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**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

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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<sup>(1)</sup>:
    - can **not** be a current Empire Plan carrier, contractor and/or subcontractor; and/or

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    - can **not** be a current Department, Division of the Budget and/or Governor's Office of Employee Relations contractor and/or subcontractor<sup>(2)</sup> 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.

<sup>(1)</sup> 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.

<sup>(2)</sup> 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:

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

**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

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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.<sup>1</sup>

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<sup>1</sup> 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.**