not set aside or quotas, but are only targets.

OFFERORS PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Are you a New York State resident business: _____ YES _____ NO
2. Total number of people employed by your business: _____
3. Total number of people employed by your business in New York State: _____
4. Is your company independently owned and operated: _____ YES _____ NO

Is your firm at least 51% owned and controlled by women: _____ YES _____ NO

and/or,

51% owned and controlled by minority group members: _____ YES _____ NO
(i.e., Black, Hispanic, Asian, Pacific Islander, American Indian, Alaskan Native)?

If yes, have you been certified or registered? _____ YES _____ NO

List certification or registration authority: _____
5. Place(s) where type(s) of service(s) bid are provided: _____

(Please indicate Yes or No for A and B) _____ YES _____ NO

A. All within NYS _____ YES _____ NO

B. Both within and outside NYS State of _____

If yes to B above, location (State) where more than one-half the value of the bid services are provided: _____
6. Offeror's principal place of business: _____

(i.e., the location of the primary control, direction, and management of the enterprise.) State of _____

The Offeror must complete and submit this Exhibit N as part of its Administrative Proposal. A separate form should be completed for each Key Subcontractor, if any. If the Offeror will not be subcontracting with any Key Subcontractor(s) to provide any of the services required under the RFP, the Offeror must complete and submit a single Exhibit N to that affect.

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

Reference #: _____

Abstract		
Customer For Whom Services Were Performed: _____		
Customer Address: _____ _____ _____		
Project Start Date: _____	Project Name: _____	Project Cost: _____
Project Duration: _____	Hardware Environment: _____	Software Environment: _____
Network Environment: _____		
Project Title: _____		
Project Description: (The Offeror should submit specific details concerning the project identified in satisfaction of the requirements in RFP, Section III.E. This information should be provided as an attachment to this form and the information provided should support the Offeror's ascertain that it can successfully undertake and complete a project of the scope and complexity as that as set forth in this RFP.)		
Project Contact References: (Required And Will Be Verified) (Attach Additional References If Desired)		
Contact Name: _____ Contact Title: _____		
Phone Number: _____ E-Mail Address: _____		
Contact Name: _____ Contact Title: _____		
Phone Number: _____ E-Mail Address: _____		

INSTRUCTION: Prepare this form for each key staff individual, including subcontractor provided key staff, if any.

Name: _____

Title: _____

Relationship to Project: _____

EDUCATION

<u>Institution & Location</u>	<u>Degree</u>	<u>Year Conferred</u>	<u>Discipline</u>

PROFESSIONAL EMPLOYMENT (Start with most recent.)

<u>Dates From - To</u>	<u>Employer</u>	<u>Title</u>

PROFESSIONAL EXPERIENCE (Significant experience/education relevant to program)

Table 1: DSS Total Projected Cost

DSS Total Projected Cost	
Category of Expense	Total Cost
<i>A. DSS Implementation Total Not-To-Exceed Amount ⁽¹⁾</i>	\$
<i>B. Total Ongoing Operations Monthly Fees ⁽²⁾</i>	\$
<i>C. DSS Partial Month Ongoing Operations Fee ⁽³⁾</i>	
DSS Total Projected Cost (A+B+C)	\$

Footnotes:

- ⁽¹⁾ Listed the "DSS Implementation Total Not-To-Exceed Amount" amount from Table 2.
- ⁽²⁾ List the "Total Ongoing Operations Monthly Fees" amount from Table 8.
- ⁽³⁾ List the "DSS Partial Month Ongoing Operations Fee" amount from Table 8A.

Table 2: DSS Implementation Total Not-To-Exceed Amount

DSS Implementation Total Not-To-Exceed Amount	
Category of Expense	Total Cost ⁽¹⁾
I. Total Not-To-Exceed - Personnel Costs	\$
II. Total Not-To-Exceed - Hardware Costs	\$
III. Total Not-To-Exceed - Software Costs	\$
IV. Total Not-To-Exceed - Training Costs	
V. Total Not-To-Exceed - Other Costs	\$
DSS Implementation Total Not-to-Exceed Amount ⁽²⁾	\$

Footnotes:

- (1) For items I through V, list the Total Not-To-Exceed prices from Tables 3, 4, 5, 6 and 7.
- (2) Sum items I through V to arrive at the Offeror's Total-Not-To-Exceed price for activities associated with the design, development and implementation of the Offeror's proposed DSS Solution and bring that amount forward to Table 1 and enter on the "DSS Implementation Total Not-to-Exceed Amount" line.

Table 3: DSS Implementation – Personnel Costs

[illegible]

Footnotes:

- (1) List the name and job title for each specific individual identified by the Offeror at time of bid. For each specific position for which an Offeror has not identifying a specific individual to fill the position at time of bid, the Offeror should list the job title and indicate "TBD" and assign a number to the position in order to distinguish multiple unfilled position of the same job title [e.g., "Programmer 1/TBD#1", "Programmer 1/TBD#2", etc.]
- (2) On a separate schedule developed by the Offeror and attached to this table, detail all of the pricing assumptions, including but not limited to the quoted Fixed Hourly Rate and number of hours for each position listed. Charges for personal services rendered by Contractor personnel shall be based on the Fixed Hourly Rates quoted. Fixed Hourly Rate rates as proposed by the Offeror must be inclusive of all direct and indirect costs, fees, profit and all overhead expenses, including, but not limited to, all training, travel costs, parking fees, and other ancillary fees and costs including permits, licenses, and insurance.
- (3) Bring the Total Not-to-Exceed Amount – Personnel Costs forward to Table 2, and enter on the "I. Total Not-To-Exceed Amount - Personnel Costs" line.

Table 4: DSS Implementation – Hardware Costs

[illegible]

Footnotes:

- (1) Provide a separate Product Name for each item listed. On a separate schedule developed by the Offeror and attached to this table provide, for each item listed, a product description and detail all of the pricing assumptions, including, as applicable, Quantity and Unit Prices and calculations used to arrive at the Total Amount for each item.
- (2) Bring the Total Not-to-Exceed Amount – Hardware Costs amount forward to Table 2, and enter on the “II. Total Not-To-Exceed Amount - Hardware Costs” line.

Table 5: DSS Implementation – Software Costs

DSS Implementation – Software Costs	
Product Name ⁽¹⁾	Total Amount
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
(Insert Rows above as Required)	
Total Not-to-Exceed Amount – Software Costs ⁽²⁾	\$

Footnotes:

- (1) Provide a separate Product Name for each item listed. On a separate schedule developed by the Offeror and attached to this table provide, for each item listed, a product description and detail all of the pricing assumptions, including, as applicable, Quantity and Unit Prices and calculations used to arrive at the Total Amount for each item.
- (2) Bring the Total Not-to-Exceed Amount – Software Costs amount forward to Table 2, and enter on the “III. Total Not-To-Exceed Amount - Software Costs” line.

Table 6: DSS Implementation – Training Costs

DSS Implementation – Training Costs	
I. Level 1 User Training Costs	
A. Per Training Session Fee ⁽¹⁾	\$
B. Candidates Per Session ⁽²⁾	
C. Required # Sessions ⁽³⁾	
Total Sessions Fee (= A @ C)	\$
Plus:	
D. Per User Training Fee ⁽⁴⁾	\$
E. Assumed Number of Users to be trained	15
Total User Training Fees (= D@E)	\$
Plus:	
Site and Equipment Costs Fee ⁽⁵⁾	\$
Total Level 1 Not-To-Exceed User Training Costs (= Total Sessions Fees + Total User Training Fees+ Total Site and Equipment Costs)	\$
II. Level 2 User Training Costs	
A. Per Training Session Fee ⁽¹⁾	\$
B. Candidates Per Session ⁽²⁾	
C. Required # Sessions ⁽³⁾	
Total Sessions Fee (= A @ C)	\$
Plus:	
D. Per User Training Fee ⁽⁴⁾	\$
E. Assumed Number of Users to be trained	10
Total User Training Fees (= D@E)	\$
Plus:	
Site and Equipment Costs Fee ⁽⁵⁾	\$
Total Level 2 Not-To-Exceed User Training Costs (= Total Sessions Fees + Total User Training Fees+ Total Site and Equipment Costs)	\$
III. Level 3 User Training Costs	
A. Per Training Session Fee ⁽¹⁾	\$
B. Candidates Per Session ⁽²⁾	
C. Required # Sessions ⁽³⁾	
Total Sessions Fee (= A @ C)	\$
Plus:	
D. Per User Training Fee ⁽⁴⁾	\$
E. Assumed Number of Users to be trained	20
Total User Training Fees (= D@E)	\$
Plus:	
Site and Equipment Costs Fee ⁽⁵⁾	\$
Total Level 3 Not-To-Exceed User Training Costs (= Total Sessions Fees + Total User Training Fees+ Total Site and Equipment Costs)	\$
Total Not-to-Exceed Amount – Training Costs ⁽⁶⁾	\$

Footnotes:

⁽¹⁾ Enter the Offeror's proposed all-inclusive fixed Per Training Session Fee to be charged to the Department to "hold" a given DSS Implementation training Session. The fee quoted is to be independent of the number of Users trained

during the DSS Implementation training Session. "Hold" is defined as from the commencement of training through its completion, regardless of the duration of the DSS Implementation training Session (e.g., 1 hour, 8 hours, a morning and an afternoon class, 2 classes held over two Business Days, etc.).

- (2) Enter the maximum number of Users that the Offeror is proposing that it can effectively train during a given DSS Implementation training Session (e.g., maximum session size of 5 Users, 10 Users, etc).
- (3) Enter the number of DSS Implementation training Sessions required given the assumed number of Users to be trained and the maximum number of Users that the Offeror is proposing that it can effectively train during a given DSS Implementation training Session (e.g., Under Level 1 User training, the Offeror is to assume that 15 Users are required to be trained, if an Offeror proposes that the maximum number of Users it can effectively train during a Level 1 DSS Implementation training Session is 5, then the number of training Sessions required to train the 15 Users would be 3) – round up as necessary. If the maximum number of Users that an Offeror is proposing that it can effectively train during a given DSS Implementation training Session exceeds the assumed number of Users to be trained, enter 1.
- (4) Enter the Offeror's proposed all-inclusive fixed Per User Training Fee to be charged to the Department for each User trained during a given DSS Implementation training Session. If the number of Users trained during a given DSS Implementation training Session is equal to, more or less than the assumed number, the Contractor will be paid for the actual number of Users trained at the Per User Training Fee (e.g., if the Per User Training Fee is \$100 and 3 Users are trained, then the Contractor would be paid \$300, if however, 10 Users are trained the Contractor would be paid \$1,000).
- (5) It is the Department's preference that all training provided by the Contractor during the Implementation phase be provided onsite at the Department's facilities; however, Offerors may propose that training be conducted at a location other than the Department's facilities, subject to the Department's approval. If an Offeror is proposing that training be provided at a location other than Department's offices, the Contractor must assume the costs for the site and required equipment. The Offeror should propose an all-inclusive fixed Site and Equipment Costs Fee to cover all such site and/or equipment costs incurred by the Contractor that is, assuming that the Offeror is seeking reimbursement for said costs from the Department. In such cases where training is provided at the Offeror's proposed location, the Contractor will be paid its proposed Site and Equipment Costs Fee regardless of the amount of the costs actually incurred by the Contractor. If an Offeror is not proposing to provide training at a location other than the Department's facilities or if it is but, either the Offeror will not incur any site and/or equipment costs or the Offeror is not seeking reimbursement for such costs incurred from the Department, the Offeror should enter "\$0".
- (6) Sum the "Total Level 1 Not-To-Exceed User Training Costs", "Total Level 2 Not-To-Exceed User Training Costs" and "Total Level 3 Not-To-Exceed User Training Costs", enter the resultant amount and bring it forward to Table 2 and enter on the "IV. Total Not-To-Exceed Amount - Training Costs" line.

Table 7: DSS Implementation – Other Costs

[illegible]

Footnotes:

- (1) Provide a separate Item Name for each item listed. On a separate schedule developed by the Offeror and attached to this table provide, for each item listed, an item description and detail all of the pricing assumptions, including, as applicable, Quantity and Unit Prices and calculations used to arrive at the Total Amount for each item.
- (2) Bring the Total Not-to-Exceed Amount – Other Costs amount forward to Table 2, and enter on the “V. Total Not-To-Exceed Amount - Other Costs” line.

Table 8: DSS Ongoing Operations Monthly Fee

DSS Ongoing Operations Monthly Fee									
Time Period Covered			Ongoing Operations Monthly Fee		# of Months		Projected Monthly Fees ⁽⁵⁾		
Month		⁽¹⁾	\$		/month ⁽²⁾	@		Months ⁽³⁾	=
	13	through 60	\$		/month ⁽⁴⁾	@	48	months	=
Total Ongoing Operations Monthly Fees ⁽⁶⁾									

Footnotes:

- ⁽¹⁾ Assuming a contract effective date of January 1, 2011, if the Offeror is proposing to implement its DSS Solution in less than twelve (12) months such that it is scheduled to be operational for a period of time during the first year of the Contract, then the Offeror should identify the FULL months, beginning with the first FULL month for which it is proposing that its DSS Solution will be fully operational. The month listed must align with the Offeror's proposed Implementation Plan and Schedule. (e.g., if, under the Offeror's proposed Implementation Plan/Schedule, its DSS Solution is proposed to be fully operational on October 23, 2011, then the Offeror would enter 11/11 – 12/11 in the cell, as the first full month would be November 2011 and December 2011 would be the last full month for the period of Ongoing Operations in the 1st full year of the contract.) (Note: If the Offeror's proposed DSS Solution is scheduled to be fully operational on a date other than the first day of the month such that the DSS Solution is proposed by the Offeror to be initially fully operational for only part of the month, the resultant cost to the Department for the period of time during said partial month during which the Offeror's proposed DSS Solution is scheduled to be fully operational should be set forth in Table 8A. For example, in the example provided above, the proposed fee to cover operations from October 23, 2011, through October 31, 2011 should be set forth in Table 8A in accordance with the instructions contained therein.) If the Offeror is not proposing to implement its DSS Solution in less than twelve (12) months or if it is, but it's proposed DSS Solution will not be fully operational for a least one (1) FULL month during the first year of the Contract then, the Offeror should enter "N/A".
- ⁽²⁾ The Offeror should enter its proposed Ongoing Operational Monthly Fee, if the Offeror is proposing to implement its DSS Solution in less than 12 months such that it will be operational for a least one (1) FULL month during the first year of the Contract, otherwise the Offeror should enter "N/A". If a proposed Ongoing Monthly Fee is listed, the amount of the fee must be the same as the amount of the Ongoing Operations Monthly Fee proposed for months 13 through 60.

- (3) The Offeror should enter the total number of FULL months during the first year of the Contract that the Offeror's proposed DSS Solution will be operational.
- (4) The Offeror should enter its proposed fixed all-inclusive Ongoing Operational Monthly Fee to be charged to the Department during the term of the Contract once its DSS Solution is accepted and is deemed by the Department to be operational.
- (5) Multiply the Ongoing Operations Monthly Fee amount by either the # of Months entered (in terms of the first 12 months of the Contract) or listed in the table (in terms of months 13 through 60 [i.e., 48 months]).
- (6) Sum the Projected Monthly Fees amounts as calculated and bring that amount forward to Table 1, and enter it on the "B. *Total Ongoing Operations Monthly Fees*" line.

Table 8A: DSS Partial Month Ongoing Operations Fee

DSS Partial Month Ongoing Operations Fee	
A. Date on which the Offeror's DSS Solution is proposed to be fully operational ⁽¹⁾	
B. Number of Calendar Days remaining in the subject Month ⁽²⁾	
C. Number of Calendar Days in subject Month ⁽³⁾	
D. Percentage of time during subject month during which the Offeror's DSS Solution is proposed to be fully operational (<i>B divided by C</i>)	
E. Ongoing Operations Monthly Fee ⁽⁴⁾	\$
DSS Partial Month Ongoing Operations Fee ⁽⁵⁾	\$

Footnotes:

- ⁽¹⁾ Enter the date on which the Offeror's proposed DSS Solution is proposed to be fully operational. The date listed must align with the Offeror's proposed Implementation Plan and Schedule. If the Offeror is proposing to implement its DSS Solution in less than twelve (12) months such that it will be operational for a period of time during the first year of the Contract and if the date the Offeror's proposed DSS Solution is scheduled to be fully operational is a date other than the first day of the month such that the DSS Solution will be initially fully operational for only part of a month, complete items B., C., D. and E, and calculate the "DSS Partial Month Ongoing Operations Fee" in accordance with the instructions set forth in the footnotes below. If the Offeror is not proposing to implement its DSS Solution in less than twelve months or if it is, but the date proposed is not a date other than the 1st of a month, enter "N/A" under items B., C., D. and E and enter "\$0" as the "DSS Partial Month Ongoing Operations Fee".
- ⁽²⁾ Calculate the number of Calendar Days during the partial month during which the Offeror's proposed DSS Solution is proposed to be fully operational.
- ⁽³⁾ List the total number of Calendar Days in the subject month.
- ⁽⁴⁾ The Offeror should enter its proposed Ongoing Operational Monthly Fee from Table 8. The amount listed must be the same as the amount of the Ongoing Operations Monthly Fee proposed for months 13 through 60 in Table 8.
- ⁽⁵⁾ If applicable, multiple the percentage calculated under item D by the Ongoing Operations Monthly Fee listed under item E. Bring the resultant amount or "\$0", as applicable, forward to Table 1, and enter it on the "C. DSS Partial Month Ongoing Operations Fee" line.

Table 9: Incremental Ongoing Training Rates

Incremental Ongoing Training Rates					
I. Level 1 User Training Costs	Year 1	Year 2	Year 3	Year 4	Year 5
A. Per Training Session Fee ⁽¹⁾	\$	\$	\$	\$	\$
B. Candidates Per Session ⁽²⁾					
C. Per User Training Fee ⁽³⁾	\$	\$	\$	\$	\$
D. Total Site and Equipment Costs Fee ⁽⁴⁾	\$	\$	\$	\$	\$
II. Level 2 User Training Costs					
A. Per Training Session Fee ⁽¹⁾	\$	\$	\$	\$	\$
B. Candidates Per Session ⁽²⁾					
C. Per User Training Fee ⁽³⁾	\$	\$	\$	\$	\$
D. Total Site and Equipment Costs Fee ⁽⁴⁾	\$	\$	\$	\$	\$
III. Level 3 User Training Costs					
A. Per Training Session Fee ⁽¹⁾	\$	\$	\$	\$	\$
B. Candidates Per Session ⁽²⁾					
C. Per User Training Fee ⁽³⁾	\$	\$	\$	\$	\$
D. Total Site and Equipment Costs Fee ⁽⁴⁾	\$	\$	\$	\$	\$

Footnotes:

- ⁽¹⁾ Enter the Offeror's proposed all-inclusive fixed Per Training Session Fee to be charged to the Department to "hold" a given Incremental training Session assuming such training will be performed at the Department's facilities. The fee quoted is to be independent of the number of Users trained during the Incremental training Session (refer to footnote 3 below). "Hold" is defined as from the commencement of training through its completion, regardless of the duration of the Incremental training Session (e.g., 1 hour, 8 hours, a morning and an afternoon class, 2 classes held over two Business Days, etc.). If an Offeror is not proposing to charge a Per Training Session Fee, enter "N/A"
- ⁽²⁾ Enter the maximum number of Users that the Offeror is proposing that it can effectively train during a given Incremental training Session (e.g., maximum session size of 5 Users, 10 Users, etc).
- ⁽³⁾ Enter the Offeror's proposed all-inclusive fixed Per User Training Fee to be charged to the Department for each User trained during a given Incremental training Session. In addition to its Per Training Session Fee, if any, the Contractor will be paid for the actual number of Users trained during a given Incremental training Session at the Per User Training Fee

(e.g., if the Per User Training Fee is \$100 and 3 Users are trained, then the Contractor would be paid \$300. If however, 10 Users are trained, the Contractor would be paid \$1,000).

- (4) It is the Department's preference that all training provided by the Contractor during ongoing operations be provided onsite at the Department's facilities; however, Offerors may propose that training be conducted at a location other than the Department's facilities, subject to the Department's approval. If an Offeror is proposing that training be provided at a location other than Department's offices, the Contractor must assume the costs for the site and required equipment. The Offeror should propose an all-inclusive fixed Site and Equipment Costs Fee to cover all such site and/or equipment costs incurred by the Contractor that is, assuming that the Offeror is seeking reimbursement for said costs from the Department. In such cases where training is provided at the Offeror's proposed location, the Contractor will be paid its proposed Site and Equipment Costs Fee regardless of the amount of the costs actually incurred by the Contractor. If an Offeror is not proposing to provide training at a location other than the Department's facilities, the Offeror should enter "N/A". If an Offeror is proposing to provide training at a location other than the Department's facilities but, either the Offeror will not incur any site and/or equipment costs or the Offeror is not seeking reimbursement for such costs incurred from the Department, the Offeror should enter "\$0".

Table 10 Data Provider Start-up Fee

Data Provider Start-up Fee	
Category of Expense	Per Data Provider Start-up Fee ⁽¹⁾
Data Provider Start-up Fee: <i>to cover all of the Contractor's costs to add a Data Provider to the DSS Solution during the term of the Contract once Implementation activities have been completed and accepted by the Department and the DSS Solution is fully operational.</i>	\$_____/Data Provider

Footnotes:

⁽¹⁾ Enter the Offeror's proposed all-inclusive fixed Data Provider Start-up Fee.

Table 11: Additional User Fees

Additional User Fees			
Range of Users ⁽¹⁾	Level 1	Level 2	Level 3
	\$ Rate/User/Month	\$ Rate/User/Month	\$ Rate/User/Month
0 - 10	N/A	N/A	N/A
11 - 15	N/A	\$	N/A
16 - 20	\$	\$	N/A
20 - 35	\$	\$	\$
36 - 50	\$	\$	\$
51 - 75	\$	\$	\$
76+	\$	\$	\$

Footnotes:

- ⁽¹⁾ As part of its proposed DSS Ongoing Operations Fee, the Offeror shall incorporate the cost of any proposed User access, use or licensing fees associated with the assumed number of Users (i.e., fifteen [15] Level 1 Users, ten [10] Level 2 Users and twenty [20] Level 3 Users. During the term of the Contract, the Department may, in its sole discretion add, change or delete or deactivate Users in one or more of levels. Deleted/Deactivated Users may be replaced with new Users at no additional charge to the Department, assuming that is that during the Operations phase of the Contract the total number of Users is not greater than the assumed number of Users for the given level. If, during the Operations phase of the Contract, the number of active Users in a given level is less than the assumed number for that level, no reduction in the DSS Ongoing Operations Fee will be due the Department. During the Operations phase of the Contract, if during a given month, the number of active Users in a given level is greater than the assumed number of Users for that level, the Offeror may, but is not required to, propose a per user per month Additional User Fee to be charged to the Department for each User beyond the assumed number of Users. Additional User Fees charged, if any, will be added to the Contractor's DSS Ongoing Operations. For example if the number of Level 1 Users in month fourteen of the Contract term is fifteen, then no Level 1 Additional User Fee would be due the Contractor. If the number of Level 1 Users in month fifteen is seventeen, then, for that month, in addition to its DSS Ongoing Operations Fee, the Contractor would be due two (2) times its proposed Level 1 per user per month fee as set forth on "Range of Users" line 16 - 20 Table 8A.

Table 12: Additional Consulting Support Services Fee(s)

Position/Title ⁽¹⁾	
	Hourly Rate ⁽²⁾
	\$
	\$
	\$
	\$
	\$
	\$
	\$

Footnotes:

- ⁽¹⁾ As part of its proposed DSS Ongoing Operations Fee, the Offeror shall incorporate the cost of 400 hours Consulting Support Services as stated in Section IV B.2.e. During the term of the Contract, the Department may, in its sole discretion, require additional Consulting Support Services after the initial 400 hours of Consulting Support Services have been incurred. In this table, the Offeror must enter an hourly rate by Consultant Position/Title available to the Department for Additional Consulting Support Services.
- ⁽²⁾ Rates are for the term of the contract.