



Department of
Civil Service

REQUEST FOR PROPOSALS

ENTITLED:

**“New York State Health Insurance Program
Decision Support System”**

RELEASE DATE:

March 21, 2019

PROPOSAL DUE DATE:

April 22, 2019, 3:00 p.m. ET

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 Designated Contacts as listed in Section 2 of this RFP 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 2: Procurement Protocol and Process).

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

NYS Department of Civil Service
Attn: Decision Support System Procurement, Floor 17
Agency Building 1, Empire State Plaza
Albany, New York 12239
E-mail: DCSprocurement@cs.ny.gov

Lola Brabham
Acting Commissioner
NYS Department of Civil Service

James DeWan
Director
Employee Benefits Division

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SECTION 1: INTRODUCTION

1.1 Purpose

The purpose of this Request for Proposals (RFP), entitled “**New York State Health Insurance Program Decision Support System**” is to secure the services of a qualified organization (Offeror) to provide a comprehensive, integrated data management system that allows the Department of Civil Service (Department) to store, analyze, and generate business intelligence for the New York State Health Insurance Program (NYSHIP). That system, together with the Project Services required by this RFP, is hereinafter referred to as the Decision Support System (DSS). 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.

It is the Department’s intent to execute an Agreement with one (1) Offeror selected from this RFP for a term consisting of the Implementation Period plus five (5) years. The Implementation Period is a period of no more than 135 days, and includes user training. The Agreement is subject to the approval of the New York State Attorney General’s Office (AG) and the New York State Office of the State Comptroller (OSC). The Offeror selected from this RFP will be solely responsible for administering the DSS in accordance with the specifications in this RFP. This RFP and other relevant information may be reviewed at: <https://www.cs.ny.gov/DSS2019RFP/>

1.2 Overview of the New York State Health Insurance Program

NYSHIP was established by the New York State Legislature in 1957 to provide essential health insurance protection to New York State (NYS) employees, retirees, and their eligible dependents. 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).

NYSHIP is sponsored by the Council on Employee Health Insurance (Council). 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 Program administrators.

NYSHIP is comprised of four health insurance plans:

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1. The Empire Plan provides health insurance benefits for the employees, retirees and eligible dependents of NYS; and NYSHIP PAs and PEs. It pays for covered hospital services, physicians' bills, prescription drugs and other covered medical expenses. The Empire Plan, which became fully self-funded as of January 1, 2014, has the highest level of enrollment with over a million covered lives of the approximate 1,241,000 NYSHIP enrollment. Presently, the Empire Plan benefit design consists of four (4) main components that are administered under separate contracts:
 - a. Hospital Program benefits, administered by Empire BlueCross BlueShield, include coverage for hospital inpatient stays, hospice care, emergency care, skilled nursing facilities, infertility services and the Transplants Program.
 - b. Medical Program benefits, administered by UnitedHealthcare Insurance Company of New York, include coverage for medical and surgical services under the Participating Provider and the Basic Medical Program. Coverage also includes specialty programs such as the Managed Physical Medicine Program and the Home Care Advocacy Program (HCAP).
 - c. Mental Health and Substance Abuse Program benefits, administered by Beacon Health Options, include coverage for network and non-network services.
 - d. Prescription Drug Program benefits, administered by CVS Caremark, include coverage for prescription drugs dispensed through retail network pharmacies, the Mail Service Pharmacy Process, and the Specialty Pharmacy Program.
 2. The Excelsior Plan is a variation of the Empire Plan available to NYS local government units which choose to participate in NYSHIP. It offers many of the same features of the Empire Plan with a higher degree of cost sharing between the employer and plan participants.
 3. The NYSHIP Health Maintenance Organizations (HMOs) options are available to State employees and PEs.
 4. The Student Employee Health Plan (SEHP) is a health insurance plan for graduate student employees of the State University of New York 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 Department's Employee Benefits Division.

All plans are offered on a calendar year. The Department intends to use the DSS primarily as a tool in the administration and management for the Empire Plan, the

Excelsior Plan and SEHP.

1.3 Offeror Eligibility

Offeror means any responsible and eligible entity submitting a responsive Proposal to this RFP. It shall be understood that references in the RFP to “Offeror” shall include said entity’s proposed Key Subcontractor or Affiliates, if any. The Department requests proposals only from qualified Offerors, as specified below.

1. The Offeror must, at time of Proposal submission and throughout the term of the Contract, possesses the legal capacity to enter into a contract with the Department.
2. The Offeror, at time of Proposal submission and throughout the term of the Contract, must be authorized to conduct business in NYS, or, if the Offeror is not so authorized at time of Proposal Due Date, then the Offeror must, at time of Proposal Due Date, have filed an application for authority to do business in NYS with the New York State Secretary of State. Such application must be approved prior to Contract Award. (For details concerning this requirement, refer to: http://www.dos.ny.gov/corps/forms_listing.html). To register with the Secretary of State, contact: <https://www.dos.ny.gov/corps/index.html>). The Contractor shall notify the Department immediately in the event that there is any change in the above corporate status.
3. The Offeror must represent and warrant that, at time of Proposal submission, it has completed, obtained or performed all registrations, filings, approvals, authorizations, consents and examinations required by any governmental authority for the provision of the delivery of Project Services and agree that it will, during the term of the Contract, comply with any requirements imposed upon it by law.
4. The Offeror must have provided similar services for at least one client with a minimum total population of 200,000 covered lives.
5. As of the Proposal submission, the Offeror must have implemented and maintained decision support system services for health insurers, Health Plans (including public health plans, 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.
6. The Offeror must provide a list of client organizations to clearly demonstrate 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) covered lives].

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7. The Offeror, if selected, will, under the Agreement, maintain and make available as required by the State, 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 terms and conditions of this RFP, Appendices A, B, and C and including any and all financial records as deemed necessary by the State to discharge its fiduciary responsibilities to Program participants and to ensure that public dollars are spent appropriately.
 8. The Offeror must represent and warrant that, at time of Proposal submission, it possesses adequate staffing resources, financial resources and organizational capacity to perform the type, magnitude and quality of work specified in the RFP.
 9. The Offeror must represent and warrant that it will not disclose or sell any information related to NYSHIP to any party without written authorization from the Director of the Employee Benefits Division of the Department. A request for authorization must be made to the Director in writing and must satisfy all requirements for notification as stated in the Agreement resulting from this RFP.
 10. The Offeror 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 solely for the purposes of allowing the Offeror to fulfill its duties and responsibilities under the Contract;
 - b. Said materials are the sole property of the State; and
 - c. Provision of said materials to the Offeror does not confer ownership or shared ownership to the Offeror.
 11. The Offeror must represent and warrant that all data will be stored on an on-premises server(s) located within the United States and all work performed by Offeror personnel under this Contract must be performed within the United States.
 12. The Offeror, its parent company, and/or any subsidiaries, partners and/or affiliates cannot be a current Empire Plan administrator. This is to ensure independence in the performance of Project Services. The current Empire Plan administrators are: Empire BlueCross BlueShield, UnitedHealthcare, Beacon Health Options, Inc. and CVS Caremark.

1.4 Timeline of Key Events

EVENT	DATE
RFP Release Date	March 21, 2019
Deadline for Submission of Offeror Affirmation of Understanding	See below*
Pre-Proposal Conference	April 8, 2019
Deadline for Submission of Offeror Questions	April 10, 2019
Release Date of Official Responses to Offeror Questions	April 15, 2019
Proposal Due Date and Time	April 22, 2019
Technical Management Interviews	April 29, 2019
Tentative Contract Award	May 7, 2019
Anticipated Contract Start Date	May 13, 2019**

*Prior to the Offeror's initial contact with the Department, the Offeror must complete and submit *Offeror Affirmation of Understanding and Agreement* (Attachment 1) to the Designated Contacts identified in Section 2 of this RFP.

**The May 13, 2019 contract start date is the anticipated target date. However, if the contract start date goes beyond May 13, 2019, the awardee will have no more than 135 days to complete implementation.

SECTION 2: PROCUREMENT PROTOCOL AND PROCESS

2.1 Rules Governing Conduct of Competitive Procurement Process

All inquiries, questions, filings and submission of Proposals in regard to the RFP must be directed, in writing to the contact information listed below. Proposals may not be submitted by e-mail or facsimile. Any inquiries, questions, filings or submission of Proposals that are submitted to any other contact or physical address shall not be considered as official, binding or as having been received by the Department.

1. Designated Contacts

In accordance with the Procurement Lobbying Law [State Finance Law § 139-j(2)(a)], the following individuals are the Designated Contacts for this Solicitation. All questions relating to this Solicitation must be addressed to the following Designated Contacts.

Brian Bopp and/or Victoria Rojas-Valencia, DCS Contract Administration
NYS Department of Civil Service
Attn: DSS Procurement, Floor 17
Agency Building 1, Empire State Plaza
Albany, New York 12239
E-mail: DCSprocurement@cs.ny.gov

2. Procurement Lobbying Limitations

- a. Pursuant to State Finance Law sections 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 Agreement's final approval by the OSC) to other than designated staff, unless the contact falls within certain statutory exceptions ("permissible contacts"). For purposes of this section of the RFP, "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids (i.e. Proposals) in response to this RFP. 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 will 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 or be awarded a Contract for four years from the date of the second non-responsibility finding. The Department's policy and associated procedures can be found in the *Procurement Lobbying Policy* (Attachment 2). Further information about these requirements can be found at:

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 this RFP is released until the Agreement is approved by the OSC. The Procurement Lobbying law applies to any individual or entity, or any employee, agent, consultant, or person acting on behalf of such individual or entity, who contacts the Department or any other State governmental entity about a governmental procurement during that procurement's restricted period, whether or not the caller has a financial interest in the outcome of the governmental procurement; provided, however, that a governmental agency (or its employees) that communicates with the Department regarding a governmental procurement in the exercise of its oversight duties shall not be considered an Offeror. "Offeror" includes prospective Offerors prior to the due date for the submission of offers/bids in response to the solicitation document. All contacts, inquiries, questions, filings and submissions of Proposals in regard to this RFP must be directed, in writing, by mail, facsimile or e-mail, as applicable, solely to the Designated Contacts. An Offeror's failure to comply with this requirement may result in the Offeror's disqualification from this 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 public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the date the solicitation instrument 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. The following contacts are exempted from the provisions of paragraph 3 of section 139-j and as such do not need to be directed to the Designated Contact pursuant to section 139-k:

- i. The submission of written proposals in response to the solicitation document;
- ii. The submission of written questions by a method 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;
- iii. Participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in the solicitation document;

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- iv. Complaints by an Offeror regarding the failure of the Designated Contacts to respond to 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;
 - v. 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;
 - vi. Contact by an Offeror to request the review of a procurement award when done in accordance with the procedure specified in the solicitation document;
 - vii. 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;
 - viii. Complaints of alleged improper conduct in the procurement when such complaints are made to the AG, Inspector General, District Attorney, or to a court of competent jurisdiction;
 - ix. Protests, appeals or complaints to OSC during the process of contract approval, where OSC's approval is required provided that OSC shall make a record of such communications and any response thereto which shall be entered into the procurement record pursuant to State Finance Law section 163;
 - x. Complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to OSC; or
 - xi. Communications between Offerors and governmental entities that solely address the determination of responsibility by a governmental entity of an Offeror.
- c. Each Offeror must complete *Offeror Affirmation of Understanding and Agreement* (Attachment 1) 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 Designated Contacts identified in Section 2 of this RFP prior to a prospective Offeror making its initial contact with the

Department.

3. Pre-Proposal Conference

A Pre-Proposal Conference will be held on April 8, 2019 at 10:00 a.m. in the Swan Street Building, Core 1, Room 2106, Albany, NY 12239. Attendance is not mandatory but is strongly encouraged for Offerors intending to submit a Proposal. Each Offeror is requested to send no more than two (2) representatives to the Pre-Proposal Conference. If your organization plans to attend the Pre-Proposal Conference, please notify the Designated Contacts identified in Section 2 of this RFP via e-mail at the address noted in Section 2 at least 24 hours before the conference with the name and affiliation of each person attending. Information regarding directions to the Empire State Plaza, available parking and security requirements, may be found at: <http://ogs.ny.gov/ESP/CT/plaza.asp>. On the date of the conference, visitors may be required to present photo identification. Prospective Offerors are advised to allow sufficient time to go through security.

4. Interested MWBE Subcontractors/Suppliers

On the *MWBE Subcontract/Supplier Posting Request Form* (Attachment 14), New York State certified Minority and Women-Owned Businesses (MWBE) may request that their firm's contact information be included on a list of MWBE firms interested in serving as a subcontractor or supplier for this Procurement. The listing will be publicly posted on the Procurement webpage at: <https://www.cs.ny.gov/DSS2019RFP/> for reference by the bidding community. A firm requesting inclusion on this list should send a copy of its NYS MWBE certification with its completed MWBE Subcontract/Supplier Posting Request Form. This form must be received by April 15, 2019 to be posted.

5. Submission of Errors or Omissions in this RFP Document

By participating in activities related to this RFP, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms, including, but not limited to, this process by which an Offeror may submit errors or omissions for consideration. If an Offeror believes there is an error or omission in this RFP, the Offeror may raise such issue as follows:

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

- i. *Time Frame*: Assertions of errors or omissions in the RFP 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 1.4 of this RFP.

Business Day(s) means every Monday through Friday, except for days designated as state holidays by the Department.

- ii. 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.
- iii. Format of Submission: All submissions asserting an error or omission must be in writing and submitted to the Designated Contacts in hard copy at the address provided in Section 2 of this RFP.

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 Proposals"**

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 Offeror and the Offeror shall have no further recourse.

b. The Review Process for Assertions of Errors or Omissions in RFP

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 Offeror may be given the opportunity to meet with the Commissioner or the Commissioner's designee 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 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 this RFP document. 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 or e-mail. Notice of any extension will also be posted to: <https://www.cs.ny.gov/DSS2019RFP/>.

6. Submission of Questions

Using the *Questions Template* (Attachment 4), prospective Offerors may submit questions concerning the content of this RFP via email to the Designated Contacts' address specified in Section 2 of this RFP. Only those questions received prior to the Questions Due Date specified in Section 1 of this RFP, will be accepted. After the Questions Due Date, the Department will provide an email notification of the posting of all questions and the Department's official answers to all those individuals who provided an email address on the submitted *Offeror Affirmation of Understanding and Agreement* form (Attachment 1), the *Questions Template* (Attachment 4), and those individuals who register to attend the pre-proposal conference. The questions and answers will also be posted to <https://www.cs.ny.gov/DSS2019RFP/>

7. Submission of Proposal

- a. The Offeror's Proposal must be organized and separated into (3) separate parts: Administrative Proposal; Technical Proposal; and Financial Proposal. To facilitate the evaluation process, Offeror's must follow the submission requirements described below:
 - i. One ORIGINAL hard copy and two (2) hard copy versions of each of the three (3) parts of the RFP, separated into Administrative, Technical and Financial sections.
 - ii. Each ORIGINAL hard copy of each part must be marked "ORIGINAL," 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. The remaining hard copies of each part may contain a copy of the official's signature on all forms submitted that require the Offeror's signature and should be numbered sequentially (i.e., Copy #1, Copy #2).
 - iii. A master electronic submission containing all of the ORIGINAL hard copy parts of the proposal must be provided on electronic

media. Electronic media shall be included on unprotected Microsoft Windows formatted USB 2.0 or higher storage drives and must be clearly labeled by proposal part and identified as the master electronic submission. In situations where proposal content differs between the ORIGINAL bound hard copies and the master electronic submission, the master electronic submission is deemed controlling. The master electronic submission should be inserted in the Financial Proposal box.

- iv. The Offeror must submit sixteen (16) additional USB drives, eight (8) of which each contain an electronic copy of the Administrative and Technical Proposal ONLY, and eight (8) of which contain the Financial Proposal ONLY. The aforementioned USB drives must conform to the technical specifications outlined in Section 2 of this RFP. Each of the sixteen electronic copies should be labeled by section and uniquely designated with a number (e.g. "TECHNICAL & ADMINISTRATIVE COPY 1", "TECHNICAL & ADMINISTRATIVE COPY 2, etc."). The eight (8) USB drives that contain the Financial Proposal should be packaged in the sealed box/envelope labeled Financial Proposal. The eight (8) USB drives that contain the Administrative and Technical Proposals should be packaged in the sealed box/envelope labeled Administrative Proposal.
 - v. Each Proposal must include a table of contents.
 - vi. Each major section of the Proposal, including attachments, must be labeled with an index tab that completely identifies the title of the section, subsection or attachment as named in the table of contents.
 - vii. Each page of the Proposal, including attachments, must be dated and numbered consecutively.
- b. Proposals should be placed and packaged together, by part, in sealed boxes/envelopes (i.e., all Administrative Proposals in one box, all Technical Proposals in a second box, and all Financial Proposals in a third box). Each sealed box/envelope should contain a label on the outside which contains 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 FINANCIAL PROPOSAL

**There must be no cost information included in the Offeror’s
Administrative Proposal or Technical Proposal, except for proposed performance
guarantees.**

- c. All Proposals must be mailed or hand-delivered to the address provided in Section 2 of this RFP. To make arrangements for hand-delivery, the Offeror must notify the Designated Contacts twenty-four (24) 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 1.4 of the RFP.
- d. Any proposal received after 3:00 p.m. ET on the Proposal Due Date, as specified in Section 1.4, will not be accepted by the Department and may be returned to the submitting entity at the Department’s discretion. All Proposals submitted become the property of the Department.
- e. The Department will accept amendments and/or additions to an Offeror's Proposal if the amendment and/or addition is received by the Proposal Due Date. All amendments to an Offeror’s Proposal must be submitted in accordance with the format set forth in Section 2 of this RFP and will be included as part of the Offeror's Proposal, if accepted by the Department as provided above.
- f. An Offeror is solely responsible for timely delivery of the Proposal to the Department prior to the stated Proposal Due Date stated in Section 1.4 of this RFP. Delays in United States mail deliveries or any other carrier, including couriers or agents of New York State, shall not excuse late bid submissions. If the Proposals is delivered by mail or courier, the Department recommends that it be sent “Returned Receipt Requested”, so the Offeror obtains proof of timely delivery. No phone, facsimile nor e-mail submission of Proposals will be accepted for this RFP. In addition, it is the sole responsibility of the Offeror to verify that all elements of the proposal submission are complete, correct and without error.

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- g. An Offeror is cautioned to verify the Proposal contents before submission. The *Proposal Submission Requirement Checklist* (Attachment 13) may be used to facilitate verification of Proposal contents. It is the sole responsibility of the Offeror to verify that all elements of the Proposal submission are complete, correct and without error. The Offeror shall ensure that all electronic media submitted for the Department's consideration is complete, accessible to Department staff, and properly formatted as outlined in Section 2 of this RFP.

8. Bid Deviations

- a. The Department will not entertain bid deviations to *Standard Clauses for New York State Contracts* (Appendix A). The Department will also not entertain bid deviations to the solicitation to *Standard Clauses for All Department Contracts* (Appendix B) that are of a material and substantive nature. NYS law precludes awarding a contract based on material deviation(s) from the specifications, terms, and/or conditions set forth in the solicitation. Therefore, proposals containing bid deviations (including additional, inconsistent, conflicting or alternative terms) that are a material and substantive from the specifications, terms, and conditions set forth in the solicitation may render the proposal non-responsive and may result in rejection of the proposal.
- b. If Offeror has an issue or concern regarding provisions in the solicitation and is considering submission of a proposal containing a bid deviation, Offeror is strongly advised to raise such issues and/or concerns during the question and answer period so that the Department may give due consideration to the issue prior to the submission of proposals. Failure to use the question and answer period and instead submitting a proposal containing a bid deviation could render the entire proposal non-responsive and rejected in its entirety.
- c. In general, a material and substantive bid deviation is one that would (i) impair the interests of New York State, (ii) place the successful Offeror in a position of unfair economic advantage, (iii) place other Offerors at a competitive disadvantage, or (iv) which, if it had been included in the original solicitation, could have formed a reasonable basis for an otherwise qualified Offeror to change its determination concerning the submission of a proposal. For example, a deviation that would substantially shift liability (risk) or financial responsibility from the Offeror to New York State would be considered material.
- d. An Offeror is further advised that its standard, pre-printed material (including but not limited to product literature, order forms, manufacturer's license agreements, standard contracts or other pre-printed documents), which are physically attached or summarily referenced in the Offeror's

proposal, unless specifically required by the solicitation to be submitted as part of the Offeror's proposal, are not considered as having been submitted with or intended to be incorporated as part of the official offer contained in the proposal. Rather, such material shall be deemed by the Department to have been included by Offeror for informational or promotional purposes only.

- e. To submit a non-material bid deviation, an Offeror must follow the instructions below and submit the proposed the deviation(s) using the *Non-Material Deviations Template* (Attachment 12), as part of the Administrative Proposal. If a non-material bid deviation does not meet these requirements, it shall not be considered by the State and shall be rejected.
 - i. Each proposed deviation (addition, deletion, counter-offer or modification) must be specifically enumerated, in a writing, which is not part of a pre-printed form;
 - ii. The writing must identify the specific Solicitation requirement (if any) the Offeror rejects or proposes to modify by inclusion of deviation; and
 - iii. The Offeror must enumerate the proposed deviation (addition, deletion, counter-offer or modification) from the Solicitation, and the reasons.
- f. An Offeror who does not submit the *Non-Material Deviations Template* as part of the Administrative Proposal is presumed to have no bid deviations.

9. Notification of Award

A tentative award 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. No public discussion or news releases relating to this RFP, the associated Procurement process, including but not limited to the bid solicitation, proposal evaluation and award and contract negotiation processes or the Agreement shall be made by any Offeror or its agent without the prior written approval of the Department.

10. Debriefing

Unsuccessful Offerors will be advised of the opportunity to request a Debriefing and the timeframe by which such requests must be made. Debriefings are subject to the *NYS Department of Civil Service Debriefing Guidelines* (Attachment 5). An unsuccessful Offeror's written request for a debriefing shall be

submitted to the address provided in Section 2 of this RFP.

11. Submission of a Protest

By participating in activities related to this Procurement, and/or by submitting a Proposal in response to this RFP, an Offeror agrees to be bound by its terms including, but not limited to, the process by which an Offeror may submit a protest of a non-responsive determination or the selection award for consideration. In the event the Offeror elects to submit a protest of a non-responsive determination, the Offeror agrees it shall not be permitted to also submit a protest on the selection decision. In the event that an Offeror decides to submit a protest, the Offeror may raise such issue according to the following provisions.

a. Process for Submitting a Protest of a Non-Responsive Determination or a Selection Decision

- i. Time Frame: Any protest must be received no later than ten (10) Business Days after an Offeror's receipt of written notification by the Department of a non-responsive determination or conditional award.
- ii. Content: The protest must fully state the legal and factual grounds for the protest and must include all relevant documentation.
- iii. Format of Submission: The protest must be in writing and submitted to the Designated Contacts at the address provided in Section 2 of this RFP.
- iv. A protest of either a non-responsive determination, or a selection decision must have one of the following statements clearly and prominently displayed on the envelope or package:

**“Submission of Tentative Award Protest for
Request for Proposals
New York State Health Insurance Program Decision Support
System**

Or

**“Submission of Non-Responsive Determination Protest for
Request for Proposals
New York State Health Insurance Program Decision Support
System**

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- v. 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. Review of Submitted Protests

- i. The Department shall conduct the review process of submitted protests. The Department's 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, the determination of non-responsiveness, 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 the Commissioner's designee, to support its submission. The Offeror may, but need not, be represented by counsel at such a meeting. The Department shall be represented by counsel at such meeting. Any issues concerning the way the review process is conducted shall be determined solely by the Commissioner, or the Commissioner's designee.
- ii. The Commissioner, or the Commissioner's designee, shall review the matter, and shall issue a written decision within twenty (20) Business Days after the close of the review process. If additional time is necessary for the issuance of the decision, the Offeror shall be advised 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 Department's final determination in the matter.
- iii. If an Offeror protests the selection decision or a non-responsive determination, the Department shall continue contract negotiations regarding the terms and conditions of the agreement with the selected Offeror.

12. 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 or not make an award under the RFP, either in whole or in part.
- b. Prior to the bid opening, amend the RFP. If the Department elects to

amend any part of this RFP, such amendments will also be posted to:
<https://www.cs.ny.gov/DSS2019RFP/>.

- c. Prior to the bid opening, direct Offerors to submit Proposal modifications addressing subsequent RFP amendments.
- d. Withdraw this RFP, at any time, in whole or in part, prior to OSC approval of award of the contract.
- e. Waive any requirements that are not material.
- f. Disqualify any Offeror whose conduct and/or Proposal fails to conform to any of the mandatory requirements of this RFP.
- g. Require clarification at any time during the Procurement process and/or require correction of 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.
- 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 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, 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, if any, in the course of evaluation and selection under this RFP;

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- o. Negotiate with the successful Offeror within the scope of this RFP in the best interests of the Department;
 - p. Utilize any and all ideas submitted in the Proposal(s) received;
 - q. If the Department determines that contract negotiations between the Department and the selected Offeror are unsuccessful, 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 be unsuccessful because of material differences in key provision(s);
 - r. Unless otherwise specified in this RFP, every offer is firm and not revocable for a minimum period of three hundred sixty- five (365) days from the Proposal Due Date as set forth in the RFP; and
 - s. Any Offeror whose 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 its Proposal shall remain valid.

13. Disclaimer

The Department is not liable for any cost incurred by any Offeror prior to approval of the Agreement by OSC. Additionally, no cost will be incurred by the Department for any prospective Offeror or Offeror's participation in any Procurement related activities. The Department has taken care in preparing the data accompanying this RFP (hard copy attachments, website attachments, and sample document attachments). However, the Department does not warrant the accuracy of the data; the numbers or statistics which appear in hardcopy attachments, website attachments, and sample document attachments referenced throughout this RFP which 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.

2.2 Compliance with Applicable Laws, Rules and Regulations, and Executive Orders

This Procurement is subject to the New York State competitive bidding laws and also governed by, at a minimum, the legal authorities referenced below. An Offeror must fully

comply with the provisions set forth in this section of the RFP, as well as the provisions of the *Standard Clauses for New York State Contracts* (Appendix A) and the *Standard Clauses for All Department Contracts* (Appendix B), which will become a part of the resulting contract. The Department will consider for evaluation and selection purposes only those Offerors who agree to comply with these provisions and whose proposal contains the submission required hereunder.

1. **Contractor Requirements and Procedures For Participation By New York State-Certified Minority And Women-Owned Business Enterprises And Equal Employment Opportunities For Minority Group Members And Women**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the Department is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of the Department contracts.

a. Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Department hereby establishes an overall goal of 30 percent for MWBE participation: 10 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation; and 20 percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor on any contract resulting from this procurement must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Department will evaluate a Contractor’s “good faith efforts,” refer to Title 5 NYCRR § 142.8.

The Offeror understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in Title 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with Title 5 NYCRR § 142.13, the Offeror further acknowledges that if it is found to have willfully and intentionally failed to

comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and the Department may withhold payment as liquidated damages.

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

By submitting a bid or proposal, an Offeror agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com> provided, however, that an Offeror may arrange to provide such evidence via a non-electronic method by contacting the Department.

Additionally, an Offeror will be required to submit the following documents and information as evidence of compliance with the foregoing:

- i. *A MWBE Utilization Plan* (Attachment 6) with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department for review and approval. The Department will review the submitted MWBE Utilization Plan and advise the Offeror of the Department’s acceptance or issue a notice of deficiency within 30 days of receipt.
- ii. If a notice of deficiency is issued, the Offeror will be required to respond to the notice of deficiency within seven (7) Business Days of receipt by submitting to the Department a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Offeror and direct the Offeror to submit, within five (5) Business Days, a request for a partial or total waiver of MWBE participation goals. Failure to file the *MWBE Waiver Request Form* (Attachment 7) in a timely manner may be grounds for disqualification of the bid or proposal.

The Department may disqualify an Offeror as being non-responsive under the following circumstances:

- I. If an Offeror fails to submit a MWBE Utilization Plan;

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- II. If an Offeror fails to submit a written remedy to a notice of deficiency;
 - III. If an Offeror fails to submit a request for waiver; or
 - IV. If the Department determines that the Offeror has failed to document good faith efforts to achieve the applicable MWBE participation goals.

The successful Offeror will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Department, but must be made prior to the submission of a request for final payment on the Contract.

The successful Offeror will be required to submit a *Quarterly MWBE Contractor Compliance Report* (Attachment 8) to the Department, by the 10th day following the end of each New York State fiscal quarter, over the term of the Contract, including documenting the progress made toward achievement of the MWBE goals of the Contract.

b. Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Offeror agrees with all of the terms and conditions of *Standard Clauses for New York State Contracts* (Appendix A) including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Offeror is required to ensure that it and any subcontractors awarded a subcontract 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 Offeror, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The Offeror will be required to submit a *MWBE - Equal Employment Opportunity Policy Statement* (Attachment 9) to the Department with its bid or proposal.

If awarded a Contract, the Offeror shall submit a Workforce Utilization Report and shall require each of its subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a quarterly basis during the term of the Contract.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

2. Participation Opportunities For New York State Certified Service-Disabled Veteran-Owned Businesses

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that SDVOBs have opportunities for maximum feasible participation in the performance of the Department’s contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Offerors/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the Department conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to a Contractor. Nevertheless, the Offeror/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

The Offeror/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

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

a. NOTICE TO OFFEROR AND ITS LEGAL COUNSEL

All materials submitted by an Offeror in response to this RFP shall become the property of the Department and may be returned to the Offeror at the sole discretion of the Department. Proposals may be reviewed or evaluated by any person, other than one associated with a competing Offeror, designated by the Department. Offerors may anticipate that Proposals will be evaluated by staff and consultants retained by the Department and may also be evaluated by staff of other New York State agencies interested in the provision of the subject services including, but not limited to, GOER and DOB, 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 supplemental submission(s) 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 a *Freedom of Information Law Request for Redaction Chart* (Attachment 24). 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 Attachment 24 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.

The completed Attachment 24 must be submitted to the Department at the time of its Proposal submission; it should be included with the Requested Redactions (USB storage drive and Hard Copy), described below. It should not be included in the Offeror's Proposal. If the Offeror chooses not to assert that any Proposal material and/or supplemental submission should be protected from FOIL disclosure, the Offeror should so advise the Department by checking the applicable box on Attachment 24 and

submitting it to the Department at the time of its Proposal submission, but separately from its Proposal. If a completed Attachment 24 form is not submitted, the Department will assume that the Offeror chooses not to assert that any proposal material or supplemental submission, as applicable should be protected from FOIL disclosure.

The FOIL-related materials described herein will not be considered part of the Offeror's Proposal and will not be reviewed as a part of the Procurement's evaluation process.

b. Requested Redactions (USB Storage Drive and Hard Copy):

At the time of Proposal submission, the Offeror is required to identify the portions of its Proposal that it is requesting to be redacted, in accordance with the instructions below, to be used in the event that its Proposal is the subject of a FOIL request received by the Department:

The Offeror must provide an electronic copy of the Administrative Proposal, the Technical Proposal, and the Financial Proposal on a separate USB storage drive of the type outlined in RFP Section 2, which reflect the Offeror's requested redactions. Additionally, the Offeror must provide a separately bound hardcopy of each of the three (3) Proposal documents with redactions marked that are included on the USB storage drives. The electronic documents must be prepared in PDF format using the Redaction Function in Adobe Acrobat Professional software, version 8 or higher. Each specific portion of the Proposal documents requested to be protected from FOIL disclosure must be identified using the Adobe "Mark for Redaction" function; do not use the "Apply Redactions" function. The resulting documents must show the Offeror's requested redactions as outlined, while the content remains visible. This will allow the Department to either apply or remove requested redactions when responding to FOIL requests. The documents included on the USB storage drives and in hard copy must be complete Proposals, including all Attachments. No section may be omitted from the USB storage drive or hard copy even if the entire section is requested to be redacted; such sections should be marked for redaction, not removed. For forms, attachments and charts please mark for redaction only those cells/fields/entries that meet the criteria for protection from FOIL, not the entire page.

During the Proposal evaluation process, the Department may request additional information through clarifying letters. Any requested redactions for additional written material provided by the Offeror in response to the Department's requests also must be submitted following the instructions, above.

4. **Piggyback Procurement**

The Offeror must agree that, pursuant to State Finance Law § 163(10)(e), the Department may authorize and approve purchases from the resulting contract to other New York State agencies, authorities, the United States Government or any other state, with the concurrence of OSC and under appropriate circumstances. This process is commonly referred to as “piggybacking.”

5. **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 NYS 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 Agreement and criminal proceedings as may be required by law. An Offeror 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 Attachment 11, in the Offeror's Administrative Proposal.

6. **Omnibus Procurement Act of 1994 and its 2000 Amendment**

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 NYS, the Omnibus Procurement Act of 1994 and its 2000 amendments require that they be denied contracts which they otherwise could obtain. The list of jurisdictions subject to this provision is set forth in Article 20 of Appendix A.

7. **New York State Required Certifications**

An Offeror is required to submit the signed *New York State Required Certifications* (Attachment 11) with its Administrative Proposal. This attachment sets forth the Offeror's required statements on the MacBride Fair Employment Principles and Non-Collusive Bidding Certification. It also sets forth the certifications regarding compliance with the Federal Americans with Disabilities Act, compliance with the NYS Public Officers Law, certification required under NYS Procurement Lobbying Law, certification required under Executive Order No. 177 and certification required by New York State Finance Law section 139-l regarding written sexual harassment policies.

8. **Iran Divestment Act**

By submitting a Proposal in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Offeror (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Offeror is advised that should it seek to renew or extend an Agreement awarded in response to the solicitation, it must provide the same certification at the time the Agreement is renewed or extended.

9. **New York Subcontractors and Suppliers**

An Offeror is required to complete *New York State Subcontractors and Suppliers* (Attachment 25). New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and the nation. In recognition of their economic activity and leadership in doing business in NYS, Offerors for this contract for New York State Health Insurance Program DSS services are strongly encouraged and expected to consider NYS businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Offerors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing NYS businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its NYS business partners. NYS businesses will promote the Contractor’s optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of NYS by its contractors. The State therefore expects Offerors to provide maximum assistance to NYS businesses in their use of the contract. The potential participation by all kinds of NYS businesses will deliver great value to the State and its taxpayers.

SECTION 3: PROJECT SERVICES

For purpose of submitting a Proposal, an Offeror must be capable of providing:

- A system with the ability to integrate claim, provider, financial and enrollment data into a system that can be easily queried for the purposes of analyzing trends, ensuring payment integrity, and projecting the cost of benefit design changes.
- A 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 (e.g. workers' compensation data).
- Consulting support services including analytical support and expert guidance in clinical and statistical data analysis.

3.1 Account Team

The Contractor must provide a knowledgeable, experienced Project Manager and team dedicated solely to the DSS who 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 required.

1. Duties and Responsibilities

- a. 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 during Implementation and Ongoing Operation.
- b. The Contractor's assigned Project Management Team must be experienced, accessible and sufficiently staffed to provide timely responses within 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.
- c. The Offeror must propose a Project Manager who will be dedicated to the 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 of experience serving as a project manager.
- d. 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.

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- e. The Offeror must propose a staff member who can be onsite at the Department's office (Albany, NY), during regular business hours, for the majority of the business workweek and provide analytic support services.

3.2 Implementation Plan

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. To assist the Contractor in fulfilling its obligations, the Department will provide 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. For the purpose of this RFP, Data Provider means an entity that provides enrollment or claims data to the Contractor for loading into the DSS Solution. The Department will also provide a workstation, (i.e. desk and chair, personal computer (PC) with internet access and appropriate network access); appropriate building access for the Contractor's onsite staff, if any, during this period, technical support and maintenance of Hardware (e.g. computers, keyboards, printers); and associated Department-owned and installed Software (computer instructions or data that can be stored electronically) 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.

1. Duties and Responsibilities

- a. The Implementation Team must be committed to work with the Department to analyze and document User needs.
- b. The Implementation Plan must include evaluation and assessment activities and development of a project plan to achieve the goals of the Project.
- c. The Implementation Plan must be detailed, comprehensive, denoting concrete deadlines and exhibiting a firm commitment that all Implementation activities will be completed by the end of the designated Implementation Period so that all Project Services will be fully operational in all functions required by this RFP. The Department designates an Implementation Period not to exceed 135 days. 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. For the purpose of this guarantee, the Contractor must on, or before, the specified completion date have completed:
 - i. Preparation of facilities for long-term physical maintenance and

storage of data. The Department requires that data be stored to an on-premise server(s) within the United States. See Attachment 26 for Empire Plan paid claims and services and Attachment 28 for data storage information;

- ii. Activities required to bring the DSS 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 ability 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;
 - iii. Acquisition, validation, and loading of seven (7) 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 (1) 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. Plan Year means the period from January 1st to December 31st of each Year, unless specified otherwise by the Department;
 - iv. Training, including proficiency testing of Users and, if necessary, additional training of Users at no additional cost to the Department;
 - v. Establishment of User support functions, (e.g. telephonic and online support); and
 - vi. All activities related to User Acceptance Testing and received Department sign-off on successful completion of those activities.
- d. The Offeror 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 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.

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- e. The Offeror must confirm that the Offeror's DSS meets the requirements set forth in this RFP. These requirements include, but are not limited to, data management; analytical; query and reporting capabilities; user specifications; system availability and connectivity; response time; environment specifics; and maintenance program.

3.3 Data Management

The Offeror must provide a DSS which allows for: data management; analytic capability; support services, including benchmarking against accepted industry standards/norms; plan and program evaluation; benefit design and modeling; utilization analysis at provider and member levels; both standard, pre-defined and Department defined report production; 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 Offeror must first make best effort(s) to resolve issues through direct contact with the Data Provider.

1. Duties and Responsibilities

- a. The Offeror 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 seven (7) years of complete Plan data in addition to the current year's data to be accessible through the DSS.
- b. The Offeror must develop and provide the Department with complete documentation of the DSS. 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.
- c. The Offeror's DSS adheres, to the extent applicable, to the *ITS-AGS: Information Security Standards* (Appendix C).
- d. The Offeror must load for use in the DSS in a timely manner required enrollment and claims data received from the Department, or from a Data Provider on behalf of the Department.
- e. The Offeror must 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).

- f. The Offeror 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 Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Appendices A, B, and C.
- g. The Offeror must use an encryption methodology for data that resides in the DSS 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 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.
- h. Prior to loading, data quality assurance tests must be performed by the Offeror. Changes to the data to ensure that only data that has passed required validation edits, or to enhance the overall integrity of the DSS, will be the duty and responsibility of the Offeror 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:
 - i. Data field format incompatibility errors;
 - ii. Missing data;
 - iii. Field value edits;
 - iv. Data integrity validation appropriate to file specifications, (e.g., if summary totals are provided, the data must be reconciled to those totals);
 - v. Data validation with external sources;
 - vi. Data calculation errors;
 - vii. Duplicate information within a single file;
 - viii. Submission of duplicate files; and
 - ix. Follow up with a Data Provider(s) to ensure the Data Provider corrects identified data errors and resubmits the corrected data.
- i. The Offeror 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 Attachments 26 through 35 for information on formats, media, and frequencies of data updates by Data Providers. The data must be loaded in the DSS maintained by the Offeror.

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- j. A copy of the interface requirements given to the Data Providers by the Offeror 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.
 - k. Upon changes in NYSHIP Insurers and/or benefit administrators, the Offeror 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.
 - l. Thirty (30) Business Days prior to the start of each Plan Year, the Offeror must establish and provide the Department with a schedule identifying their planned DSS data loads.
 - m. **DSS Update Guarantee**: The Offeror must ensure 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 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.

3.4 User Requirements

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

1. Duties and Responsibilities

- a. 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. The Department is requiring a minimum of three (3) levels of access.
 - i. **Level 1 User** – The Department will require a minimum of thirty (30) 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 and have the highest level of security permissions granted by the Department.

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- ii. Level 2 User – The Department will require a minimum of fifteen (15) Users to be designated as and receive training as Level 2 Users. Level 2 Users will have access to all features/functions of the delivered DSS but will have restriction placed on security permissions, (e.g. the User will not have access to any individually identifying information).
 - iii. Level 3 User - The Department will require a minimum of five (5) 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.
- b. The Department requires that at least half of all eligible users be able to access the DSS at the same time and view, query, export, or extract information.
 - c. User training is required. The Offeror 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 Offeror 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 Financial Proposal.
 - d. The Offeror must allow for additional users to be designated and trained as Level 1, 2, and 3 Users, subject to costs determined per the Agreement.
 - e. The DSS design and operation must conform to applicable Federal and State laws and regulations regarding accessibility standards for persons with disabilities. More information can be found by referencing *ITS-AGS: Information Security Standards* (Appendix C).
 - f. 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:

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- i. User Manuals, quick reference guides;
 - ii. Data Dictionary; and
 - iii. Updates as appropriate to correspond to DSS upgrades/changes.
- g. Access to both online and telephonic support/Help Desk must be available to all Users regardless of User Level. Telephone and online support services, (e.g. help screens, frequently asked questions (FAQs)), must be available during regular business hours, defined as, Monday – Friday 8:00 a.m. to 5:00 p.m. ET. The Offeror must be able to 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 selected Offeror.
- h. The Offeror must identify Software requirements, (e.g. compatible browsers including release version), for onsite Department utilization. The Offeror requirements are subject to Department approval.
- i. The Offeror must provide connectivity as a secure, internet-based service. The Department requires:
- i. Connectivity between the selected Offeror’s facility at which the DSS is housed and the Department and sites designated by the Department;
 - ii. A browser-only thin client deployment model;
 - iii. Generation of pages that validate to XHTML 1.0 or HTML 4.01 transitional standards;
 - iv. The selected Offeror must provide all DSS Software inclusive of installation, maintenance and support; and
 - v. The selected Offeror is solely responsible for overall troubleshooting and problem solving related to the delivered Project Services.

3.5 Analytical Capabilities

1. Duties and Responsibilities

The DSS 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. Such capabilities include, but are not limited to, trend analysis, projections of utilization and benefit costs, benefit modeling, and advanced analytics based on the Contractor's proprietary methodologies. These analytical capabilities must provide Users with the ability to:

- a. 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. ICD-10, DRG) 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.
- b. Conduct analysis of individual member's claims experience through unique member identifiers provided in Empire Plan eligibility data.
- c. Conduct analysis by member demographics such as Benefit Plan, Benefit Program, Medicare status, etc. Benefit Plan means an indicator used in the NYS computerized enrollment system, the New York Benefits Eligibility and Accounting 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).
- d. Perform analysis of provider billed, allowed and paid amounts, frequency and complexity of services rendered, geographic location, and other utilization and profiling indicators.
- e. Perform analysis on diagnostic related groups, including those defined by the ICD-9 and ICD-10 international classification of diseases and American Psychiatric Association DSM IV codes.
- f. Conduct analysis based on medical and hospital service codes including CPT, DRG, and revenue codes.
- g. Allow analysis and evaluation of Empire Plan utilization based on provider

participation status.

- h. 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.
- i. Model and analyze potential benefit changes and evaluate cost containment strategies.
- j. Conduct analysis based on the Offeror's unique and/or proprietary analytic categories and classifications to provide Users with enhanced insight and understanding of Plan costs, utilization, and outcome measures.
- k. Review data at the claim level to ensure claims are paid in accordance with the Plan's benefit design.
- l. Export, manipulate, and view large amount of records, including millions of rows of data for use in audit and data mining.

3.6 Query and Report Capabilities

The Offeror must provide the capability for Users to request a variety of information from the DSS and have those results presented in a formatted and organized manner. The proposed DSS 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.

1. Duties and Responsibilities

- a. The DSS must provide an efficient query tool that allows designated Users to, at minimum:
 - i. Access all claims and enrollment files and attributes.
 - ii. Provide the capability to view claim information on both a "paid" and "incurred" basis.
 - iii. Link data for analysis.
 - iv. Select subsets of data fields and/or summary or statistical information.

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- v. Perform flexible filtering of data through pre-defined groups, (Active vs. Retiree, Benefit Program, etc.), as well as user-defined groups, for those Users with the highest level of privileges:
 - 1) To set criteria so that only desired records and/or information is returned. Users should have the ability to select criteria such as relationship, employee status, age, gender, service type, service location, provider type, and/or diagnostic groupings, (e.g. ICD-9, ICD-10 codes, DRGs), as requested;
 - 2) Utilize “built-in” analytics such as groupings for chronic conditions, preventive care measures, and identification of “avoidable admissions”;
 - 3) Sort selected subsets of records or information based on multiple sort criteria; and
 - 4) Save query design for future reference and use.
 - b. The DSS must provide benchmarking capabilities that, at minimum:
 - i. 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 must have the ability to create norms from internal data for comparison purposes; and
 - ii. Provide the capability for comparison of claim experience, enrollment experience, and provider practice/treatment patterns to the normative standards.
 - c. The DSS must have reporting capabilities that provide the option:
 - i. 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);
 - ii. To utilize copy and paste functions; and
 - iii. To allow Users the capability to store and reuse report templates.

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- d. The DSS must have ad hoc analysis capability (e.g. trend analysis and premium development) and provide the capability for Users to define/produce reports required to meet their needs for a particular project or analysis.
 - e. The DSS must provide the capability to deliver pre-defined reports electronically. Examples of such reports that the Department may request include, but are not limited to:
 - i. Utilization reports by enrollee, patient, and/or provider;
 - ii. Provider reports that include use and cost performance details for physicians, hospitals and networks;
 - iii. Monthly Paid Claims Updates;
 - iv. Cost trend reports that reflect overall trend by type of service including hospital admissions, mental health/substance abuse care, pharmacy utilization, and medical services; and
 - v. Quarterly and Annual Plan summary reports.

3.7 Consulting Support Services

Once Implementation has been completed and the DSS has been deemed fully operational and accepted by the Department, the selected Offeror must provide enhanced analytical assistance to Users at the Department's request. Such enhanced analytical assistance may include, but not be limited to, expert advice regarding the dynamics of the health care system, or assistance with a large project, such as the modeling of a benefit design change. The support services shall provide expert technical advice and assistance to identified Users. Such Consulting Support Services are not to be considered as User Training, either initial or incremental ongoing training.

1. Duties and Responsibilities

- a. Once the DSS is fully operational to the Department's satisfaction, the selected Offeror 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.
- b. 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.

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- c. 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.
 - d. The Offeror is expected to proactively provide recommendations of enhanced analytic projects or reports that may provide value. The Department will provide final approval before any projects are to begin that would be charged against the balance of consulting hours.

3.8 DSS Operational Requirements

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

1. Duties and Responsibilities

- a. The Department requires that the DSS be available in its entirety to Users Monday – Friday 8:00 a.m. – 5:00 p.m. ET (Normal Business Hours). To the extent possible, the selected Offeror 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 selected Offeror must provide the Department with, at a minimum, forty-eight (48) hour notice of all preventive maintenance and/or service interruption due to system upgrades or enhancements that may occur during Normal Business Hours.
- b. Unscheduled interruptions of Project Services must be restored within four (4) hours of loss of Project Services. The Department's point of contact in the Employee Benefits Division must be notified of the interruption within one (1) hour 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 point of contact upon full restoration of services.
- c. 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.
- d. The Offeror 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 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 Offeror 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.

- e. The Offeror 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 Offeror 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.
- f. The selected Offeror is required to provide all centralized computing hardware, software, staffing, maintenance, and associated processes and procedures necessary to support the proposed DSS in a facility provided by the selected Offeror. The selected Offeror is required to provide preventive maintenance and keep the various hardware and software components of the DSS current with release and maintenance levels. Hardware and Software not supported by the manufacturer cannot be utilized for the DSS. The Offeror must make all upgrade/enhancements available to the Department in the delivery of the DSS at no additional cost to the Department.
- g. The Offeror must establish, use, document and maintain professionally and technically sound quality assurance standards, techniques and tools including, but not limited to, the following:
 - i. Operational procedures;
 - ii. Data naming standards;
 - iii. Standards and techniques for controlling data synonyms, aliases and versions;
 - iv. Standards for data characteristics;
 - v. Data design standards to ensure modularity, extensibility and flexibility, and to ensure the efficient and consistent use of the data;
 - vi. Standards for data searching and cross-referencing techniques;

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- vii. Standards to control data redundancy;
 - viii. Standards for data views;
 - ix. Standards for database administration; and
 - x. Test-of-correctness and objective measurements of quality.
- h. 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. For the purpose of this RFP, DRP means a plan for continued operation in the event of a situation which incapacitates part or all of an Offeror's resources including, but not limited to, personnel, IT equipment, data records, and the building or other physical infrastructure. The DRP must include offsite secure backup of the DSS and the ability to establish a fully functional DSS 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. In addition, the DRP must, at a minimum, meet the following requirements:
- i. If the DSS fails, the DSS shall be able to be restored to its last consistent state before the failure occurred. The selected Offeror must address any data loss resulting from a system failure;
 - ii. The DSS shall retain archived data and system records in accordance with State regulations, policies, and procedures;
 - iii. The DSS shall be designed assuming zero fault tolerance (i.e. no single physical or electronic point of failure);
 - iv. The DSS shall be backed up on a regularly scheduled basis; the schedule must be provided to the Department for review and approval;
 - v. The DSS 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 shall be fully functional during Normal Business Hours except for scheduled outages for maintenance agreed to by the Department; and
 - viii. In the event of data loss or data corruption, the DSS shall be able to recover lost data within one (1) day from local backup/recovery and within three (3) days from offsite backup/recovery.

3.9 Security

The DSS and all associated support processes and procedures must be compliant with Federal HIPAA laws and all applicable Federal and State laws and regulations concerning data security and personal privacy protection.

1. Duties and Responsibilities

- a. The Offeror must commit to maintaining compliance with all Federal and State privacy protection laws for the life of the Contract.
- b. The Offeror must have an Information Security Plan (ISP) for the DSS, 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:
 - i. Agree to the policies, terms and conditions stated in this RFP, the resultant Contract and Appendices;
 - ii. Allow for the configurable control of access to processes, reports, content and functions;
 - iii. Allow the definition of a robust, multi-level row security model;
 - iv. Allow the maintenance of a robust, multi-level row security model;
 - v. Support configurable role-based security; and
 - vi. Support the encryption of data being communicated over a public network.
- c. 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 selected Offeror must agree to cooperate fully with the audit and respond to all findings in the audit in a timely manner.

3.10 Transition Period

The State may require the selected Offeror 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 selected Offeror and the Department must ensure that any transition from one Contractor to another Contractor is carried out 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. For the purpose of this RFP, Transition Plan means a written plan for transition, which outlines, at a minimum, the tasks, milestones and deliverables associated with transitioning the Program to a new Offeror.

1. Duties and Responsibilities

- a. The Offeror 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.
- b. 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.
- c. Within one-hundred twenty (120) Days of the Department's written request, but not later than one hundred twenty (120) 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 by 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:
 - i. 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);
 - ii. 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

- iii. 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.
- b. The selected Offeror shall be responsible for providing Transition Services in accordance with the approved Transition Plan. "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.

SECTION 4: ADMINISTRATIVE PROPOSAL

This section of the RFP sets forth the requirements for the Offeror's Administrative Proposal. The Department will consider for evaluation and selection purposes only those Proposals the Department determines to be in compliance with the requirements set forth in this section of the RFP. Any Offeror which fails to satisfy any of these requirements shall be eliminated from further consideration.

The Offeror's *Administrative Proposal* must respond to all of the following items as set forth below in the order and format specified and using the forms set forth in this RFP. Additional details pertaining to the required forms are found in Section 2 of this RFP.

4.1 Formal Offer Letter

The Offeror must submit a formal offer in the form of the *Formal Offer Letter* (Attachment 3). 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. The hard copy 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 this RFP, and Appendices A, B, and C, and agree to enter into a contractual Agreement with the Department containing, at a minimum, the terms and conditions identified in this RFP and appendices as cited herein. If an Offeror proposes to include the services of a Key Subcontractor(s) or Affiliate(s), the Offeror must be required to assume responsibility for those services as "Prime Contractor." The Department will consider the Prime Contractor solely responsible for contractual matters.

4.2 Offeror Attestation Form

The Offeror must complete and submit an executed copy of the *Offeror Attestations Form* (Attachment 17) demonstrating that it meets or exceeds the criteria for eligibility to bid as set forth in Section 1 of this RFP. A person legally authorized to represent the Offeror must execute this certification.

4.3 Key Subcontractors or Affiliates

The Offeror must complete the *Key Subcontractors* form (Attachment 15) to identify all Key Subcontractors or Affiliates. Key Subcontractors or Affiliates is defined as those contractors with whom the Offeror subcontracts to provide Project Services and incorporates as part of the Offeror's Project Management Team. Key Subcontractors include all vendors who will provide \$100,000 or more in Program Services over the term of the Agreement that results from this RFP, as well as any vendor who will provide Program Services in an amount lower than the \$100,000 threshold, and who is

a part of the Offeror's account team. For each Key Subcontractor identified, the Offeror must complete and submit the *Key Subcontractors* form and indicate whether or not, as of the date of the Offeror's Proposal, a subcontract has been executed between the Offeror and the Key Subcontractor for services to be provided by such subcontractor relating to the RFP. For the purpose of this RFP, Affiliate is defined as 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. On the *Key Subcontractors* form, the Offeror must:

1. Provide a brief description of the services to be provided by the Key Subcontractor or Affiliate.
2. Provide a description of any current relationships with such Key Subcontractor or Affiliate and the clients/projects that the Offeror and Key Subcontractor or Affiliate are currently servicing under a formal legal agreement or arrangement, the date when such services began and the status of the Project.
3. Indicate whether or not, as of the date of the Offeror's Proposal, a subcontract (or shared services agreement) has been executed between the Offeror and the Key Subcontractor or Affiliate for services to be provided by the Key Subcontractor or Affiliate relating to this RFP.
4. Provide a mark in the applicable box in Attachment 15 if the Offeror will not be subcontracting with any Key Subcontractor(s) or Affiliate(s) to provide Project Services.

4.4 Audited Financial Statements

In this part of its Administrative Proposal, the Offeror must, provide a copy of the Offeror's last issued Generally Accepted Accounting Principles (GAAP) annual audited financial statement. A complete set of statements, not just excerpts, must be provided. Additionally, for each Key Subcontractor or Affiliate, if any, that provides any of the Project Services, which are the subject matter of this RFP, provide the most recent GAAP annual audited statement. If the Offeror, or a Key Subcontractor or Affiliate, is a privately held business and is unwilling to provide copies of their GAAP annual audited financial statements as part of their Proposal, the Offeror/Key Subcontractor/Affiliate must make arrangements for the Procurement evaluation team to review the financial statements. This information will be utilized in the Vendor Responsibility Process.

If financial statements have not been prepared and/or audited, the Offeror /Key Subcontractor/ Affiliate must provide the following as part of its Administrative Proposal: a letter from a bank reference attesting to the Offeror/Key Subcontractor/Affiliate's financial viability and creditworthiness. **[Note:** For purposes of this reference, the Offeror may not give as a reference, a parent or subsidiary company, a partner or an

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

1. A brief description of the business relationship between the parties (i.e., the Offeror/Key Subcontractor/Affiliate and the bank), including the duration of the relationship and the Offeror's current standing with the bank. For example: "*The (Offeror/Key Subcontractor/ Affiliate's name) is currently and has been for "x" number of years a client in good standing*";
2. Description of any ownership/partner relationship that may exist between the parties, if any. (**Note:** One party cannot be the parent, partner or subsidiary of the other, nor can one party be an affiliate of the other); and,
3. Any other facts or conclusions the bank may deem relevant to the State in regard to the bank's assessment of the Offeror/Key Subcontractor/Affiliate's financial viability and creditworthiness concerning the nature and scope of the Program Services, which are the subject matter of this RFP, and the Parties (i.e., Department, and the Offeror or the Offeror and Key Subcontractor or Affiliate) contractual obligations should the Offeror be awarded the resultant Contract.

4.5 New York State Standard Vendor Responsibility Questionnaire

The Offeror must complete and submit an executed copy of the New York State Vendor Responsibility Questionnaire. The Department recommends each Offeror file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the OSC website at <https://www.osc.state.ny.us/vendors/index.htm> or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

A person legally authorized to represent the Offeror must execute the questionnaire. To the extent that the Offeror is proposing the use of Key Subcontractors or Affiliates, the Offeror must submit a completed questionnaire for each Key Subcontractor expected to receive more than \$100,000 in payments during the terms of the Contract. By submitting a Proposal, the Offeror agrees to fully and accurately complete the Questionnaire. The Offeror acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Offeror is responsible, and that the State will be relying upon the Offeror's responses to the Questionnaire when making its responsibility determination. The Offeror agrees that if it is found by the State that the Offeror's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

4.6 New York State Tax Law Section 5-a

Tax Law § 5-a requires certain Offerors awarded state Contracts for commodities, services and technology valued at more than \$100,000 to certify to New York State Department of Taxation and Finance (“DTF”) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Offerors’ sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

An Offeror is required to file the completed and notarized Form ST-220-CA with the Department certifying that the Offeror filed the ST-220-TD with DTF. The Offeror should complete and return the certification forms within five (5) Business Days of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings may render an Offeror non-responsive and non-responsible. The Offeror must take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

[Note: DTF receives the completed Form ST-220-TD, not the Department. The Department ONLY receives the Form ST-220-CA.]

Website links to the Offeror certification forms and instructions are provided below.

1. Form ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Offeror, its affiliate(s), or its subcontractor(s), a new Form ST-220-TD must be filed with DTF.
2. Form ST-220-CA must be submitted to the Department. This form provides the required certification that the Offeror filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

4.7 Consultant Disclosure Requirement

The Offeror must complete the *New York State Consultant Services Contractor’s Planned Employment* form (Attachment 16) for all employees proposed to provide Project Services under the Contract whether employed by the Offeror or a Subcontractor. 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.

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.

Further, the selected Offeror will be required to report annually to the Department and OSC the employment information described above, including work performed by subcontractors.

4.8 Compliance with New York State Workers' Compensation Law

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the Department shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with the Department, the selected Offeror and Key Subcontractor(s) or Affiliates, with more than \$100,000 in expected expenses over the life of the contract, if any, will be required to verify for the Department, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed in *Compliance with NYS Workers' Compensation Law* (Attachment 36). Any questions relating to either workers' compensation or disability benefits coverage should be directed to the New York State Workers' Compensation Board, Bureau of Compliance at 518-486-6307. You may also find useful information at their website: <http://www.wcb.ny.gov>.

Submission of the proof of workers' compensation and disability benefits insurance coverage is required at the time of Proposal submission. Failure to provide verification of either of these types of insurance coverage with the Offeror's Administrative Proposal may be grounds for disqualification of an otherwise successful Proposal.

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

4.9 Insurance Requirements

Prior to the start of work the Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of this contract, policies of insurance as herein below set forth, written by companies licensed or authorized by the NYS Department of Financial Services to issue insurance in the State of New York with an A.M. Best Company rating of "A-" or better or as acceptable to the Department. The Department may, at its sole discretion, only when coverage cannot be secured from an

authorized carrier, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The Contractor shall deliver to the Department evidence of such policies in a form acceptable to the Department. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

1. **General Conditions**

- a. Conditions Applicable to Insurance: All policies of insurance required by this contract must meet the following requirements:
- i. Coverage Types and Policy Limits. The types of coverage and policy limits required from the selected Offeror are specified in paragraph 6. Specific Coverages and Limits below.
 - ii. Policy Forms. Except as may be otherwise specifically provided herein or agreed to in writing by the Department, policies must be written on an occurrence basis. Under certain circumstances, the Department may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the contract. If the policy is cancelled or not renewed during that time, the selected Offeror must purchase, at its sole expense, Discovery Clause or "Tail" coverage sufficient to cover the 3-year period after completion of the contract. Written proof of this extended reporting period must be provided to the Department prior to the policy's expiration or cancellation.
 - iii. Certificates of Insurance/Notices. The selected Offeror shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Department, before commencing any work under this contract. Certificates shall reference the contract number. Certificates shall be mailed to:

Brian Bopp, Assistant Director of Financial Administration
New York State Department of Civil Service
Empire State Plaza
Building #1 17th Floor
Albany, NY 12239
 - iv. Unless otherwise agreed upon, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30)

days' prior, written notice except for non-payment, in which case notice shall be provided as required by law to:

Brian Bopp, Assistant Director of Financial Administration
New York State Department of Civil Service
Empire State Plaza
Building #1 17th Floor
Albany, NY 12239

- v. In addition, if required by the Department, the Offeror shall deliver to the Department within forty-five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete.

b. Certificates of Insurance shall:

- i. Be in the form approved by the Department;
- ii. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to
- iii. Indicate the policy that materially changes the coverage required by the contract;
- iv. Specify the Additional Insureds and Named Insureds as required herein;
- v. Refer to this contract by number and any other attachments on the face of the certificate;
- vi. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit; and
- vii. Be signed by an authorized representative of the insurance carrier or producer.

- c. Only original documents (Certificates of Insurance and other attachments) will be accepted. The Department will accept electronic forms as original documents when the document can be directly traced back to the insurance carrier, agent, or broker via e-mail distribution or similar means.

2. **Primary Coverage**

The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the Department for any claim arising from

the selected Offeror's Work under this contract, or as a result of the selected Offeror's activities. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition so as to limit coverage against claims that arise out of the work, or that remove or modify the "insured contract" exception to the employer's liability exclusion, or that do not cover the additional insured for claims involving injury to employees of the named insured or subcontractors, are not acceptable. Insured Contract is defined to mean that part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

3. **Policy Renewal/Expiration**

At least two weeks prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Department than the expiring policies shall be delivered to the Department in the manner required for service of notice in Paragraph (1)(a)(iii). Certificates of Insurance/Notices above. If, at any time during the term of this contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the contract or proof thereof is not provided to the Department, the Contractor shall immediately cease work under the contract. The Contractor shall not resume work under the contract until authorized to do so by the Department. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by the contract or not providing proof of the same in a form acceptable to the Department, shall not give rise to a delay claim or any other claim against the Department. Should the Contractor fail to provide or maintain any insurance required by this contract, or proof thereof is not provided to the Department, the Department may withhold further contract payments, treat such failure as a breach or default of the contract, and/or, after providing written notice to the Contractor, require the Surety "if any" to secure appropriate coverage and/or purchase insurance complying with the contract and charge back such purchase to the Contractor.

4. **Self-Insured Retention/Deductibles**

Certificates must indicate deductibles or self-insured retentions above \$100,000.00, which are subject to approval from the Department. Additional surety/security may be required in certain circumstances. The selected Offeror shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

5. **Subcontractors**

Should the selected Offeror engage a Subcontractor, the selected Offeror shall endeavor to impose the insurance requirements of this document on the Subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the Subcontractor. Proof thereof shall be supplied to the Department.

6. **Specific Coverage and Limits**

a. Commercial General Liability

Commercial General Liability Insurance, (CGL) covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this contract, using form CG 00 01 12 07 or a policy providing equivalent coverage. The limits under such policy shall not be less than the following:

- i. Each Occurrence limit – \$1,000,000.00
- ii. General Aggregate – \$2,000,000.00
- iii. Products/Completed Operations – \$2,000,000.00
- iv. Personal Advertising Injury – \$1,000,000
- v. Damage to Rented Premises – \$50,000
- vi. Medical Expense – \$5,000

Coverage shall include, but not be limited to, the following:

- i. Premises liability;
- ii. Independent contractors/subcontractors;
- iii. Blanket contractual liability, including tort liability of another assumed in a contract;
- iv. Defense and/or indemnification obligations, including obligations assumed under this contract;
- v. Cross liability for additional insureds;
- vi. Products/completed operations for a term of no less than 3 years, commencing upon acceptance of the work, as required by the contract;

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- vii. Explosion, collapse, and underground hazards,
 - viii. Contractor means and methods; and
 - ix. Liability resulting from Section 240 or Section 241 of the New York State Labor Law, if applicable.

The CGL policy, and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above, must be endorsed to be primary with respect to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Department. Any other insurance maintained by the Department shall be excess of and shall not contribute with the Contractor’s or Subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy(ies) of insurance, if applicable.

b. Professional Liability

The Contractor and any subcontractor retained by the Contractor to work on the contract shall procure and maintain during and for a period of three (3) years after completion of this contract, Professional Liability Insurance in the amount of \$1,000,000.00 issued to and covering damage for liability imposed on the Contractor by this contract or law arising out of any negligent act, error, or omission in the rendering of or failure to render professional services required by this contract. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor shall purchase, at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed. If applicable, the Contractor shall provide coverage for its negligent act, error or omission in rendering or failing to render professional services required by this contract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants.

c. Data Breach/Cyber Liability Including Technology Errors and Omissions

The Contractor shall carry and maintain applicable coverage in the amount of at least \$1,000,000.00. If the Contractor provides technology services or products, the Contractor must also provide Technology Errors & Omissions Coverage. As this insurance is most often written on a claims-made basis the Contractor shall purchase, at its sole expense, extended Discovery Clause coverage of up to three (3) years after the work is completed if coverage is cancelled or not renewed.

SECTION 5: TECHNICAL PROPOSAL REQUIREMENTS

The purpose of Section 5 of the RFP is to set forth the technical proposal submissions required of the Offeror. The Offeror's Technical Proposal must contain responses to all required submissions from the Offeror in the format requested. Each Offeror may submit only one Technical Proposal. Each Offeror's Technical Proposal will be evaluated based on the responses to the required submissions contained in Section 5 of this RFP. An Offeror must not include any cost information in the Technical Proposal, including attachments. Specific savings estimates (dollars or percentages) must not be quoted in the Technical Proposal or in any attachments submitted with the Technical Proposal.

5.1 Executive Summary

The Offeror must submit an Executive Summary outlining its capacity to administer a DSS for a large, comprehensive health plan with over one million (1,000,000) covered Plan members. The Executive Summary must include:

1. The name and address of the Offeror's main and branch offices and the name of the senior officer(s) including the executive who will be responsible for this account;
2. A statement outlining previous experience successfully implementing and managing a DSS for large, comprehensive group health insurance plans of other state governments or large public entities or any other organizations with over 200,000 covered lives, as well as any experience implementing and managing a DSS for a self-funded comprehensive group health insurance plan. Explain how this experience qualifies the Offeror and, if applicable, its Key Subcontractors, to undertake the functions and activities required by this RFP;
3. A statement addressing if the Offeror's organization has been fined, within the last five (5) years, for a HIPAA violation. If so, please summarize the outcome and steps the Offeror enacted to avoid a future occurrence.
4. An organizational plan that includes the roles and responsibilities of each key person involved in administering the DSS, their planned level of effort, and their anticipated duration of involvement. Please include an organizational chart. This includes the Offeror's staff and staff from any Subcontractor to be used. The plan should specifically explain and detail how the Offeror will perform the following administrative and operational functions:
 - a. Project Implementation;
 - b. Database Development;
 - c. Database Maintenance and Data Transfer;

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- d. Reporting;
 - e. Consulting;
 - f. HIPAA Compliance and Data Security; and
 - g. Contract Administration, Transition and Termination of Contract.
5. The Offeror must provide a list of client organizations to clearly demonstrate 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) covered lives].

5.2 Account Team

The Offeror must complete the *Biographical Sketch Form* (Attachment 18) for all key staff, including subcontractor provided key staff, if any, of the proposed Project Management Team. Where individuals are not named, include qualifications of the individuals that you would seek to fill the positions. The description of the individual who will assume the role of Project Manager for the DSS must include a description of the individual's experience with clients whose needs were of similar size and scope as those of the Department. In addition, the description must state how 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.

5.3 Implementation Plan

1. The Offeror must provide a detailed Implementation Plan, in narrative, diagram, and timeline formats, designed to meet the implementation by the specified completion date. Please include project team roles, responsibilities, estimated timeframes for completion of individual tasks, and testing dates. 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;
 - b. The date the DSS 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. The Offeror must submit a proposed Acceptance Testing Plan (ATP) that identifies the functions that will be tested to ensure the DSS 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. DSS 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, by the Offeror's proposed completion date which shall not exceed the designated 135-day Implementation Period.

The Offeror must, utilizing the *Performance Guarantees* form (Attachment 10), propose the percentage amount of the Ongoing Operations Monthly fee that it will permanently forfeit for each month, or part thereof, after the Offeror's proposed Implementation Completion Date that any of the Implementation activities listed in Section 3.2 remain incomplete. At minimum, the proposed percentage amount must equal to 100% of the Ongoing Operations Monthly Fee for each month (defined as the Standard Credit Amount), or part thereof, that implementation is not completed by the Offeror's proposed completion date but not later than the Implementation Period of 135 days. However, an Offeror may propose a higher amount on the *Performance Guarantees* form (Attachment 10) as part of its Technical Proposal.

5.4 Data Management

The Offeror must describe in detail the proposed process for operating the DSS to meet the requirements specified in this RFP. Specifically, the Offeror must:

1. Describe 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 once it becomes operational.

2. Provide a complete description of the meaning of the information contained in the DSS and any relationships between the information (metadata) that is available from the DSS.
3. Describe the process proposed by the Offeror for resolving data integrity issues with Data Providers, including:
 - a. Detailing the Offeror's proposed process for handling a change in one or more insurers/benefit administrators of the Empire Plan. Such change 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 for one or more years coincident with acquisition and integration of data from the new insurer/data provider.
 - b. Describing in detail the proposed process/procedures for archiving and retrieving historical data, including the frequency of archival process (e.g. annual).
 - c. Describing the process proposed for ensuring that only data that has passed all validation edits required by this RFP will be loaded in the DSS, 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 above in Section 3.3(1)(h). The Offeror should include the external validation sources it is proposing to be used as part of its DSS and identify the validation sources that will be available to the Department as part of the proposed DSS. 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, to the Department.
 - d. Explaining 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. Confirming 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).

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- f. Describing the proposed process for receiving updates from Data Providers in terms of the timing of their receipt and loading into the DSS. 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 hold all data for one monthly update.
 - g. Providing 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 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. Providing a high-level description of the technical infrastructure, such as the hardware platform and database management platform, for the proposed DSS.
4. 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 not later than fifteen (15) Business Days from the scheduled data receipt date 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 not later than fifteen (15) Business Days from the date the data was received.

The Offeror must, utilizing the *Performance Guarantees* form (Attachment 10), record the amount that an Offeror proposes to forfeit for each twenty-four (24) hour period, or part thereof, that the data is not loaded into the DSS and fully accessible to all Users, beyond fifteen (15) Business Days from receipt of data, as a required above, from each Data Provider. At minimum, the forfeited amount (Standard Credit Amount) cannot be less than \$1,000 for each twenty-four (24) hour period, or part thereof, that there is failure to load data in the DSS by the specified date, as a required above, from each Data Provider. However, an Offeror may propose an amount greater than the \$1,000.

5.5 User Requirements

1. The Offeror must confirm User Levels will be established as described in Section 3.4 of this RFP, including permissions and restrictions on usage. 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) and confirm that at

least half of all Users simultaneously have the ability to use the DSS.

2. The Offeror must describe in detail the capabilities for access, manipulation, analysis, security, etc., for each User Level in the Offeror's proposed DSS. Explain how the Offeror's proposed User Levels will meet the Department's requirements for access, functionality and security at the three (3) levels described in this RFP.
3. The Offeror must 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, and 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.
4. The Offeror must describe the accessibility accommodations of the proposed DSS that can be implemented for disabled Users at no additional cost to the Department.
5. The Offeror must 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. 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.
6. The Offeror must 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 and detail if the Offeror has provided services for a customer similar in scope. The Offeror's response must state if the client's system has been in full production mode for twelve (12) months or more, with at least twenty-four (24) months of historical data.
7. The Offeror must provide a description of software requirements, (e.g. compatible browsers including release version), for onsite Department utilization.

5.6 Analytical Capabilities

The Offeror must submit a document which provides the following information and describes, in detail, the analytic tools available to allow the Department and designated

Users the ability to perform advanced analysis. Include in this description any proposed tools that are advanced or unique in application. Include details related to the ability to analyze data: on an individual and group basis; related to paid claims; related to disease state; related to in-network or non-network basis; and related to geographic location. Give specific examples of how the tools work and/or sample reports of how the view would appear to a User. The document must also address the following:

1. Characterizes the ease of use of the analytical tools and describe the typical learning curve for new users.
2. Describes the DSS' ability to identify providers by various categories, (e.g. primary care, specialty, network/non-network, group/individual).
3. Describes abilities to view data at the claim level.
4. Describes the abilities to export and manipulate large amounts of data.
5. Describes in detail how the DSS will allow a User the capability for future benefit modeling. Include in the description the proposed DSS' ability to evaluate changes in benefits, co-payments, co-insurance, etc.
6. Explains how the Offeror's proposed DSS will allow for the evaluation of cost containment programs.
7. Details the Offeror's resources that will be offered to assist the Department in understanding Plan costs, including those associated with potential fraud and waste.

5.7 Consulting Support Services

The Offeror must submit a statement agreeing to provide a minimum of 400 hours of consulting support services during the term of Contract and describe in detail the types of consulting support services the Offeror proposes to provide during the term of the Contract for these required services.

5.8 Query and Reporting Capabilities

1. The Offeror must provide a complete description of all query functions and capabilities of the proposed DSS, including how the proposed DSS 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 ad hoc query.
2. The Offeror must describe the DSS' capability for exporting/importing query results into standard Microsoft Office applications such as Access, Excel, and

Word.

3. The Offeror must describe the benchmarking resources offered by the proposed DSS.
4. The Offeror must describe the report writer function included in the DSS.
5. The Offeror must provide the proposed DSS' average response times for pre-defined, standard reports.
6. The Offeror must describe the Offeror's proposed quality control procedures to be put in place to assure the accuracy and timeliness of reports.
7. The Offeror must summarize reports that it routinely provides to a client of similar size or which it would propose to provide under this contract.

5.9 Operational Requirements

1. The Offeror must submit a statement confirming 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. This statement must explain how availability is calculated, (e.g. inclusion or exclusion of planned outages in calculation) and must include detail as to how many times has service 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. The Offeror must submit a statement agreeing to provide both physical and technical security for the Project in agreement with the policies, terms and conditions stated in this RFP and Appendices. This statement 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 must 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 (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);

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- 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; and
 - 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.
 - c. 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.
 3. The Offeror must describe in detail the procedures and safeguards the Offeror will implement following the conclusion of the Project Services or termination/expiration of the Contract, whichever is later, to render DSS data unrecoverable and prevent accidental and/or unauthorized access to such data.
 4. The Offeror must 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.
 5. The Offeror must 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).
 6. The Offeror must 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).
 7. The Offeror must detail the proposed process to restore Project Services and describe the proposed steps to be taken to evaluate and remediate the causes of

system outages.

8. The Offeror must describe the proposed method to be used to measure, monitor and report system response time.
9. The Offeror must provide the location of the facility at which the DSS 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.
10. The Offeror must describe the quality assurance standards, techniques and tools proposed to be used for the DSS. In responding to this requirement, the Offeror must state if the Offeror has received a Service Organization Control (SOC) 2 or 3 certification or comparable 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, SOC 2, SOC 3, or comparable 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.
11. The Offeror must submit a copy of the Offeror's most current DRP. Include, in detail, the process for data backup, including the frequency of back-up proposed for the DSS, and offsite storage.
12. DSS Availability Guarantee: The Offeror must guarantee that the DSS will be available in its entirety to Users Monday – Friday, 8:00 a.m. – 5:00 p.m. ET, except for previously agreed to scheduled outages due to required maintenance, system upgrades and State Holidays.

The Offeror must, utilizing the *Performance Guarantees* form (Attachment 10) propose the amount that it will permanently forfeit if the DSS is not available as described above.

The Standard Credit Amount to be forfeited is \$250, for each hour, or part thereof, the DSS is not available in its entirety to Users Monday-Friday between 8:00 a.m.- 5:00 p.m., except for previously agreed to scheduled outages and State Holidays. However, an Offeror may propose a higher amount on Attachment 10.

5.10 Security

1. The Offeror must include a copy of the Offeror's proposed DSS 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 3.9(1)(a) and (b).

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2. The Offeror must state an agreement to comply and cooperate with any Department security audit.

5.11 Transition Period

1. The Offeror must 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. The Offeror must 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 6: FINANCIAL PROPOSAL

The Department seeks to make an award to the 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 Agreement.

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

The sole compensation for the Contractor under the Agreement will be payments based on pricing indicated in the Contractor's Financial Proposal. During the term of the Agreement, 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 Agreement.

Evaluation of Financial Proposals will be performed in accordance with the provisions presented in Section 7 of the RFP.

This section of the RFP sets forth the requirements for the Offeror's Financial Proposal submission and the cost structure required by the Department for Offerors to use in developing their submission. The Offeror's Financial Proposal must respond to all the following mandatory sections as set forth below in the formats as specified.

The Financial Proposal must consist of the following:

6.1 DSS Implementation Fee

1. The Offeror must provide a clear statement agreeing to the duties and responsibilities as required by Section 3 of the RFP.
2. The Offeror must submit a completed *Implementation Fee Form* (Attachment 19). The Offeror must include a fixed implementation fee that is fully inclusive of the cost of development, personnel, hardware, software, training and other costs incurred solely during the Implementation Period.
3. During the Implementation Phase, the Department will pay one fifth of the implementation fee on a monthly basis, in arrears, to the Contractor.
4. 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. Should the Contractor's DSS 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 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.

6.2 Ongoing Operations Monthly Fee

1. The Offeror must provide a statement of agreement to the duties and responsibilities as required by Sections 3 of the RFP.
2. The Offeror must submit a completed *Ongoing Operations Monthly Fee Form* (Attachment 20) which must include the cost for the Contractor's performance of ongoing Project Services. The Ongoing Operations Monthly Fee must include: a minimum of 50 user fees as detailed in Section 3.4, 400 hours of consulting services and ongoing travel. This must be stated as an all-inclusive fixed fee for each of the contract years.
3. The all-inclusive, fixed Ongoing Operations Monthly Fee commences with the first FULL month following the date on which all Implementation activities are completed and accepted by the Department and the DSS is fully operational. If Implementation activities are completed and accepted by the Department and the DSS is fully operational on a date other than the first day of the month such that the DSS is fully operational for only part of a month, then the Contractor shall be due a pro-rata fee. The fee will be equal to the Ongoing Operations Monthly Fee times the number of Calendar Days during said partial month during which the Offeror's proposed DSS is fully operational divided by the total number of Calendar Days in said partial month, assuming that the date the Contractor's DSS is fully operational is not later than the effective date of the Contract. If the date Contractor's DSS is deemed fully operational is later than the effective date of the Contract, then, the Contractor shall not be due a partial Ongoing Operations Monthly Fee.
4. 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 forth in Section 3 of the RFP once the DSS is fully operational, except the payment of Additional User Fees, if any, and Additional Consulting Support Services, if any, and/or adding a new Data Provider(s).
5. This Fee shall include the delivery of Incremental Ongoing Training.
6. In developing its Ongoing Operations Monthly Fee, the Offeror should consider the following information:
 - a. As of June 2018, NYSHIP currently covers over 616,000 employees and retirees of New York State, participating agencies and participating employers. Eligible covered Dependents bring the total number of covered lives to about 1,241,000.

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- b. There are currently five (5) Data Providers as listed in Section 1 of this RFP. The Department does not guarantee that these Data Providers will not change during the term of the contract.
 - c. Updates will be received from Data Providers at least monthly.
 - d. At a minimum, the DSS must maintain seven (7) Plan Years of data plus the current Plan year-to-date data accessible to the Department and the Department's designated Users via the DSS.
 - 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 25% 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 AG and 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 Department, and if deemed warranted by the Department, then said change shall require a formal amendment to the Contract and must be approved by the AG and the OSC.

6.3 Additional User Fees

1. The Offeror must provide a statement of agreement to the duties and responsibilities as required in Section 3 of the RFP.
2. The Offeror must submit a completed *Additional User Fees Form* (Attachment 21) to identify the per user per month cost for each User beyond the assumed number of Users.
3. At a minimum, there will be approximately 50 Users with various levels of access as described in Section 3 of this RFP.
4. During the term of the Contract, the Department may, in its sole discretion add, change, delete or deactivate Users in one or more 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 Offeror's DSS Ongoing Operations Monthly Fee.

6.4 Data Provider Start-up Fee

1. The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section 3 of the RFP.
2. The Offeror must submit a completed *Data Provider Start-up Fee Form* (Attachment 22) to cover all of the Offeror's costs to add a Data Provider(s) or replace an existing Data Provider(s) within the DSS during the term of the Contract. An Offeror must quote a fixed all-inclusive fee that shall remain in effect for the contract duration
3. During the term of the Contract, once Implementation activities have been completed and accepted by the Department, at its sole discretion, and the DSS is fully operational, changes in the Data Providers may occur.
4. The selected Offeror will be reimbursed for services rendered to add a new Data Provider at the associated one-time fixed all- inclusive rate as quoted in the Contractor's Financial Proposal. No additional or incremental Ongoing Operations Monthly Fee is allowed resultant from the addition of a new Data Provider.

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5. The selected Offeror must include the run-out data that is received from the previous Data Provider in the DSS for up to three (3) years after the date if a change in Data Providers is made.

6.5 Additional Consulting Support Services Fees

1. The Offeror must provide a statement of agreement to the duties and responsibilities as required by Section 3 of this RFP.
2. The Offeror must submit a completed *Additional Consulting Support Services Fees Form* (Attachment 23) to cover analytical support and expert guidance requested by the Department in relation to projects that exceed the 400 hours of Consulting Support Services included as part of its Ongoing Operations Monthly Fee. Such consulting support services are not to be considered as User Training, either initial or incremental ongoing.

SECTION 7: EVALUATION AND SELECTION CRITERIA

The Department seeks to contract with a single Offeror to provide and administer the DSS. To this end, the Department intends to select the responsive and responsible Offeror whose Proposal offers the “Best Value”. Best value will be determined by a weighed point system, with 60 percent allocated to the Technical Proposal and 40 percent allocated to the Financial Proposal.

7.1 Administrative Proposal Evaluation

Proposals determined by the Department to satisfy the submission requirements set forth in Section 4 of this RFP will be evaluated by an evaluation team composed of staff from the Department. An Offeror’s Proposal shall be removed from the evaluation process and not be considered for award if the Offeror does not submit a *Formal Offer Letter* (Attachment 3) and an *Offeror Attestations Form* (Attachment 17) or should it be determined that the Offeror did not satisfy the requirements specified in Section 4 of this RFP, despite any attestation made regarding the requirements. If the Offeror’s proposal meets these requirements, it will be advanced for technical proposal evaluation.

7.2 Technical Proposal Evaluation

The evaluation of the Offeror’s Technical Proposal will be based on that Offeror’s written Technical Proposal and responses to clarifying questions if any; and, as deemed necessary by the Procuring Agencies, oral presentation(s) and/or site visits conducted to amplify and/or clarify that Offeror’s proposed Technical Proposal.

1. Technical Score Ratings

The Technical Proposal of any Offeror meeting the requirements set forth in Section 7.1 of this RFP will be evaluated by the Department. Each Offeror’s Technical Proposal will be evaluated based on the following rating scale and criteria as applied to each response as required in Section 5 of this RFP. A rating of “excellent” equates to a score of 5 for each evaluated response. Each reduction in the ratings results in a one-point reduction in the score such that a rating of “poor” equates to a score of 1.

a. Excellent (5)

The Offeror far exceeds the criteria. The services described indicate that the Offeror will provide high-quality services and is proactive and innovative.

b. Good (4)

The Offeror exceeds the criteria. The services described indicate that the Offeror will exceed the requirements of the DSS. The Offeror demonstrates some innovative features not shown in typical proposals.

c. Meets Criteria (3)

The Offeror meets but does not exceed the criteria. The services described indicate that the Offeror will meet the requirements of the DSS.

d. Fair (2)

The Offeror's answer is minimal; or the answer is very general and does not fully address the question; or the Offeror meets only some of the criteria.

e. Poor (1)

The Offeror misinterpreted or misunderstood the question; or the Offeror does not answer the question/criteria in a clear manner or the Offeror does not answer the question; or the Offeror does not meet the criteria.

2. **Performance Guarantee Ratings**

The Offeror's commitment to meet the levels of standards it outlines in its proposal will be verified by reviewing responses to related Performance Guarantee questions and reviewing the Offeror's proposed credit to the administrative fee (credit amount) for its failure to meet each of its proposed performance guarantees.

A rating of "excellent" equates to a score of 5 for each evaluated Service Level Standard. Each reduction in the ratings results in a one-point reduction in the score such that a rating of "poor" equates to a score of 1. An Offeror may propose performance guarantees that exceed the Program's service level standards presented in this RFP. Proposed Performance Guarantees are contained within Attachment 10 and will be evaluated using the following criteria:

a. Excellent (5)

- i. The Offeror's proposed performance guarantee exceeds the Program's service level standard contained within this RFP; and
- ii. The Offeror's proposed credit amount is one hundred and twenty-five percent (125%) or more of the Standard Credit Amount stated within this RFP.

b. Good (4)

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- i. The Offeror's proposed performance guarantee equals the Program's service level standard contained within this RFP, and the Offeror's proposed credit amount is one hundred and twenty-five percent (125%) or more of the Standard Credit Amount stated within this RFP; or
 - ii. The Offeror's proposed performance guarantee exceeds the Program's service level standard contained within this RFP; and the Offeror's proposed credit amount is greater than one hundred percent (100%) but less than one hundred and twenty-five percent (125%) of the Standard Credit Amount stated within this RFP.
 - c. Meets Criteria (3)
 - i. The Offeror's proposed performance guarantee equals or exceeds the Program's service level standard contained within this RFP; and
 - ii. The Offeror's proposed credit amount equals the Standard Credit Amount stated within this RFP.
 - d. Fair (2)
 - i. The Offeror's proposed performance guarantee equals or exceeds the Program's service level standard contained within this RFP; and
 - ii. The Offeror's proposed credit amount is greater than fifty percent (50%) but less than one hundred percent (100%) of the Standard Credit Amount stated within this RFP.
 - e. Poor (1)
 - i. The Offeror's proposed performance guarantee is below the Program's service level standard contained within this RFP regardless of the credit amount proposed by the Offeror; or
 - ii. The Offeror's proposed credit amount is fifty percent (50%) or less of the Standard Credit Amount stated within this RFP regardless of the level of performance the Offeror pledges.

3. Performance Guarantees' Standard Credit Amounts

- a. DSS Implementation Performance Guarantee: As described in Section 5.3, the standard performance credit amount is 100% of the Ongoing Operations Monthly Fee for each month, or part thereof, that

implementation is not completed by the Offeror's proposed completion date or not later than the Implementation Period of 135 days.

- b. DSS Update Performance Guarantee: As described in Section 5.4, the standard performance credit amount is no less than \$1,000 for each twenty-four (24) hour period, or part thereof, that there is failure to load data in the DSS within 15 Business Days of receipt, as required, from each Data Provider.
- c. DSS Availability Performance Guarantee: As described in Section 5.9, the Standard Credit Amount to be forfeited is \$250 for each hour, or part thereof, the DSS is not available in its entirety to Users Monday - Friday between 8:00 am -5:00 pm E.T. except for previously agreed to scheduled outages and State Holidays.

4. Allocation of Technical Score Points

The scores referenced above shall be applied to weighted point values associated with each evaluated Submission response. The relative point value for each section of the Technical Proposal is as follows:

Section	Title	% of Technical Score
5.1	Executive Summary	2.5%
5.2.	Account Team	5.0%
5.3.	Implementation	12.5%
5.4	Data Management	7.5%
5.5	User Requirements	5.0%
5.6	Analytic Capabilities	15.0%
5.7	Consulting Support Services	5.0%
5.8	Query and Reporting Capabilities	20.0%
5.9	Operational Requirements	15.0%
5.10	Security	10.0%
5.11	Transition Period	2.5%
Total		100.0%

5. Technical Proposal Scoring

The Technical Proposal evaluation will be based on 600 total available points. The average score of all evaluators for each section of the Technical Proposal will be applied against the weights depicted in the chart above. The Offeror with the highest technical score will receive 600 points. All other Offerors are awarded points in a proportional manner as follows:

$$\frac{\text{Technical Score of Evaluated Proposal} \times 600}{\text{Highest Evaluated Technical Proposal Score}}$$

7.3 Financial Proposal Evaluation

The Financial Proposal of any Offeror meeting requirements set forth in Section 4 of this RFP will be evaluated by the Department.

1. Financial Proposal Scoring

- a. The Department will calculate a Total Projected DSS Cost for each Offeror as the sum of the Offeror's quoted:
 - i. Implementation fee from Attachment 19; and
 - ii. The sum of the product of 12 times the Ongoing Operations Monthly Fee for each year of the contract from Attachment 20.

NOTE: Based on historical utilization, the Department will not evaluate fees associated with additional Users, additional Data Providers, or additional Consulting hours.

- b. The Offeror's Proposal with the lowest Total Projected DSS Cost will be awarded 400 points. A Financial Proposal score for each remaining Offeror will be determined based on the following formula:

$$\frac{\text{Cost Score of Evaluated Proposal} \times 400}{\text{Total Cost of Proposal being evaluated}}$$

7.4 Total Combined Score

The Total Combined Score assigned to each Offeror will be the sum of the Offeror's Technical Score and Financial Score.

7.5 Best Value Determination

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 one (1) point below the highest Total Combined Score, that Offeror's proposal will be determined to be substantially equivalent to the Offeror holding the highest Total Combined Score.

Among any Offeror proposals with the same or substantially equivalent Total Combined Scores, the Department shall select the Offeror with the highest Financial Proposal Score, as calculated pursuant to Section 7.3 of this RFP, to enter into negotiations for the purpose of executing a contract.

SECTION 8: LEGAL TERMS AND CONDITIONS

The Offeror that is determined to provide the best value to the Department shall be notified of its conditional award of contract subject to the successful development of a contract. The resulting contract shall incorporate the requirements set forth in the RFP. Additional terms and conditions not already addressed in the RFP are set forth below.

1. The Contractor acknowledges and agrees that, pursuant to State Finance Law Section 163(10)(e), the Department may authorize and approve purchases from the resulting contract to other New York State agencies, the United State government or any other state, under appropriate circumstances. This process is commonly referred to as “piggybacking.”
2. Appendix B Changes:
 - a. Section 10 of Appendix B, Indemnification, is deleted and replaced with a new section 10 as follows:

10. INDEMNIFICATION

Without limitation, 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 the Agreement. Furthermore, without limitation, 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 the 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 the 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 the 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" of this Appendix B.

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 the 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 the 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 the Agreement.

For all claims against the Contractor where liability is not otherwise set forth in the Agreement as being "without limitation" and regardless of the basis on which the claim is made, Contractor's liability under the Agreement for direct damages shall be the greater of the following: (i) five hundred thousand dollars (\$500,000); (ii) two times the projected cost of the Agreement, or parts thereof forming the basis of the claim (said amount not to exceed a total of twelve (12) months charges payable under the Contract); or (iii) two times the total amount the Contractor was reimbursed under the Agreement in the preceding 12 months.

- b. Section 11 of Appendix B, Patent, Copyright or Proprietary Rights Infringement, is deleted and replaced with a new section 11 as follows:

11. Patent, Copyright or Proprietary Rights Infringement

The Contractor, solely at its expense and without limitation, 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 the 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 the 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 the 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 the 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.

- c. Section 29 of Appendix B, Information Security Requirements, is deleted and replaced with a new section 29 as follows:

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 the Agreement (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 Technology Services (ITS), 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: <https://its.ny.gov/eiso>

Contemporaneous with the execution of the 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 the Agreement. This request may be waived by the Department in its sole discretion.

- d. Section 37 of Appendix B, Consultant Disclosure Requirements, is deleted and replaced with a new section 37 as follows:

37. Consultant Disclosure Requirements

Intentionally Omitted

3. Work in The United States

All work performed by Contractor personnel under this Contract must be performed within the United States.

4. Entire Agreement

This Agreement, including all appendices, constitutes the entire agreement between the parties thereto 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 and the Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto, except as otherwise provided herein. 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.

5. Contractor Responsibility for Subcontractors

The following requirements shall supplement the requirements of Appendix B. The Contractor shall not in any way be relieved of any responsibility under the Contract by any subcontract. The Contractor shall be solely responsible to the Department for the acts or defaults of its Subcontractor(s) and of such Subcontractors' officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. Any Deliverable provided or furnished by a Subcontractor shall be deemed for purposes of the Agreement to be provided or furnished by the Contractor. The Contractor shall inform each Subcontractor fully and completely of all provisions and requirements of the Agreement, including: a. those relating either directly or indirectly to the Deliverables to be provided and the materials to be furnished or Services provided pursuant to its respective subcontract, b. to maintain and protect against any unauthorized disclosure of records with respect to work performed under the subcontract in the same manner as required of the Contractor, c. those relating to the State's rights to audit records and d. to cooperate with any investigation, audit, or other inquiry related to the Agreement or any litigation relating thereto.

Contractor agrees that every such subcontract shall expressly stipulate that all labor performed and materials furnished pursuant thereto shall strictly comply with the requirements of the Agreement and that no subcontract shall impair the rights of the State or create any contractual relationship between the Subcontractor and the Department. Failure to disclose the identity of any and all Subcontractor(s) used by the Contractor as required hereunder may, at the sole discretion of the Department, result in a disqualification of the Subcontractor, if not immediately cured, or may result in termination of the Agreement for cause. The Contractor shall pay all Subcontractors for and on account of Services and/or Deliverables provided by such Subcontractors in accordance with the terms of their respective subcontracts. If and when required by the Department, the Contractor shall submit satisfactory evidence that it has made such payment. The Contractor shall, within five (5) Business Days of the Department's written request, file promptly with the requestor a copy of any subcontract providing services for the Agreement. The Contractor shall require that the Subcontractor must pass through all terms and conditions of the Agreement, including but not limited to Appendix A, to any lower tier subcontractors.

6. Secure Data Disposal

When requested by the Department User, the Contractor shall destroy Data in all of its forms, including all back-ups. Data shall be permanently deleted and shall not be recoverable, according ITS Policy S13-003 Sanitization/Secure Disposal or successor and S14-003 Information Security Controls or successor.

Certificates of destruction, in a form acceptable to the Department, shall be provided by the Contractor to the Department's point of contact in the Employee Benefits Division.

7. 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.