



Department of Health

Request for Proposals

RFP# 16378

Drug and Diabetic Supply Rebate Administration and Management Services

Issued: July 15, 2016

DESIGNATED CONTACT:

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contact to whom all communications attempting to influence the Department of Health's conduct or decision regarding this procurement must be made.

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TABLE OF CONTENTS

(Hyperlinked; click to go directly to desired topic.)

TABLE OF CONTENTS	2
1.0 CALENDAR OF EVENTS.....	4
2.0 OVERVIEW.....	4
2.1 Introductory Background.....	4
2.2 Important Information.....	5
2.3 Term of the Agreement.....	5
3.0 SCOPE OF WORK.....	5
3.1 Program Details.....	6
3.2 Tasks/Deliverables.....	8
3.3 Staffing Requirements.....	22
3.4 Performance Standards.....	23
3.5 Security Requirements and Deliverables.....	23
4.0 BIDDERS QUALIFICATIONS TO PROPOSE.....	25
4.1 Minimum Qualifications.....	25
5.0 ADMINISTRATIVE INFORMATION.....	25
5.1 Restricted Period.....	25
5.2 Questions.....	26
5.3 Right to Modify RFP.....	26
5.4 Payment.....	26
5.5 Minority & Woman-Owned Business Enterprise Requirements.....	27
5.6 Equal Employment Opportunity (EEO) Reporting.....	29
5.7 Sales and Compensating Use Tax Certification (Tax Law, § 5-a).....	29
5.8 Workers' Compensation and Disability Benefits Certifications.....	30
5.9 Subcontracting.....	30
5.10 DOH's Reserved Rights.....	30
5.11 Freedom of Information Law ("FOIL").....	31
5.12 Lobbying.....	31
5.13 State Finance Law Consultant Disclosure Provisions.....	32
5.14 Debriefing.....	32
5.15 Protest Procedures.....	32
5.16 Iran Divestment Act.....	33
5.17 Piggybacking.....	33
5.18 Encouraging Use of New York Businesses in Contract Performance.....	33
6.0 PROPOSAL CONTENT.....	33
6.1 Administrative Proposal.....	34
A. M/WBE Forms.....	34
B. Bidder's Disclosure of Prior Non-Responsibility Determinations.....	34
C. Vendor Responsibility Questionnaire.....	34
D. Freedom of Information Law – Proposal Redactions.....	34
E. Bidder's Certified Statements.....	34
F. References (OPTIONAL- discuss with BOC).....	34
6.2 Technical Proposal.....	35
A. Title Page.....	35
B. Table of Contents.....	35
C. Documentation of Bidder's Eligibility Responsive to Section 4.0 of RFP.....	35
D. Technical Proposal Requirements.....	35
6.3 Cost Proposal.....	48
7.0 PROPOSAL SUBMISSION.....	49
7.1 No Bid Form.....	51
8.0 EVALUATION PROCESS/CRITERIA.....	51
8.1 General Information.....	51
8.2 Submission Review.....	51
8.3 Technical Evaluation.....	51
8.4 Cost Evaluation.....	52
8.5 Composite Score.....	52

8.6	Interviews.....	52
8.7	Reference Checks.....	52
8.8	Best and Final Offers.....	52
8.9	Award Recommendation.....	52
	ATTACHMENTS.....	53
	ATTACHMENT A.....	54
	BIDDER'S CERTIFIED STATEMENTS.....	54
	ATTACHMENT B.....	56
	PROPOSAL DOCUMENT CHECKLIST.....	56
	ATTACHMENT C.....	57
	COST PROPOSAL.....	57
	ATTACHMENT D.....	61
	REFERENCES.....	61
	ATTACHMENT E.....	62
	DOH AGREEMENT.....	62
	ATTACHMENT F.....	94
	NEW YORK STATE DOH M/WBE RFP REQUIRED FORMS.....	94
	- M/WBE Form #1 -.....	95
	- M/WBE Form #2 -.....	98
	- M/WBE Form #4 -.....	99
	-M/WBEForm#5-.....	66....100
	Detailed Instructions for Completing MWBE Forms 1 & 2.....	101
	ATTACHMENT G.....	104
	BIDDER'S DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS.....	104
	ATTACHMENT H.....	106
	ENCOURAGING USE OF NEW YORK BUSINESSES IN CONTRACT PERFORMANCE.....	106
	ATTACHMENT I.....	108
	NO-BID FORM.....	108
	ATTACHMENT J.....	109
	VENDOR RESPONSIBILITY ATTESTATION.....	109
	ATTACHMENT K.....	110
	SALES TAX FORM CA-220 AND TD-220.....	110
	ATTACHMENT L.....	111
	TP FORM 1 – ESTIMATE OF EXPECTED REBATE SAVINGS.....	111
	ATTACHMENT M.....	112
	ACRONYMS.....	112
	ATTACHMENT N.....	113
	REBATE REPORTS AND CLAIMS DATABASE.....	113
	ATTACHMENT O.....	144
	MINIMUM STAFFING REQUIREMENTS.....	144
	ATTACHMENT P.....	147
	PERFORMANCE STANDARDS.....	147
	ATTACHMENT Q.....	157
	REBATE PROGRAM STATISTICS.....	157
	ATTACHMENT R.....	158
	EPIC REBATE AGREEMENT 2009.....	158
	ATTACHMENT S.....	167
	REBATE, EPIC PRISING MATRIX JANUARY 2010.....	167
	ATTACHMENT T.....	171
	EPIC QUARTERLY REBATE CYCLE FLOW CHART.....	171

1.0 CALENDAR OF EVENTS

RFP(16378 – DRUG AND DIABETIC SUPPLY REBATE ADMINISTRATION AND MANAGEMENT SERVICES)	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	July 14, 2016
Deadline for Submission of Written Questions	July 28, 2016 4:00 p.m. ET
Responses to Written Questions Posted by DOH	On or About August 11, 2016
Deadline for Submission of Proposals	September 8, 2016 4:00 p.m. ET
<i>Anticipated</i> Contract Start Date	April 1, 2017

2.0 OVERVIEW

Through this Request for Proposals (“RFP”), the New York State (“State”) Department of Health (“DOH”) is seeking competitive proposals from a responsible Bidder with experience in drug rebate functions and experience with Public Medicaid programs to provide services as further detailed in [Section 3.0](#) (Scope of Work). It is the Department’s intent to award one (1) contract from this procurement.

2.1 Introductory Background

The Bidder selected through this Request for Proposal (RFP) will work to provide all services stipulated herein, with emphasis on consulting, administration, negotiation, financial and program analyses, clinical support, invoicing, collection and reconciliation of manufacturer rebates for all Department drug rebate programs.

Within the Department, the Office of Health Insurance Programs (OHIP) is directly responsible for administering a wide variety of public health insurance programs including Medicaid, Child Health Plus, and the Elderly Pharmaceutical Insurance Coverage Program (EPIC). As part of its responsibility for the Medicaid and EPIC programs, OHIP through the Division of Program Development and Management via its Bureau of Financial Planning, Data Analysis and Rebate Management Unit has administrative and oversight responsibility for several drug and diabetic supply manufacturer rebate programs. These functions are critical as the Department realizes over \$1.2 billion annually in State share revenue from drug and diabetic supply rebates. For a list of acronyms with definitions see Attachment M.

New York State’s (NYS) Medicaid Program is one of the largest insurance programs in the nation. It provides health care coverage to over six (6) million New Yorkers and spends over \$62 billion annually. Approximately 4.8 million of these members receive their health care, including their pharmacy benefits, through enrollment in a managed care plan. The remaining population of approximately 1.5 million receive their health care, including pharmacy benefits, through the traditional fee-for-service (FFS) program. The Department of Health (the Department), through its Medicaid Redesign Team (MRT) initiatives, intends to transition additional members into the managed care program, with a long term goal of serving approximately 95% of New York Medicaid enrollees. To date, there are limited benefit carve-outs for the managed care program, such as transportation and family planning that will continue to be administered by the FFS program.

New York State collects Omnibus Reconciliation Act of 1990 (OBRA 90) and physician administered drug rebates for both managed care and FFS drug utilization, and supplemental and diabetic supply rebates for FFS utilization. Additionally, the State has authority to collect supplemental rebates for managed care utilization for Antiretrovirals and Hepatitis C Medications.

The EPIC program provides secondary coverage for Medicare Part D and EPIC-covered drugs purchased after any Medicare Part D deductible is met. EPIC also covers approved Part D-excluded drugs once a member is enrolled in Part D. EPIC covers such drugs when the manufacturer has entered into a rebate agreement with the State. The EPIC rebate program calculation is the same as the calculation used by the Medicaid OBRA 90 program.

2.2 Important Information

The bidder is required to review, and is requested to have legal counsel review, Attachment E, the DOH Agreement as the Bidder must be willing to enter into an Agreement substantially in accordance with the terms of Attachment E should the bidder be selected for contract award. Please note that this RFP and the awarded bidder's proposal will become part of the contract as Appendix B and C, respectively.

It should be noted that Appendix A of Attachment E, "Standard Clauses for New York State Contracts", contains important information related to the contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between DOH and the successful Bidder. By submitting a response to the RFP, the Bidder agrees to comply with all the provisions of Appendix A.

Note, Attachment A, the Bidder's Certifications/Acknowledgements, should be submitted and includes a statement that the bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments. It also includes a statement that the bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the DOH.

Any qualifications or exceptions proposed by a bidder to this RFP should be submitted in writing using the process set forth in [Section 5.2](#) (Questions) prior to the deadline for submission of written questions indicated in [Section 1.0](#) (Calendar of Events). Any amendments DOH makes to the RFP as a result of questions and answers will be publicized on the DOH web site.

2.3 Term of the Agreement

This contract term is expected to be for a period of *5 years* commencing on the date shown on the Calendar of Events in [Section 1.0](#), subject to the availability of sufficient funding, successful contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC). Implementation must be complete before the rebate program can "Go Live." The Go Live date based on the anticipated contract start date is April 3, 2017 or 6 months after the approved contract start date whichever is sooner.

The pricing for years four (4) and five (5) of the contract is subject to an annual increase or decrease of the lesser of three percent (3%) or the percent increase or decrease in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C., 2012 for the 12 month period ending ninety (90) days prior to the renewal date for years *four (4) and five (5) of the contract*.

3.0 SCOPE OF WORK

This Section describes the *Consulting services* that are required to be provided by the selected bidder. Bidder must be able to provide all of these services throughout the contract term.

PLEASE NOTE: Bidders will be required to provide responses that address all of the requirements of this as part of its Technical Proposal.

For purposes of this RFP, the use of the terms “shall”, “must” and “will” are used interchangeably when describing the Contractor’s/Bidder’s duties. The terms bidders, vendors and proposers are also used interchangeably.

3.1 Program Details

3.1.1 MEDICAID DRUG REBATE PROGRAMS

3.1.1a OBRA '90 Drug Rebate Program: The Medicaid Drug Rebate Program was created by the Omnibus Reconciliation Act of 1990 (OBRA '90) which added Section 1927 to the Social Security Act, effective January 1, 1991. The law requires manufacturers to enter into an agreement with the federal Centers for Medicare and Medicaid Services (CMS) to provide rebates in order for their drug products to be reimbursable by Medicaid. Manufacturers that do not sign an agreement with CMS are not eligible for federal Medicaid coverage of their drug product(s). Except for statutory limitations, state Medicaid programs must provide coverage and reimbursement for all covered outpatient drug products manufactured by companies that have entered into a rebate agreement with CMS.

Drug manufacturers are required to provide CMS with a listing of all covered outpatient drugs and, on a quarterly basis, are required to provide their average manufacturer’s price and best prices for each covered outpatient drug. Based on this data, CMS calculates a unit rebate amount for each drug, which is then provided to the states via secure file transmission. CMS also calculates and sends a separate file for unit rebate offset amount for certain drugs as a result of the Patient Protection and Affordable Care Act (PPACA)

No later than sixty (60) days after the end of each quarter, the Department provides drug utilization data to the drug manufacturers. The Department invoices for utilization using the 11-digit National Drug Codes (NDCs) and NDC units. An NDC describes the exact drug product being dispensed. Within thirty (30) days of receipt of the utilization invoice from the Department, the manufacturers are required to pay the rebate or to provide the Department with written notice of disputed items not being paid because of discrepancies found.

Rebate checks are currently sent by manufacturers to the Department’s Medicaid Financial Management (MFM), which logs and sends the checks to the Bureau of Accounts Management (BAM) for deposit and the payment back-up to the DOH Rebate Accounting Unit in OHIP. Only utilization disputes are addressed at the state level; pricing adjustments are addressed between the manufacturer and CMS. Utilization disputes are communicated to the Department using the Reconciliation of State Invoice (ROSI) and Prior Quarter Adjustment Statement (PQA). FMG also allocates the revenue shares between federal, State and local municipalities and reports/reconciles the quarterly rebate offset amount to CMS. At such time that rebates are collected for the OBRA rebate program, pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in Section 3.1.1c.

In New York State, OBRA'90 drug rebates are collected for member utilization in both the Medicaid fee-for-service (FFS) program and the Medicaid Managed Care Organization (MCO) benefit.

3.1.1b Physician Administered Drug (J-code) Rebate Program: The Deficit Reduction Act of 2005 (DRA) requires states to collect and submit utilization data for physician administered drugs using codes such as the Healthcare Common Procedure Coding System (HCPCS) J-Codes and National Drug Code (NDC) numbers, in order to secure rebates for such drugs administered on or after January 1, 2006. The invoicing and collection processes for J-code drugs mirror those detailed in Section 3.1.1a of this RFP. At such time that rebates are collected for the OBRA rebate program, pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in Section 3.1.1c.

3.1.1c Supplemental Drug Rebate Program (Fee-for-Service): NYS Public Health Law, Article 2-a, §§ 270 -277 provides statutory authority for the Medicaid fee-for-service Preferred Drug Program (PDP). The PDP was implemented in June 2006. Within the PDP, drugs are identified as preferred or non-preferred based first on clinical factors and second on cost. Specific to cost, PHL 2-a, §272 (11)(a) authorizes the Commissioner to allow drug manufacturers to provide supplemental rebates to the Department for drugs in therapeutic classes that are included in the PDP. Supplemental rebates are in addition to those rebates required under OBRA '90 and may be based either on direct agreements between manufacturers and New York State, by State participation in nationwide rebate pools, or by a combination of both.

Currently, New York is a member of the National Medicaid Pooling Initiative (NMPI) – a multi-state supplemental rebate program, administered by Magellan Medicaid Administration to obtain rebates for preferred drugs from drug manufacturers for Fee-for-Service Utilization. The Department also has the authority to directly contract with manufacturers for the FFS program, but does not currently leverage this authority.

Supplemental rebates are currently developed with a focus on achieving a guaranteed net unit price (GNUP):

GNUP = Wholesale Acquisition Cost (WAC) - OBRA '90 rebate - supplemental rebate

Supplemental rebates are invoiced using the same utilization data used to invoice the OBRA'90 fee-for-service (FFS) rebates. Supplemental rebates represent significant savings for the State and must be continued without interruption.

Rebate checks are currently sent by manufacturers to the Department's supplemental rebate program lock-box. The lock-box is accessible by the Department's MFM, which logs and sends supporting documentation to the DOH revenue unit and the payment back-up to the State's current contractor for data entry and reconciliation. Any supplemental unit rebate amount adjustments are addressed between the manufacturer and the current contractor as the supplemental rebate contracts are between the contractor and the manufacturer. Only utilization disputes are addressed at the state level. Utilization disputes are communicated to the Department using the Reconciliation of State Invoice (ROSI) and Prior Quarter Adjustment Statement (PQA). MFM also allocates the revenue shares between federal, State and local municipalities and reports/reconciles the quarterly rebate offset amount to CMS. At such time that rebates are collected for the Supplemental rebate program pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in this section.

Additional information on the Preferred Drug Program can be found at:

<https://newyork.fhsc.com/>

http://www.health.ny.gov/health_care/medicaid/program/ptcommittee/index.htm

http://www.health.ny.gov/health_care/medicaid/program/pharmacy_ann_report.htm

3.1.1d Supplemental Drug Rebate Program (Managed Care): As part of the enacted New York State Fiscal Year (SFY) 2015-16 budget, Subdivision 7 of section 367-a of the social services law was amended to provide the State with the flexibility to leverage total Medicaid Rx volume (FFS and Managed Care) in the negotiating supplemental rebates for Antiretrovirals and Hepatitis C Agents. Such supplemental rebates for Antiretrovirals will further decrease the costs to the State for ensuring that HIV-infected persons are on appropriate medications, per the Governor's initiative to [End the AIDS Epidemic](#) in New York.

At such time that rebates are collected for supplemental drugs (Managed Care) pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in Section 3.1.1c.

3.1.1e Preferred Diabetic Supply Rebate Program: On October 2009, the Department implemented a Preferred Diabetic Supply program (PDSP). The PDSP allows the Department to collect rebates¹ on Medicaid Fee-for-Service preferred glucometers and test strips from selected manufacturers. Non-preferred products are available only with prior authorization and do not have associated rebates.

Currently, the Department accesses rebates for this program through a multi-state pool administered by Magellan Medicaid Administration. Rebates are determined based on negotiations with product manufacturers. Rebates are invoiced quarterly based on Department utilization data and the agreed upon rebates. Invoicing is completed in a similar fashion to OBRA'90 invoicing procedures. At such time that rebates are collected for the PDSP pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in Section 3.1.1c.

¹ Diabetic supplies are not subject to federal rebates; therefore, this is not a supplemental rebate program but a non-OBRA'90 Medicaid rebate program.

Additional information on the PDSP can be found at:

<https://newyork.fhsc.com/providers/diabeticsupplies.asp>

3.1.2 ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM (EPIC) REBATE PROGRAM

3.1.2a Elderly Pharmaceutical Insurance Coverage Program (EPIC) Rebate Program: The EPIC program is a New York State program for seniors administered by the DOH. It helps income-eligible seniors aged 65 and older to supplement their out-of-pocket Medicare Part D drug plan costs.

EPIC only covers drugs for which the manufacturer has entered into a rebate agreement with the State. A copy of the standard agreement is provided in Attachment R. The EPIC rebate calculation is identical to the calculation used by the federal Medicaid rebate program. The rebate is based on units approved and processed by the EPIC Program each quarter.

Due to confidentiality requirements, the Centers for Medicare and Medicaid Services (CMS) do not share manufacturers' quarterly pricing submissions with the EPIC Program. Consequently, participating manufacturers submit the same pricing data referenced in section 3.1.2a above, directly to EPIC using the same formats. The EPIC rebate calculation consists of two parts: 1) the basic rebate amount and, if applicable, 2) an additional rebate amount [calculation is based on the changes of Consumer Price Index for Urban Consumers (CPI-U) value], which only applies to single source and innovator multiple source drugs. Each part is independently calculated, then summed together to calculate the total unit rebate amount (URA) due per unit. The URA calculation also needs to reflect the latest CMS guidelines.

EPIC invoices manufacturers for the full rebate when EPIC pays as primary payer. For EPIC invoiced claims that are coordinated with a Medicare Part D plan, EPIC only invoices on the portion of drug costs subject to EPIC coverage. This is illustrated in Attachment T. EPIC does not invoice manufacturers for coverage gap utilization for single source and innovator multiple source drugs (brand name drugs), except for several select enrollee groups.

Within sixty (60) days following the end of each quarter, EPIC sends a rebate invoice to the manufacturer in the CMS Invoice format. Payment is due within thirty (30) days of receipt of the invoice. Rebates earned under the EPIC program are 100% state-share.

Rebate checks and payment backup documentation are currently sent by manufactures to the DOH Rebate Accounting Unit, who then logs, processes the checks and sends the checks to the BAM for deposit. The utilization disputes are addressed at the state level; pricing adjustments are addressed between the manufacturer and CMS. Utilization disputes are communicated to DOH using the Reconciliation of State Invoice (ROSI) and Prior Quarter Adjustment Statement (PQA).

At such time that rebates are collected for the EPIC program pursuant to the award of this RFP, the invoicing and collection processes would mirror those detailed in Section 3.1.1c.

Additional information on the EPIC program can be found on the Department's website:

http://www.health.ny.gov/health_care/epic/

http://www.health.ny.gov/health_care/epic/annual_reports.htm

3.2 Tasks/Deliverables

3.2.1 Implementation

The contractor is required to perform all implementation activities after award of the contract. The contractor is required to provide an implementation plan, (narrative, diagram, and timeline) to deliver all Program services by the required operational date, indicating: roles, responsibilities, estimated timeframes for individual task completions, testing dates and objectives, and areas where complications may be expected and mitigation strategies. Include key activities such as: acquiring letter of credit, training and filling of staff positions, report configuration, Preferred

Drug List and Diabetic Supply negotiation and development, transfer of all rebate data, establishment of local office, performance standard self-reporting, parallel systems testing, etc.

The contractor must perform the following tasks:

- a. Designate an Implementation Manager and assemble a trained, experienced team to oversee implementation. The contractor's team is expected to work closely with the State and its contractors during the implementation period. All hiring should be completed during the implementation period;
- b. Upon approval of a contract award by the Office of the State Comptroller, the contractor must prepare an implementation plan within 14 calendar days for State approval. This plan should include but is not limited to:
 1. Planned activities with a project schedule
 2. Staffing level plans
 3. Weekly progress reports
 4. Outstanding issues
 5. Identification of key milestones/deliverables to be met
 6. Schedule of parallel testing including all computer processing systems to ensure the data has been appropriately transitioned. This should include a listing of the tests and the internal controls that will be adhered to.
- c. Analyze current utilization and rebates being achieved by New York and develop and implement strategies that will mitigate financial risk and ensure achievement of current, or better rebate levels for Medicaid rebate programs;
- d. Implement processes and strategies that will be used to effectively evaluate, track and monitor the achievement of project milestones and effectively identify and overcome barriers that may delay implementation;
- e. Upon approval of a contract award by the Office of the State Comptroller, the contractor must establish the Local Office, for key staff (see section 3.3), within 60 days that is required to be located within the NYS Capital District region; and
- f. Undertake and complete all implementation activities so that the Programs are, as detailed in this RFP, fully operational by the Go Live date specified in section 2.3.

3.2.2 Preferred Drug and Diabetic Supply List Development, Rebate Negotiation and Contracting and Consulting Services

It is the responsibility of the contractor to act as a consultant and manage and execute a strategy that evaluates and leverages opportunities to provide access to medically necessary drugs, while looking at ways to reduce the cost of drugs to the Programs. The contractor will develop a Preferred Drug List (PDL), negotiate supplemental and diabetic supply rebates and execute contracts with the drug manufacturers such that current rebate levels will be achieved or improved. EPIC rebates and OBRA 90 rebate amounts are pre-determined and are not negotiated. Meetings will be held with Department staff and other stakeholders to discuss strategy and process. The contractor will be responsible for providing advice and recommendations as it relates to the Department's various drug rebate programs and for developing a strategy that ensures the State will retain current or achieve better rebate levels while continuing to provide access to medically necessary drugs and supplies.

The contractor must perform the following tasks:

- a. Oversee and administer the rebate solicitation and negotiation process, including but not limited to sending out contracts and soliciting quotes, analyzing financial impact of quotes and impact on market share, and reporting the results to the Department (include an illustration via a flowchart). Include

workflows for the FFS and Managed Care Supplemental rebate programs and the Diabetic Supply program;

- b. Develop and maintain a supplemental rebate and drug pricing strategy with pharmaceutical manufacturers that will achieve or improve current rebate levels;
- c. Develop and maintain a contracting strategy that supports the negotiation of supplemental rebates across FFS and managed care for specified drugs such as Hepatitis C Medications and Anti-retrovirals that will achieve or improve current rebate levels;
- d. Develop and maintain a diabetic supply rebate program that maintains or improves current rebate revenues;
- e. Identify Diabetic Supply, Supplemental and EPIC rebate labelers for potential rebate agreements including how you will submit these recommendations to the Department for approval;
- f. Monitor Supplemental, Diabetic Supply and State-specific rebate agreements with rebate labelers to ensure they still present value to the State;
- g. Execute a PDL strategy by controlling growth in spending through a combination of market shift and supplemental rebates, while minimizing any negative impacts on both providers and beneficiaries. The bidder should conduct a clinical review of the State's pharmacy claims in each therapeutic class;
- h. Inform the State and make associated recommendations in a timely manner of any new trends and developments as well as pharmacy innovations, and State/Federal legislation (i.e., Medicare, prescription drug mandates, etc.) that may affect the rebate programs;
- i. Establish for the PDL, value based therapeutic drug class recommendations based on clinical safety and efficiency guidelines and available evidence based medicine;
- j. Describe the review schedule, if any, you propose for each therapeutic drug class within the PDL;
- k. Conduct the PDL clinical review process to determine what classes of drugs are recommended for preferred status within a therapeutic drug class;
- l. Conduct the PDL cost review process used to determine what classes of drugs are recommended for preferred status within a therapeutic drug class, including a description of the flexibility in your model to consider factors such as the introduction of new products to a class or significant price or rebate changes;
- m. Describe your proposed process for reviewing State drug utilization trends in each PDL therapeutic class;
- n. Prepare and present PDL recommendations based on clinical and/or pharmaco-economic studies to the State, the Drug Utilization Review Board and other State interest groups for approval by the Commissioner of Health, including the sources of clinical information that would be used and how you would provide evidence that the inclusion of the selected classes of drugs in the PDP and recommendations for preferred/non preferred status would not negatively impact the Medicaid population;
- o. Develop clinical criteria for State approval, to be used by clinical pharmacists for prior authorization of non-preferred drugs on the State's PDL;
- p. Provide consulting services that ensure the State is kept abreast of the latest developments and industry trends in the prescription drug field and how they affect the State's rebate programs and management of the PDL;
- q. Provide PDL financial analysis support to the Department's program and clinical support team;
- r. Attend Drug Utilization Review Board committee meetings to provide PDL financial and market share analyses;

- s. Inform the State in a timely manner and making associated recommendations, concerning such matters as new drugs, conversion from brand name drugs to generic drugs decreases or increases to drug costs and how this will impact the PDL;
- t. Develop and distribute educational information to the State's pharmacy providers and prescribers to encourage compliance with the recommended PDL; and
- u. Conduct cost analyses to provide recommendations for drugs that should be added to or deleted from the FFS brand less than generic program.

3.2.3 Managing Rebate Labeler Information

The contractor must be able to:

- a. Interface with the Department and any contractor(s) of the Department to receive the rebate labeler data needed to perform the rebate functions contained within this RFP;
- b. Add, update and terminate rebate labeler information based on the CMS and Department listing of rebate labelers as required to respond to inquiries or process transactions for each rebate program;
- c. Send out labeler rebate agreements, receive the rebate agreements and process, and send these agreements for DOH review for the EPIC rebate program (See Attachment P Performance Standards for required timeframes regarding the turnaround time to process error free [labeler applications that are complete and do not require follow up for processing] labeler applications.);
- d. Provide a drug labeler the capability to view the status of their account information including the status of their invoice disputes; and
- e. Describe how your system maintains and operates multiple effective date spans for the drug labelers.

3.2.4 Processing Pricing Data for Medicaid

For the OBRA 90 rebating process including the physician administered drugs, CMS calculates a unit rebate amount for each drug, and provides this to the State via secure file transmission. CMS also calculates and sends a separate file for unit rebate offset amount for certain drugs as a result of the Patient Protection and Affordable Care Act (PPACA). For the supplemental Drug Rebate Program and the Preferred Diabetic Supply Rebate Program the unit rebate unit will be input by the contractor based on the current rebate agreement it has negotiated with a labeler.

The contractor must be able to:

- a. Receive and process the quarterly drug/pricing/product data and previous quarterly pricing revisions submitted by the Department or any Department approved contractor;
- b. Process updates to product termination dates received from participating labelers and OHIP staff;
- c. Process updates and accurately maintain non-rebatable NDC tables;
- d. Maintain full confidentiality protections for all pricing data submitted, consistent with State and federal guidelines;
- e. Apply prior period rate adjustments for prior quarter invoices regardless of the payment status; and
- f. Receive and update secure transmissions of rebate pricing data applying appropriate program rules concerning retroactive price adjustments. This includes applying prior period rate adjustments to units that were previously paid (creating a debit or credit balance for an NDC).

3.2.5 Processing Pricing Data for EPIC

Due to confidentiality, the Centers for Medicare and Medicaid (CMS) does not share manufacturers' quarterly pricing submission with EPIC. Consequently, participating manufacturers directly submit pricing data to the EPIC Program. The contractor will need to utilize the pricing data to calculate unit rebate amounts (URA). The URA calculation is identical to the CMS Medicaid rebate calculation formula. EPIC uses data formats identical to those being used by Medicaid for manufacturer pricing data submissions and State invoicing. The contractor will be responsible for the receipt and timely processing of quarterly drug pricing/product data submitted by manufacturers for the EPIC Program.

A copy of the standard rebate agreement between EPIC Program and each manufacturer is provided in Attachment R.

The contractor must perform the following tasks:

- a. Receive and process quarterly drug pricing/product data submitted by manufacturers on paper, CD, encrypted email attachment, and via secure file transfer protocol (SFTP) within one business day from the date of receipt by the contractor. Manufacturers also may submit previous quarter pricing revisions along with the current quarter data submission which the contractor must also enter into the rebate system. The contractor is required to create, maintain and accept the quarterly pricing/product file layout in accordance with the CMS required layouts;
- b. Support, receive and monitor the secure transmission of quarterly pricing data files from manufacturers and the State for EPIC;
- c. Notify manufacturers (subject to State review) that required quarterly pricing data submission is overdue. These notifications must be mailed/transmitted by the contractor (38 days after the end of a calendar quarter). All notices shall include manufacturers who have not submitted any pricing data for the relevant quarter as well as those who have submitted partial data for the relevant quarter; all notices shall identify the specific NDC's and the corresponding data (i.e. AMP, BP) that must be submitted. This includes following up a second time each quarter with a detailed notice to manufacturers who have not submitted some or all of the necessary data and it should occur 2 days after the final invoice has been produced (See Attachment P Performance Standards for required timeframes regarding rebate pricing data);
- d. Update the contractor's rebate processing system with the most recent published CMS product data information prior to quarterly trial invoicing and for rebate calculation. The manufacturers' drug product data is a public record accessible through the Centers for Medicare & Medicaid Services (CMS) website at cms.gov/MedicaidDrugRebateProgram/09_DrugProdData.asp;
- e. Transmit the submitted product (NDC11) termination date to an identified contractor's claims processing system (point of sale) from the CMS Product File and/or Manufacturer Product File. A list of historical terminated NDCs will be provided for the initial implementation;
- f. Maintain full confidentiality protections for all data submitted by manufacturers, consistent with State guidelines and rebate agreements;
- g. Provide daily overnight processing of submitted pricing and product data. (See Attachment P Performance Standards for required timeframes regarding price submissions received by the contractor);
- h. Work with the technical staff of manufacturers to encourage and assist with conversion to an electronic form of price submission;
- i. Notify manufacturers and completing follow-up in a timely manner when the submitted data format is not in compliance with CMS record specifications;
- j. Maintain terminations of NDC and non-rebate NDC tables; and

- k. Calculate unit rebate amounts due from each manufacturer for each covered product. For details regarding the calculation of EPIC unit rebate amounts see the pricing matrix illustrated in Attachment S.

3.2.6 Receipt of Utilization Data, Invoice Pre-processing and Quality Assurance

Before actual quarterly invoicing occurs it is critical that the contractor receive and load the utilization data from the Department or its contractor(s) and has capability to automate/program a number of quality controls and statistical analysis on the data prior to invoicing. Quality data ensures accurate invoicing, decreasing the risk that revenues may be lost and prevent disputes which delay revenue. This includes claims data from both Medicaid FFS and Managed care pharmacy encounter data as well as claims data from the EPIC program.

The contractor must perform the following tasks:

- a. Perform variance analysis to identify clinical and financial outlier claims and other issues with quarterly rebate amounts. The contractor must submit these findings to the Department for review with recommendations on how to correct the data (prior to quarterly invoicing);
- b. Carry out a number of variance analysis processes to determine whether the utilization data received from the NYS contractor is complete and accurate (i.e. failure to submit all claims from plans, submittal of corrupt data, wide swings in totals attributed to plans);
- c. Exclude specified drugs, supplies and claims (e.g. 340B claims) from rebate invoices, based on CMS and the Department's listings of non rebatable drug products;
- d. Review and recommend automated conversions to resolve inconsistencies in measurement units between the CMS product file and Department drug reference data;
- e. Process utilization data from the Department or its contractor(s) j-codes, where applicable into NDCs with correct units.
- f. Adjusting the OBRA, Supplemental, Diabetic Supply, EPIC, and other rebate program units to correct errors for specific NDC/HCP/UPN codes (subject to Department approval);
- g. Maintaining information related to providers that are public health service entities (340B providers) that have separate agreements with rebate labelers and ensure that the invoice process excludes these claims;
- h. Updating and maintaining the crosswalk(s) and conversion factors between the physician administered drugs and NDC codes and informing the Department of any changes; and
- i. Invoice compound claims (a single claim with multiple NDCs) for the Program.

3.2.7 Invoice Generation and Mailing

The contractor is responsible for the quarterly production and mailing or electronic billing of rebate invoices to participating drug manufacturers whose products were paid during the previous calendar quarter. Invoices include only claims dispensed for an NDC with a rebate agreement.

The contractor must perform the following tasks:

- a. Produce trial quarterly invoices for the rebate programs on an agreed upon State schedule approximately forty (40) days after the end of a calendar quarter. Trial invoices must be consistent with the State approved format, web-based, and readily accessible. The State will review and approve trial quarterly invoices prior to production of final invoices;

- b. Accurately produce and electronically bill or mail final quarterly invoices within sixty (60) days after the end of a calendar quarter, with the State's approval (See Attachment P Performance Standards for required timeframes regarding the accuracy and timeliness of invoicing rebates);
- c. Reconcile claims utilization data with rebate data (on a quarterly basis) to ensure that the appropriate utilization data has been invoiced to the participating manufacturers;
- d. Store, maintain and retrieve current and historical information used in the Drug Rebate invoice process;
- e. Provide key invoicing statistics to the Department upon finalization of invoices;
- f. Generate off cycle/special invoices that may be requested by the State due to statutory changes, responses to audits or some other reason that would necessitate such invoices;
- g. Prepare, produce, distribute and manage the OBRA 90 (both managed care and fee-for-service programs), Supplemental, Diabetic Supply, EPIC, program invoice generation and notification processes;
- h. Identify the claims that are included on each invoice;
- i. Generate rebate labeler specific invoice and claim level extracts; and
- j. Generate invoices such that prior period adjustments are accounted for and reconciled.

3.2.8 Receipt of Rebate Payments, Accounts Receivable and Collections

The contractor is responsible for the application and processing of rebate payments including monitoring, and reporting on accounts receivable activity.

The contractor must perform the following tasks:

- a. Accept data and payment information for checks received by the State;
- b. Log, image, electronically associate to the invoice and route through the contractor's system, payments received, and reconcile those payments to invoices for each rebate program;
- c. Log, image, electronically associate and/or data enter and verify hard copy Resolution of State Invoice (ROSI) information, Prior Quarter Adjustment (PQA) and supporting documents received;
- d. Process transactions or accounting entries to correct for payments that have been inappropriately deposited as drug rebate payments or incorrectly credited to the wrong rebate program;
- e. Post receipts in a timely manner to the accounting records of the contractor (see Attachment P Performance Standards for required timeframes regarding the application of receipts to the accounting records);
- f. Apply rebate labeler credits to outstanding accounts receivable balances;
- g. Process accounting entries to resolve outstanding credit balances as required by the Department;
- h. Write off uncollectible amounts within your systems, in accordance with Department business rules;
- i. Reconcile rebate accounts with the State approved financial institution records;
- j. Log, image, electronically associate and/or data enter dispute resolution agreements and route transactions through the contractor's system;

- k. Provide the capability to search and review payment and account information for rebate labelers;
- l. Maintain the audit trail of all transactions within the accounting systems for each rebate program;
- m. Administer a rebate collection program and dunning process that maximizes the rate of rebate collections (See Attachment P Performance Standards for collection percentages due within required timeframes);
- n. Manage and monitor accounts receivable and collection activities (See Attachment P Performance Standards for the timeliness of maximizing accounts receivable collection);
- o. Produce and mail monthly statements on the 15th of each month for all labelers with outstanding rebates and/or disputes due;
- p. Apply interest to outstanding accounts receivable;
- q. Automatically generate notices to rebate labelers regarding outstanding accounts receivable balances based on Department business rules;
- r. Provide monthly aged accounts receivable to the Department;
- s. Administer an internal audit process in place to assure full accountability; and
- t. Perform internal reviews to ensure the integrity of the rebate programs and to appropriately safeguard the State's assets.

3.2.9 Dispute Resolution Process

OHIP staff is currently responsible for investigating and resolving utilization disputes. OHIP staff will continue to address utilization open disputes for all disputes prior to the Go Live date utilizing the dispute resolution module provided by the contractor. All open disputes and history will be transferred over to the new contractor during the implementation period. **All disputes received on or after the Go Live date will be the responsibility of the Contractor.**

The contractor must perform the following tasks:

- a. Retrieve and review the invoice and dispute information received from rebate labelers;
- b. Track dispute resolution contacts with rebate labelers and pharmacies;
- c. Produce claims level detail to labelers upon request including how you will track these requests;
- d. Maintain, track and provide an audit trail for interim and final dispute resolution agreements;
- e. Provide access at the Department to the appropriate systematic routines, reports and data needed to resolve open disputes;
- f. Brief and report to Department staff, the status of ongoing disputes;
- g. Perform dispute resolution according to the performance timeliness standards in Attachment P;
- h. Prioritize, assign, manage and monitor dispute resolution workflow;
- i. Perform internal reviews to ensure that all State approved dispute resolution procedures are being followed;

- j. Track and report on ongoing unresolved dispute proposals;
- k. Retrieve and review the claim utilization related to the NDC's being disputed;
- l. Provide a clear concise method for viewing resolved NDCs per labeler and quarter;
- m. Synchronize substantiated OBRA 90 dispute information with the supplemental rebate process; and
- n. Generate a dispute resolution proposal through your system.

3.2.10 Medicaid Information Technology Architecture (MITA)

MITA establishes national guidelines for technologies, information, and processes to support better Medicaid program administration to improve both health care outcomes and administrative processes. MITA is intended to foster integrated business and technology transformation across the Medicaid enterprise to improve the administration of the Medicaid program.

DOH completed a MITA State Self-Assessment in 2013 and is targeting capability Level 2 for the **Manage Drug Rebate** business process.

To support the maturity of this capability, the contractor must:

- a. Support the Manage Drug Rebate business process;
- b. Adopt standard processes that can be used to ensure recoveries are closely tracked;
- c. Facilitate more automated reporting of drug rebate monies to CMS;
- d. Provide a user configurable and rules based workflow process for completion of drug rebate activities that includes all drug rebate categories defined by the Department (i.e. Medicaid Rebate, Supplemental Rebate, J-Code Rebate, etc.);
- e. Centralize drug rebate activities through a single access portal;
- f. Ensure DOH users have access to all drug rebate information for tracking, monitoring, querying, and reporting of drug rebate activities through a centralized data repository;
- g. Provide a web enabled dashboard that allows DOH staff to review and monitor drug rebate activities including user defined triggers and alerts; and
- h. Propose process metrics aligned to MITA capability areas.

3.2.11 Data Records and Reporting

Reporting is required to monitor and quantify Program performance. Proper reporting is an invaluable tool in providing insight into areas that may require further study and analysis as well as forecasting and budgeting for the various rebate programs.

Databases and reports should provide tools that will allow the Contractor to determine if the data being received is accurate and rebates are billed according to the terms of the labeler agreements and the contract resulting from this RFP. The selected Contractor will on occasion be requested to provide ad-hoc reporting and analysis within very tight time frames.

The contractor must perform the following tasks:

- a. Provide information to the DOH on the number of data records received, processed, and the total number of records successfully added to files. The contractor will be responsible for ensuring data accuracy by

applying record-specific editing specifications, and for accessing overall submission quality, based on a percentage of all records successfully processed. Any major problem in the receipt or distribution of data must be reported to the DOH in a timely manner;

- b. Be prepared to respond to special requests for reports and/or to supply data via electronic media to DOH on short notice as requested;
- c. Provide direct secure access on an ad-hoc basis, to a variety of state specific reports in electronic and paper format, which include data elements of particular and periodic interest;
- d. Create and maintain data base files including historical files and tables for each rebate program;
- e. Provide direct secure access to an online reporting system with controlled role specific access by DOH representatives, whereby a number of Federal and State required management reports (generated by the contractor) are easily accessible by the State through their own PCs or secure web connection (See Attachment P Performance Standards for required online rebate and reporting system availability);
- f. Develop in conjunction with NYSDOH, a robust suite of management, financial, and utilization reports required by the NYSDOH for its use in the review, management, monitoring and ongoing analysis of the rebate Programs. A master list of reports along with an explanation are contained in Attachment N. While the reports do not have to be exactly formatted duplicates, the data contained in these reports must be replicated by the contractor. The final format of these reports is subject to NYSDOH review and approval (See Attachment P Performance Standards for required accuracy standard around rebate reporting);
- g. Allow State users to query and/or access all source data elements such as payment amounts, invoiced amount, rebate units invoiced, etc.;
- h. Allow users to save queries and reports;
- i. Incorporate and account for HIPAA requirements;
- j. Provide reports that should be available for viewing and printing as well as for export in the following formats: text, RTF, MS-Excel, HTML and PDF over a web connection;
- k. Provide a monthly report regarding the amount of rebates received, by each program. The report shall be delivered to the State by the 20th day of the following month; and
- l. Provide an annual report to the State for the SFY ending March 31 for each contract year. The report shall be delivered to the State within two (2) months of the end of the SFY, and shall include the following:
 - 1. A concise executive summary, including a cost/benefit analysis of all initiatives and information/data necessary for the State to complete required evaluation reports;
 - 2. The savings attributable to the state, each county and the city of New York; and
 - 3. The aggregate amount of rebates invoiced and received, by program, with the ability to be broken out by fiscal year and by month.

3.2.12 Data Storage, Transfer and Sharing

The contractor will be responsible to provide secure transmission of certain data to CMS, manufacturers, and other State contractors.

The contractor must perform the following tasks:

- a. Support, systematically send and monitor via a secure file transfer protocol process the Program's **Medicaid** quarterly invoice files to CMS in a manner, form and timeliness acceptable to DOH and be in compliance with CMS requirements;

- b. Support, systematically send and monitor via a secure file transfer protocol process the Program's **non-Medicaid** (EPIC and Supplemental) quarterly invoice files to the manufacturers in a manner, form and timeliness acceptable to DOH and be in compliance with CMS requirements;
- c. Transmit secure **Medicaid** files to CMS that contain prior quarter units adjusted as a result of ongoing dispute resolutions;
- d. Transmit secure **non-Medicaid** (EPIC and Supplemental) files to manufacturers that contain prior quarter units adjusted as a result of ongoing dispute resolutions;
- e. Establish and implement proper safeguards against the unauthorized use and disclosure of the data exchanged pursuant to the administration of the rebate programs as well as other aspects of the interface between DOH, CMS, and manufacturers (including but not limited to encryptions). Such safeguards shall include the adoption of policies and procedures to ensure that the data shall be used solely in accordance with program requirements and applicable federal and state law. The bidder shall establish appropriate administrative, technical, procedural, and physical safeguards to protect the confidentiality, integrity, accessibility, and security of the data and to prevent unauthorized access to the data. The safeguards shall provide a level of security at least comparable to the level of security required by DOH by CMS, as specified by CMS. Any and all bidder personnel interacting with this data must be advised by the bidder of the confidential nature of the information, the safeguards required to protect the information, and the administrative, civil and criminal penalties for noncompliance contained in the applicable federal laws;
- f. Support and monitor the export of secured information to the Medicaid Data Warehouse (MDW) or any other secure system as approved by the Department; (See Attachment P Performance Standards for required timeframes regarding the transfer of outbound files);
- g. Electronically capture and process data from the State and DOH approved contractors, and develop control procedures that will ensure a high level of accuracy, completeness, and accountability;
- h. Provide access to computer software and hardware capable of storing and processing the volume of data required by the various rebate programs;
- i. Maintain an active online database of rebate records and disputes for a minimum ten year period. At least one copy must be stored securely off site in case of fire or other catastrophe. In the event that any of the data are lost, stolen, or destroyed through negligence or fault of the contractor, the contractor agrees to recreate the information at no cost to the DOH;
- j. Be capable of responding to special programming requests and systems modifications within a reasonable time frame, not to exceed 30 calendar days or a timeframe as agreed to by the bidder and DOH, as requested by the DOH;
- k. Collect data either at the record level and/or aggregate level. This data is owned by the DOH and the contractor agrees to provide to the DOH any and all data upon request; and
- l. Provide secure and confidential storage for hard copy and electronically stored information. Under no circumstances will any records, hard copy or electronic, nor any information contained therein, be released to any person, agency, or organization without specific written permission of the DOH. All data storage, posting and access must comply with the minimum policies, standards, and procedures found in the Federal HIPPA Security Regulation and the NYS Cyber Security Critical Infrastructure and Coordination (CSCIC) Policy P 03-002, Information Security Policy and with the DOH Network Configuration Policy). The DOH must be notified immediately if any breach of confidentiality occurs.

3.2.13 Budgeting, Forecasting and Audit Support

The protection of Program assets is a top priority of the Programs. The Contractor should have a strong audit and financial presence on its rebate team. The Contractor is responsible for the oversight and audit of rebates due to

the various rebate programs. It is also a responsibility of the contractor to assist the State with budgets and forecasts of rebate revenue based on the contracts with labelers within each program. The Contractor should have experienced staff that are capable of budgeting and forecasting as well as performing reviews and audits of the various rebate programs.

The contractor must perform the following tasks:

- a. Conduct targeted audits of rebate labelers;
- b. Provide at no cost, unrestricted access to the records and facilities associated with this contract, to the Department, any other authorized Federal and State agency, and any law enforcement authorities (including validation personnel or third parties acting on behalf of such entities) with audits and in the investigation, documentation, and litigation of possible fraud and abuse cases or any other possible misconduct which may affect the Programs, consistent with the requirements of Appendices A including provisions of access to protected health information (PHI) and all other confidential information when required for audit purposes as determined by the State as appropriate;
- c. Assist Department staff in responding to audit findings or requests for information from authorized Federal and State agencies that perform audits relating to the services rendered by the Contractor and any subcontractors;
- d. Respond in a timely fashion to all State audit requests for information and/or clarification;
- e. Maintain adequate personnel and system resources that will be allocated to comply with the Program's audit requirements;
- f. Maintain an audit trail of all current and historical data;
- g. Maintain accounting books, accounting records, documents and other evidence pertaining to the administrative costs and expenses of this Contract that relate to the performance of the contractual requirements of this contract for a period of six years after the contract end date;
- h. Have an independent auditor perform an annual SSAE 16 audit of internal controls, including all Contract related policies and procedures. The independent audit firm will conduct tests and render a decision as to the operating effectiveness of controls and procedures. The audit firm will provide a detailed report of the findings that will be provided to the Department within 30 calendar days of completion;
- i. Assist the State with the budgeting and forecasting of rebate revenue based on the projected utilization data and the contracts with labelers within each rebate program; and
- j. Perform rebate analysis, trending and benchmarking associated with specific State initiatives whereas only a subset of products utilization would be eligible for supplemental rebates. An example of such an initiative is the End the AIDS Epidemic, where the State intends to decrease additional medication costs, through supplemental rebates.

3.2.14 Customer Service

The current Program has no main number to field calls related to rebates. The customer service function will need to provide a toll-free information line(s) and a central e-mail address to receive and respond to all inquiries. The toll free line(s) will need to be available to all parties at a minimum, Monday through Friday 8:00 a.m. to 5:00 p.m. Eastern Time. Through this toll free line staff will have to respond to a number of inquiries. This will require the contractor to observe confidentiality protocols including all Health Insurance Portability and Accountability Act (HIPAA) requirements as well as observe confidential data agreements.

Written inquiries will be received from different Department staff as well as electronic mail originating through epic@health.ny.gov or PPNO@health.ny.gov. Responses to inquiries should be accurate and timely (see Attachment P Performance Standards for required timeframes).

The contractor must perform the following tasks:

- a. Develop and maintain adequate fully trained staff to respond to all stakeholder inquiries while protecting confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe requirements related to confidentiality and operating guidelines for functions included in this RFP (See Attachment P Performance Standards for required timeframes regarding correspondence timeliness);
- b. Establish a toll free line that is available at a minimum, during routine business hours, defined as Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Contractor will submit their holiday schedule each year to the Department for approval;
- c. Image and analyze documentation received from all stakeholders;
- d. Respond to written and electronic communications received from rebate labelers and other stakeholders. The contractor must have a central, NY specific dedicated e-mail address to receive and respond to inquiries;
- e. Maintain a search and tracking document control system for all communications received, any actions taken that is available to staff members and select State employees to view. Access to this system must be available through a web-based application for Department and other authorized users;
- f. Maintain up-to-date procedures to ensure timely and accurate responses while ensuring confidentiality of information;
- g. Keep informed and up to date on Medicaid and other State rebate programs in order to stay abreast of changes in rebate policies and regulations;
- h. Develop and deliver pertinent alerts as required by the Department;
- i. Provide stakeholders with access to materials and/or data needed to support rebate payments including but not limited to invoice copies, claims level detail and prior communications; and
- j. Provide on-going training for personnel to ensure that they are knowledgeable about the functional and technical aspects of the drug rebate programs and Medicaid policy.

3.2.15 Turnover

The Turnover Phase represents a period of transition during which the rebate operational activities that have been maintained and operated by the Contractor must be turned over to the Department or successor Contractor. It should be noted that the rebate programs have no statute of limitations regarding the length of time to retain rebate data. Consequently, it is important that all rebate related data including historical data be retained throughout the contract period.

The Contractor shall ensure that any transition to another Contractor be done in a way that provides DOH with uninterrupted access to rebate services and rebate revenue through the final termination of the Agreement resulting from this RFP. This includes ensuring rebate monies are collected and accounted for, disputes continue to be resolved, and providing sufficient staffing to labelers and the DOH continue to receive good customer service even after the termination date of the Agreement resulting from this RFP. It is also imperative that the Program continue to have dialogue with key personnel of the Contractor, maintain access to online systems and receive data/reports and other information regarding the Program after the effective end date of the Agreement. In addition, the Contractor and the selected successor Contractor shall fully cooperate with the DOH to create and establish a transition plan in a timely manner.

The contractor must include all turnover tasks in its administrative fee. The State may withhold a portion of the contractor's final administrative fee if all milestones and deliverables relating to the turnover task have not been properly achieved or furnished.

Furthermore, the turnover plan must include all other information requested by the State, that the State, in its sole discretion, believes is necessary to effectuate a smooth turnover to the successor contractor, including information for State preparation of an RFP for the subsequent contract.

The contractor must perform the following tasks:

- a. Provide no later than four (4) years from the contract start date of the rebate program, a Turnover Plan to the Department which specifies target completion dates for activities that align with the turnover date to the successor contractor. The contractor must also, within ninety (90) days prior to the end of the Agreement resulting from this RFP, or within ninety (90) days of notification of termination, if the Agreement resulting from this RFP is terminated prior to the end of its term, provide the DOH with a detailed written plan for transition;
- b. Transfer the rebate toll free number to the Department or successor contractor;
- c. Review and comment on any implementation plan forwarded by the State/vendor;
- d. Turn over the data files to the successor contractor in an electronic 'state approved format' including record layouts and field descriptions for all files. All data related files including but not limited to: claims data including historical files, rebate data including historical files, database tables, labeler database information including contacts, rebate invoices, participating rebate labeler lists, outstanding rebate totals by manufacturer and NDC including all closed and open disputes, and historical payment information, and logs of communications;
- e. Encourage all employees, including management, to remain throughout the turnover. Over the final six months of the contract term, the contractor should not transfer or otherwise reassign any of its key or core staff without prior State approval;
- f. Provide a list of all job titles/levels and the number of staff (in full time equivalents) within each title/level. Provide an organization chart detailing the reporting relationships and number of personnel by level (e.g., manager, professional, clerical) in each organizational unit;
- g. Provide quarterly detailed statistics on operational volumes for the most recent twenty four (24) month period, furnished in an electronic medium acceptable to the State to include at a minimum:
 1. Processing statistics by program - Number of labeler invoices by quarter, number of receipts received by quarter, and number of disputes received, number of disputes resolved, and number of disputes worked on by the contractor.
- h. Retain and turn over dictionaries for all master files and databases;
- i. Provide availability of computer resources during turnover for exporting of data and parallel testing;
- j. Forward any checks and documentation that are received, for a maximum of one hundred and twenty (120) days after the end of the contract (to an address supplied by the Department, if applicable);
- k. Complete all required reports in the reporting section of this RFP;
- l. Provide the Program with sufficient resources in order to address State audit requests and reports in a timely manner;
- m. Fully cooperate with any authorized Federal and State agency, any law enforcement authorities (including validation personnel or third parties acting on behalf of such entities) and The Office of State Comptroller (OSC) with all audits consistent with State requirements;

- n. Perform timely reviews and responses to audit findings submitted by the DOH and the Comptroller's audit unit in accordance with State requirements; and
- o. Remit any monies due the Program in a timely manner upon final audit determination consistent with State requirements.

3.3 Staffing Requirements

The successful implementation and operation of the rebate programs rely on an effective organization structure and a highly productive, motivated, and 'qualified' workforce. The Bidder should have experienced highly skilled technical staff that can effectively implement and administer the system interfaces required under this proposal, as well as financial and experienced pharmaceutical staff with a strong understanding of Medicaid drug rebates, a qualified management team, and a staffing structure that supports all other aspects of the program.

The Department is not prescribing a staffing approach beyond what is relevant in this RFP and Attachment O, but is interested in having the bidder offer a creative approach to staffing that meets program requirements.

The Bidder must:

- 1. Maintain an organization with the skills and experience necessary to administer, manage, and oversee all aspects of the Program during implementation and operation.
- 2. Propose a detailed Staffing and Organization Plan to address all work required in this RFP.
- 3. Provide a name, resume and references for all Key Staff, as identified in Attachment O. Key Staff include:
 - a. Account Executive
 - b. Director Quality Assurance/Internal Audit
 - c. Rebate Manager
 - d. Financial Analyst

All Key staff positions must be full-time roles filled by individuals that are 100% dedicated to New York State and based out of a local office that is within ten (10) miles of the State Capitol. The Department must be notified in writing, in advance, if the Contractor proposes a change in key project staff. The notice must include the name of the individual being replaced, an explanation for the change, and the name and credentials of the proposed replacement. All replacement personnel should be fully qualified for the position. Changes or additions in key project staff, once the contract has begun, must be reported to the Department and resumes must also be submitted for prior approval.

No key staff position may remain vacant and all replacement key staff must meet the requirements of this RFP, and be approved by the Department. The Department reserves the right to reject key staff based on inadequate qualifications, poor references or inadequate knowledge or previous inadequate performance. In addition, the Department may request changes in staff based on performance and request replacement staff with equal or stronger qualifications

- 4. Include the following 'Core' staff, as identified in Attachment O:
 - a. Rebate Negotiator
 - b. Rebate Attorney
 - c. Rebate Analyst
 - d. Rebate Pharmacist
 - e. Systems Liaison/Business Analyst

Core staff do not need to be named in the Bidder's proposal. Core staff consists of function-specific staff who, once assigned to the project, are expected to remain on the project throughout the remainder of the contract to ensure continuity of processes. The Department must approve all Core staff at the time of contract implementation. The Bidder should propose Core staff from the list above and include quantity of

each title, the percentage of time allocated to the contract. The organizational placement will be left up to the contractor based upon its experience and expertise. Bidders should look at Attachment P Performance Standards for timeliness requirements for certain tasks included in this RFP, as this may have an effect on the number of personnel a Bidder may propose. No Core staff position may remain vacant and all replacement core staff must meet the requirements of this RFP, and be approved by the Department.

The Bidder should also provide in its staffing plan any "Additional Staff" besides the "Key" and "Core" staff that is needed to accomplish the duties and responsibilities provided in this RFP. The quantity of each title, the number of full-time-equivalents (FTEs) and descriptions of their duties should be included.

NOTE: There is a Program requirement concerning the timely filling of positions designated as dedicated "Key" and "Core" positions. This requirement and its effect on the Contractor's compensation is covered in the staffing level section of the performance standards included in Attachment P.

3.4 Performance Standards

The Bidder must meet all requirements in this RFP. Specific performance standards, as well as the damages that will be applied if those standards are not met, are detailed in Attachment P. Full payment shall be made on each invoice upon State review and determination that the Contractor has performed in accordance with the performance standards in Attachment P and other duties and responsibilities as set forth in this RFP.

In the event the Contractor fails to comply with the performance standards provided in Attachment P of this RFP, the State may assess liquidated damages as specified in Attachment P.

Any notice required by this Contract to be given between the Contractor and the State shall be sent to the Department's designated contact and the Contractor's designated Project Director for the Contract by registered or certified mail at the address designated by each party to the contract, return receipt requested, or a formal transmittal delivered via e-mail return receipt required or shall be delivered in hand a receipt granted.

Without additional cost to the Department, and as a material condition of the Contract, the Contractor must furnish, for the period of one year to be automatically extended, without amendment, for additional one year periods from the expiration date, for the duration of the contract (including any extensions), unless notice to not extend is sent by the financial institution at least ninety (90) days prior to the expiration date, an irrevocable Standby Letter of Credit (SLOC) for the benefit of the Department in the amount of 5% of the bid total for the initial five year contract period as proposed in the Financial Proposal. In the event of notice of non-extension, the Department may draw upon the full amount. The SLOC shall be issued by a financial institution ("Issuer") licensed to do business under the laws of the State of New York. The Issuer shall be subject to the approval of the Department. The form for the SLOC shall be subject to the approval of the Department. The Contractor must provide a draft SLOC to the Department within ten (10) business days of notice from the Department of contract approval. Failure to provide the draft SLOC to the Department within ten (10) business days of such notice will constitute grounds for termination for cause. The executed SLOC must be provided to the Department within ten (10) business days of the Department's approval of the draft SLOC. The Department reserves the right to extend the due date for the executed SLOC based on circumstances the Department determines to be reasonable. Failure to provide the final SLOC to the Department within ten (10) business days of such notice will constitute grounds for termination for cause. The SLOC must contain a provision that satisfies the following requirement:

No Contingent Obligations: The obligations of Issuer under the SLOC shall in no way be contingent upon reimbursement by the Contractor.

The SLOC must provide funds to the Department for any liability, loss, damage or expense as a result of the Contractor's failure to perform fully and complete all requirements of the Contract. Such requirements include, but are not limited to, the Contractor's obligation to pay liquidated damages, indemnify the Department under circumstances identified in the contract, and the Contractor's obligation to perform contractually required services throughout the entire term of the Contract. The SLOC shall also provide that the bank where the drafts are drawn must be located within New York State or provide for drawings to be by tele facsimile.

3.5 Security Requirements and Deliverables

The Bidder must provide a detailed description of how the proposed solution will support any applicable security requirements, and meet the deliverables, described in this section. This description must include information about the specific security controls that apply to the solution, and how the Bidder plans to implement those controls.

The Contractor must comply fully with all current and future updates of the security procedures of the DOH, as well as with all applicable State and Federal requirements, in performance of this contract.

The Bidder's proposal must include a description of:

- All security controls (physical, logical and administrative), hardware and software that the bidder will use, and how these are integrated to form a comprehensive security architecture;
- How the proposed solution will meet each of the relevant controls from the General Security Requirements section below;
 - The Bidder must provide details regarding which controls will be implemented and how they will be implemented;
 - For the CMS MARS-E requirement, the Bidder must address each of the control families specified for the controls they plan to implement;
- The approach to provide secure and confidential storage for hard copy and electronically stored information; and
- The approach to support, receive and monitor the secure transmission of quarterly pricing data files.

General Security Requirements

The Bidder's proposal must describe which of the following policies, standards, laws and rules apply to the solution, and how the solution will comply with each, if applicable:

- All policies and standards defined in the New York State ITS security policies and standards (<http://its.ny.gov/eiso/policies/security>), including, but not limited to:
 - NYS-P10-006 – Identity Assurance Policy,
 - NYS-S13-001 – Secure System Development Life Cycle Standard,
 - NYS-S13-002 – Secure Coding Standard (if applicable),
 - NYS-S13-004 – Identity Assurance Standard,
 - NYS-S14-003 – Information Security Controls Standard,
 - NYS-S14-005 – Security Logging Standard,
 - NYS-S14-007 – Encryption Standard,
 - NYS-S14-013 – Account Management / Access Control Standard
 - NYS-S15-001 – Patch Management Standard (if applicable) and
 - NYS-S15-002 – Vulnerability Scanning Standard;
- Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security and Breach Notification Rules;
- Health Information Technology for Economic and Clinical Health (HITECH) Act (<http://www.healthit.gov/policy-researchers-implementers/health-it-legislation>);
- CMS Minimum Acceptable Risk Standards for Exchanges - MARS-E (<https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Minimum-Acceptable-Risk-Standards-for-Exchanges-ERA-Supp-v-1-0-08012012-a.pdf>);
- Federal Risk and Authorization Management Program (FedRAMP) if cloud computing is utilized (<http://www.gsa.gov/portal/category/102371>); and
- All NYS laws and regulations related to privacy protections.

Security Deliverables

If selected, the Contractor must undergo a comprehensive Risk Assessment, identify appropriate Security Controls related to the project, develop a Security Privacy and Confidentiality Plan (SPCP) to address potential security issues, and describe the steps that the Contractor will take to ensure these issues will not compromise the operation of the program. This plan must be approved by the DOH.

The Contractor must:

1. During the first ninety (90) days of the project:

- a. undergo a comprehensive Risk Assessment;
 - b. identify appropriate Security Controls related to the project;
 - c. deliver an initial Security, Privacy and Confidentiality Plan, based on the findings of the Risk Assessment, for NYSDOH review and approval;
2. Submit an updated Security and Privacy Plan to the DOH for review and approval thirty (30) business days prior to the start of Operations.
 3. Annually, update the Security and Privacy Plan and submit to the DOH for review and approval.

4.0 BIDDERS QUALIFICATIONS TO PROPOSE

4.1 Minimum Qualifications

NYSDOH will accept proposals from organizations with the following types and levels of experience as a prime contractor.

- A minimum of 5 years' experience working with drug rebate functions; and
- At least 2 years' experience with a public Medicaid program(s); and
- Demonstrated experience and understanding of the Medicaid Information Technology Architecture (MITA) 3.0 guiding principles (as they pertain to Drug Rebate) and the Centers for Medicare & Medicaid Services (CMS) Enhanced Funding Requirements: Seven Conditions and Standards.

Experience acquired concurrently is considered acceptable.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract. Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

5.0 ADMINISTRATIVE INFORMATION

The following administrative information will apply to this RFP. Failure to comply fully with this information may result in disqualification of your proposal.

5.1 Restricted Period

"Restricted period" means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals ("RFP"), Invitation for Bids ("IFB"), or solicitation of proposals, or any other method for soliciting a response from Bidders intending to result in a procurement contract with DOH and ending with the final contract award and approval by DOH and, where applicable, final contract approval by the Office of the State Comptroller.

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the bidder is non-responsible and therefore ineligible for this contract award. Two violations within four years of the rules against impermissible contacts during the "restricted period" may result in the violator being debarred from participating in DOH procurements for a period of four years.

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies a designated contact on face page of this RFP to whom all communications attempting to influence this procurement must be made.

5.2 Questions

There will be an opportunity available for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification of this RFP should cite the particular RFP Section and paragraph number where applicable and must be submitted with the subject line stating the title of this RFP via email to OHIPcontracts@health.ny.gov. It is the bidder's responsibility to ensure that email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in [Section 1.0](#) (Calendar of Events). Questions received after the deadline may **not** be answered.

5.3 Right to Modify RFP

DOH reserves the right to modify any part of this RFP, including but not limited to, the date and time by which proposals must be submitted and received by DOH, at any time prior to the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events). Modifications to this RFP shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Proposals, any such clarifications or modifications as deemed necessary by DOH will be posted to the DOH website.

If the bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify DOH of such error in writing at OHIPcontracts@health.ny.gov and request clarification or modification of the document.

If, prior to the Deadline for Submission of Proposals, a bidder fails to notify DOH of a known error or an error that reasonably should have been known, the bidder shall assume the risk of proposing. If awarded the contract, the bidder shall not be entitled to additional compensation by reason of the error or its correction.

5.4 Payment

The contractor shall submit invoices and/or vouchers to the State's designated payment office:

Preferred Method: Email a .pdf copy of your signed voucher to the Business Services Center (BSC) at: DOHaccountspayable@ogs.ny.gov with a subject field as follows:

Subject: <<Unit ID: 345XXXX>> <<Contract #>>

Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

NYS Department of Health
Unit ID 345<<xxxx>>
NYS OGS BSC Accounts Payable
1220 Washington Ave Building 5, 5th Floor
Albany, NY 12220-0093

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epayments@osc.state.ny.us or by telephone at 518-474-6019. CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller
Bureau of Accounting Operations
Warrant & Payment Control Unit
110 State Street, 9th Floor
Albany, NY 12236

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

Implementation Phase Payments:

The contractor shall be paid the fixed price upon the Department's acceptance and approval of the completion of milestones as defined in this RFP. The distribution of payment is as follows:

- Implementation plan approved by State – 10%
- Implementation Team and Key staff hired and Project Management Strategy Implemented - 20%
- Utilization Analysis and strategy for achieving rebates approved by the State (see section 3.2.c and 6.2.4.c) – 20%
- Go Live date successfully achieved – 50%

Operation Payments:

The contractor shall be paid a monthly base operation fee, as presented in Attachment C FP – Form 1 of the contractor's cost proposal. The base operation fee represents the fixed costs associated with the daily operation for each rebate program. The monthly base operation fee will begin after the contract Go Live date specified in section 2.3.

The contractor shall submit monthly invoices no later than fifteen days after the end of the month being invoiced.

5.5 Minority & Woman-Owned Business Enterprise Requirements

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health ("DOH") recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of DOH contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other

things, that DOH establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOH hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises (“MBE”) participation and **15%** for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms). A contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOH may withhold payment pending receipt of the required MWBE documentation. For guidance on how DOH will determine “good faith efforts,” refer to 5 NYCRR §142.8.

The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. The directory is found in the upper right hand side of the webpage under “Search for Certified Firms” and accessed by clicking on the link entitled “MWBE Directory”. Engaging with firms found in the directory with like product(s) and/or service(s) is strongly encouraged and all communication efforts and responses should be well documented.

By submitting a bid, a bidder agrees to complete an MWBE Utilization Plan (Attachment F, Form #1) of this RFP. DOH will review the submitted MWBE Utilization Plan. If the plan is not accepted, DOH may issue a notice of deficiency. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt. DOH may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver (if applicable); or
- d) If DOH determines that the Bidder has failed to document good-faith efforts;

The Contractor 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 DOH, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor’s Quarterly M/WBE Contractor Compliance & Payment Report to the DOH, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

If the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding will constitute a breach of Contract and DOH may withhold payment from the Contractor as liquidated damages.

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

New York State certified Minority- and Women-Owned Businesses (M/WBE) may request that their firm’s contact information be included on a list of M/WBE firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on the Department’s website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS M/WBE certification to OHIPcontracts@health.ny.gov before the Deadline for Questions as specified in [Section 1.0](#) (Calendar of Events). Nothing prohibits an M/WBE Vendor from proposing as a prime contractor.

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.

5.6 Equal Employment Opportunity (EEO) Reporting

By submission of a bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of Attachment E Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. Additionally, the successful bidder will be required to certify they have an acceptable EEO (Equal Employment Opportunity) policy statement in accordance with Section III of Appendix M in Attachment E.

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

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, 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.

To ensure compliance with this Section, the Bidder should submit with the bid or proposal an Equal Employment Opportunity Staffing Plan (Attachment F, Form #4) identifying the anticipated work force to be utilized on the Contract. Additionally, the Bidder should submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (Attachment F, Form # 5), to DOH with their bid or proposal.

5.7 Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

The successful Bidder must file a properly completed Form ST-220-CA with the Department of Health and Form ST-220-TD with the DTF. These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>. Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

5.8 Workers' Compensation and Disability Benefits Certifications

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that DOH 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 DOH, successful Bidders will be required to verify for DOH, on forms authorized by the New York State Workers' Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518) 486-6307. Failure to provide verification of either of these types of insurance coverage by the time contracts are ready to be executed will be grounds for disqualification of an otherwise successful Proposal. The successful Bidder must submit the following documentation before a contract may take effect.

ONE of the following forms as Workers' Compensation documentation:

A. Proof of Workers' Compensation Coverage:

1. **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
2. **Form SI-12** – Certificate of Workers' Compensation Self-Insurance (or Form GSI-105.2 Certificate of Participation in Workers' Compensation Group Self-Insurance); or
3. **Form CE-200** – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

B. Proof of Disability Benefits Coverage:

ONE of the following forms as Disability documentation:

1. **Form DB-120.1** – Certificate of Disability Benefits Insurance; or
2. **Form DB-155** – Certificate of Disability Benefits Self-Insurance; or
3. **Form CE-200** – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

Further information is available at the Workers' Compensation Board's website, which can be accessed through this link: <http://www.wcb.ny.gov>.

5.9 Subcontracting

Bidder's may propose use of a subcontractor. The Contractor shall obtain prior written approval from NYSDOH before entering into an agreement for services to be provided by a subcontractor. The Contractor is solely responsible for assuring that the requirements of the RFP are met. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of the prime contract, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the agreement between the DOH and the Contractor. DOH reserves the right to request removal of any Bidder staff or subcontractor's staff if, in DOH's discretion, such staff is not performing in accordance with the Agreement. Subcontractors whose contracts are valued at or above \$100,000 will be required to submit the Vendor Responsibility Questionnaire upon selection of the prime contractor.

5.10 DOH's Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all proposals received in response to the RFP;
2. Withdraw the RFP at any time, at the agency's sole discretion;
3. Make an award under the RFP in whole or in part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;

5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;
7. Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFP in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the proposals received;
15. Every offer shall be firm and not revocable for a period of three hundred and sixty-five days from the bid opening, to the extent not inconsistent with section 2-205 of the uniform commercial code. Subsequent to such three hundred and sixty- five days, any offer is subject to withdrawal communicated in a writing signed by the offerer; and,
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerers proposal and/or to determine an offerers compliance with the requirements of the solicitation.

5.11 Freedom of Information Law ("FOIL")

All proposals may be disclosed or used by DOH to the extent permitted by law. DOH may disclose a proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All proposals will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. **Any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the proposal as directed in [Section 6.1 \(D\)](#) of the RFP.** If DOH agrees with the proprietary claim, the designated portion of the proposal will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

5.12 Lobbying

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, made significant changes as it pertains to development of procurement contracts with governmental entities. The changes included:

- a) made the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b) required the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c) required governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d) authorized the New York State Commission on Public Integrity, (now New York State Joint Commission on Public Ethics), to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;

- e) directed the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f) required the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment; (Bidders responding to this RFP should submit a completed and signed [Attachment G](#), "Prior Non-Responsibility Determination".)
- g) increased the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- h) established the Advisory Council on Procurement Lobbying.

Subsequently, Chapter 14 of the Laws of 2007 amended the Lobbying Act of the Legislative Law, particularly as it related to specific aspects of procurements as follows: (i) prohibiting lobbyists from entering into retainer agreements on the outcome of government grant making or other agreement involving public funding; and (ii) reporting lobbying efforts for grants, loans and other disbursements of public funds over \$15,000.

The most notable, however, was the increased penalties provided under Section 20 of Chapter 14 of the Laws of 2007, which replaced old penalty provisions and the addition of a suspension option for lobbyists engaged in repeated violations. Further amendments to the Lobbying Act were made in Chapter 4 of the Laws of 2010.

Questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Joint Commission on Public Ethics.

5.13 State Finance Law Consultant Disclosure Provisions

In accordance with New York State Finance Law Section 163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract.

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

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

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at: <http://www.osc.state.ny.gov/procurement>.

5.14 Debriefing

Once an award has been made, bidders may request a debriefing of their proposal. Please note the debriefing will be limited only to the strengths and weaknesses of the bidder's proposal, and will not include any discussion of other proposals. Requests must be received no later than ten (10) business days from date of award or non-award announcement.

5.15 Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this RFP, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>

5.16 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website (currently found at this address: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>) and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should DOH receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, DOH will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then DOH shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. DOH reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

5.17 Piggybacking

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

5.18 Encouraging Use of New York Businesses in Contract Performance

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders should complete Attachment H, Encouraging Use of New York Businesses in Contract Performance, to indicate their intent to use/not use New York Businesses in the performance of this contract.

6.0 PROPOSAL CONTENT

The following includes the required format and information to be provided by each Bidder. Bidders responding to this RFP must satisfy all requirements stated in this RFP. All Bidders are required to submit complete Administrative, Technical, and Cost proposals. A proposal that is incomplete in any material respect will be rejected.

To expedite review of the proposals, Bidders are required to submit proposals in separate Administrative, Technical, and Cost packages inclusive of all materials as summarized in Attachment B, Proposal Documents. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents.

DOH will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals. Such costs should not be included in the Proposal.

6.1 Administrative Proposal

The Administrative Proposal should contain all requirements listed below. A proposal that is incomplete in any material respect may be eliminated from consideration. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy. Please provide the forms in the same order in which they are requested.

A. M/WBE Forms

Submit completed Form #1 and/or Form #2, Form #4 and Form #5 as directed in [Attachment F](#), "Guide to New York State DOH M/WBE RFP Required Forms."

B. Bidder's Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed [Attachment G](#), "Prior Non-Responsibility Determination".

C. Vendor Responsibility Questionnaire

Complete, certify, and file a **New York State Vendor Responsibility Questionnaire**. DOH recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling.

To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep, or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form.

Bidder's should complete and submit the Vendor Responsibility Attestation [Attachment J](#).

D. Freedom of Information Law – Proposal Redactions

Bidders must clearly and specifically identify any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See [Section 4.10](#), (Freedom of Information Law).

E. Bidder's Certified Statements

Submit [Attachment A](#), **Bidder's Certified Statements**, which includes information regarding the Bidder. Attachment A must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder. DOH reserves the right to reject a proposal that contains an incomplete or unsigned Attachment A or no Attachment A.

F. References

Provide references using [Attachment D](#) (References). Provide three business references that demonstrate the Bidder's experience in administering rebate programs over the past five years similar in size and scope to that required by the NYS Department of Health. One of these references should indicate experience with a public Medicaid Program. Each reference should include the name, address and phone number of the client organization and of the responsible project manager at the client organization. These references should all be relevant to projects undertaken in the last five years. Each reference should include a brief description of the services performed by the bidder. ***These references should be inserted in this section of the***

administrative proposal in a sealed envelope labeled “Rebate Business References”.

Provide firm names, addresses, contact names, telephone numbers, and email addresses.

G. Encouraging Use of New York Businesses in Contract Performance

Submit Attachment H, Encouraging Use of New York State Businesses in Contract Performance to indicate which New York Businesses you will use in the performance of the contract.

6.2 Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Bidder to perform the services contained in this RFP. The Technical Proposal should demonstrate the qualifications of the Bidder and of the staff to be assigned to provide services related to the services included in this RFP.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the required information to be provided, in the following order, by Bidders. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP will be subject to verification for accuracy.

While additional data may be presented, the following should be included. Please provide the information in the same order in which it is requested. Your proposal must contain sufficient information to assure DOH of its accuracy. Failure to follow these instructions may result in disqualification.

Cost information must not be included in the Technical Proposal documents.

A. Title Page

Submit a Title Page providing the RFP subject and number; the Bidder's name and address, the name, address, telephone number, and email address of the Bidder's contact person; and the date of the Proposal.

B. Table of Contents

The Table of Contents should clearly identify all material (by section and page number) included in the proposal.

C. Documentation of Bidder's Eligibility Responsive to Section 4.0 of RFP

D. Technical Proposal Requirements

Required elements of the technical proposal are as follows:

6.2.1 Executive Summary

The Executive Summary should condense and highlight the contents of the Bidder's Technical Proposal in such a way as to provide the Department with a broad understanding of the entire Technical Proposal. In addition, the Executive Summary should contain a brief synopsis of the Bidder's understanding of the various components.

6.2.2 Corporate Background and Experience

Bidders should provide answers to the following;

- a. Describe your organization's experience in developing, implementing and managing drug rebate programs for the required five years including the minimum two years experience with a public Medicaid program(s).

- b. Describe your organization's experience with the Medicaid Information Technology Architecture (MITA) and the Centers for Medicare & Medicaid Services (CMS) Enhanced Funding Requirements: Seven Conditions and Standards.
- c. The Bidder should identify all subcontractor(s) that it intends to use, if any, in fulfilling the requirements of this project and the relevant experience of each. The subcontractor(s) role and experience should be clearly defined and described. The Bidder should submit a letter from each planned subcontractor stating their commitment to perform the services described in this RFP, and their understanding of what their responsibilities will be in relation to this project.
- d. Describe the corporate organizational and reporting structure you will put in place to manage the Department's rebate program.
- e. Describe how the local account management team (key staff) will interface with the Department's management.

6.2.3 Staffing Requirements and Qualifications

Provide a Staffing and Organization Plan, for each phase of the project (implementation, operation and turnover), detailing how the project staff is organized, where the staff is located and how communication is handled between remote sites and the account site.

The Staffing and Organization Plan should:

- a. Include an organizational chart depicting key, core and other staff, as well as showing the proposed organizational structure and each organizational units staffing level by title and number of positions for each title being proposed;
- b. Include minimum qualifications for each title;
- c. Describe reporting relationships and responsibilities of each organizational unit depicted in the staffing plan;
- d. Provide a description of the bidder's approach to determining staffing levels for each organizational unit, including the criteria and process used to develop the staffing estimates; and
- e. Provide name, resume and references for all key staff positions identified in Section 3.3 Staffing Requirements, showing the staff's relevant experience and/or justification that they possess the demonstrated knowledge, skills or ability.

6.2.4 Proposed Approach – Implementation

Provide an implementation plan (narrative, diagram, and timeline) to deliver all Program services by the required operational date, indicating: roles, responsibilities, estimated timeframes for individual task completions, testing dates and objectives, and areas where complications may be expected and mitigation strategies. Include key activities such as: acquiring letter of credit, training and filling of staff positions, report configuration, Preferred Drug List and Diabetic Supply negotiation and development, transfer of all rebate data, establishment of local office, performance standard self-reporting, parallel systems testing, etc.

Describe how you will:

- a. Designate an Implementation Manager, assemble a trained, experienced team to oversee implementation and work closely with the State and its contractors;
- b. Provide an implementation plan, within 14 days of the contract award, that includes:
 1. Planned activities with a project schedule
 2. Staffing level plans
 3. Weekly progress reports
 4. Outstanding issues
 5. Identification of key milestones/deliverables to be met

6. Schedule of parallel testing including all computer processing systems to ensure the data has been appropriately transitioned. This should include a listing of the tests and the internal controls that will be adhered to.
- c. Analyze current utilization and rebates being achieved by New York and develop and implement strategies that will mitigate financial risk and ensure achievement of current, or better rebate levels for Medicaid rebate programs;
- d. Implement processes and strategies that will be used to effectively evaluate, track and monitor the achievement of project milestones and effectively identify and overcome barriers that may delay implementation;
- e. Establish the Local Office, for key staff (see section 3.3), within 60 days located within the NYS Capital District region ; and
- f. Undertake and complete all implementation activities so that the Programs are, as detailed in the RFP, fully operational by the Go Live date specified in Section 2.3.

6.2.5 Proposed Approach – Preferred Drug and Diabetic Supply List Development, Rebate Negotiation and Contracting and Consulting services

Describe how you will:

- a. Oversee and administer the rebate solicitation and negotiation process, including but not limited to sending out contracts and soliciting quotes, analyzing financial impact of quotes and impact on market share, and reporting the results to the Department (include an illustration via a flowchart). Include workflows for the FFS and Managed Care Supplemental rebate programs and the Diabetic Supply program;
- b. Develop and maintain a supplemental rebate and drug pricing strategy with pharmaceutical manufacturers that will achieve or improve current rebate levels;
- c. Develop and maintain a contracting strategy that supports the negotiation of supplemental rebates across FFS and managed care for specified drugs such as Hepatitis C Medications and Anti-retrovirals that will achieve or improve current rebate levels;
- d. Develop and maintain diabetic supply rebate program while maintaining or improving current rebate revenues;
- e. Identify Diabetic Supply, Supplemental and EPIC rebate labelers for potential rebate agreements including how you will submit these recommendations to the Department for approval;
- f. Monitor Supplemental, Diabetic Supply and State-specific rebate agreements with rebate labelers to ensure they still present value to the State;
- g. Execute a PDL strategy by controlling growth in spending through a combination of market shift and supplemental rebates, while minimizing any negative impacts on both providers and beneficiaries. The bidder should conduct a clinical review of the State's pharmacy claims in each therapeutic class;
- h. Inform the State and make associated recommendations, in a timely manner of any new trends and developments as well as pharmacy innovations, and State/Federal legislation (i.e., Medicare, prescription drug mandates, etc.) that may affect the rebate programs;
- i. Establish for the PDL, value based therapeutic drug class recommendations based on clinical safety and efficiency guidelines and available evidence based medicine;
- j. Describe the review schedule, if any, you propose for each therapeutic drug class with the PDL;
- k. Conduct the PDL clinical review process to determine what classes of drugs are recommended for preferred status within a therapeutic drug class;

- l. Conduct the PDL cost review process used to determine what classes of drugs are recommended for preferred status within a therapeutic drug class, including a description of the flexibility in your model to consider factors such as the introduction of new products to a class or significant price or rebate changes;
- m. Describe your proposed process for reviewing State drug utilization trends in each PDL therapeutic class;
- n. Prepare and present PDL recommendations based on clinical and/or pharmaco-economic studies to the State, the Drug Utilization Review Board and other State interest groups for approval by the Commissioner of Health, including the sources of clinical information that would be used and how you would provide evidence that the inclusion of the selected classes of drugs in the PDP and recommendations for preferred/non preferred status would not negatively impact the Medicaid population;
- o. Develop clinical criteria for State approval, to be used by clinical pharmacists for prior authorization of non-preferred drugs on the State's PDL;
- p. Provide consulting services that ensure the State is kept abreast of the latest developments and industry trends in the prescription drug field and how they affect the State's rebate programs and management of the PDL;
- q. Provide PDL financial analysis support to the Department's program and clinical support team;
- r. Attend Drug Utilization Review Board committee meetings to provide PDL financial and market share analyses;
- s. Inform the State in a timely manner and make associated recommendations, concerning such matters as new drugs, conversion from brand name drugs to generic drugs decreases or increases to drug costs and how this will impact the PDL;
- t. Develop and distribute educational information to the State's pharmacy providers and prescribers to encourage compliance with the recommended PDL; and
- u. Conduct cost analyses to provide recommendations for drugs that should be added to or deleted from the FFS brand less than generic program.

6.2.5b Estimate of Expected Rebate Savings (TP Form-1)

Provide a total supplemental rebate savings estimate expected to be achieved associated with the NYS Medicaid Preferred Drug List Fee for Service Pharmacy utilization as provided in the Form (TP Form-1), subject to the following:

- a. Supplemental and Diabetic Supply rebates begin to accrue on the 1st of the month 3 months prior to the Go Live date.
- b. Bidders must attest that they have a signed supplemental and diabetic supply agreement with a manufacturer on the submittal date of the Bidder's bid. The Bidder is also attesting that evidence is available for review if required/requested by the State of New York.
- c. Rebate estimates provided should not include OBRA 90 rebates. Estimates/values provided should be for rebates above the OBRA 90 rebate for the NYS Medicaid Fee for Service pharmacy utilization (i.e. units) provided. (Only NDCs included in TP-Form-1 should be utilized).

6.2.6 Proposed Approach - Managing Rebate Labeler Information

Describe how you will:

- a. Interface with the Department and any contractor(s) of the Department to receive the rebate labeler data needed to perform the rebate functions contained within this RFP;

- b. Support, monitor and perform the processes to add, update and terminate rebate labelers based on the CMS and Department listing of rebate labelers as required to respond to inquiries or process transactions for each rebate program;
- c. Track the process that will be utilized to fulfill, process and finalize EPIC rebate agreements, including how you will track their progress from the labeler through you and onto the Department;
- d. Allow a labeler to view their account information including the status of invoice disputes;
- e. Maintain and operate multiple effective date spans for the drug labelers.

6.2.7 Proposed Approach - Processing Pricing Data for Medicaid

Describe how you will:

- a. Receive and process the quarterly drug/pricing/product data and previous quarterly pricing revisions submitted by the Department or any Department approved contractor;
- b. Process updates to product termination dates received from participating labelers and OHIP staff;
- c. Process updates and maintain non-rebatable NDC tables;
- d. Maintain full confidentiality protections for all pricing data submitted, consistent with State and federal guidelines;
- e. Apply prior period rate adjustments for prior quarter invoices regardless of the payment status; and
- f. Receive and update secure transmissions of rebate pricing data applying appropriate program rules concerning retroactive price adjustments. This includes applying prior period rate adjustments to units that were previously paid (creating a debit or credit balance for an NDC).

6.2.8 Proposed Approach - Processing Pricing Data for EPIC

Describe how you will:

- a. Receive and process quarterly drug/pricing/product data and previous quarterly pricing revisions submitted by manufacturers on paper, CD, encrypted email attachment, and via secure file transfer protocol within one business day from the date you receive it, in accordance with the requirements outlined in this RFP;
- b. Support, receive and monitor the secure transmission of quarterly pricing data files from manufacturers and the State for EPIC;
- c. Notify manufacturers (subject to State review) when required quarterly pricing data submission is overdue as well as when partial or all information is missing, according to specifications and turnaround times outlined in this RFP;
- d. Update the contractor's rebate processing system with the most recent published CMS product data information prior to quarterly trial invoicing and for rebate calculation;
- e. Transmit the submitted product (NDC11) termination date to an identified contractor's claims processing system (point of sale) from the CMS Product File and/or Manufacturer Product File;
- f. Maintain full confidentiality protections for all data submitted by manufacturers, consistent with rebate agreements;
- g. Provide the daily overnight processing of submitted pricing and product data;
- h. Work with the technical staff of manufacturers to encourage and assist with conversion to an electronic form of price submission;

- i. Notify manufacturers and complete follow-up in a timely manner when the submitted data format is not in compliance with CMS record specifications;
- j. Maintain terminations of NDC and non-rebate NDC tables; and
- k. Calculate unit rebate amounts due from each manufacturer for each covered product. For details regarding the calculation of EPIC unit rebate amounts see the pricing matrix illustrated in Attachment S.

6.2.9 Proposed Approach - Receipt of Utilization Data, Invoice Pre-processing and Quality Assurance

Describe how you will:

- a. Perform variance analysis to identify clinical and financial outlier claims and other issues with the quarterly rebate amounts;
- b. Carry out a number of variance analyses to determine whether the utilization data received from the NYS Contractor is complete and correct;
- c. Exclude specific drugs, supplies, and claims (e.g. 340B claims) from rebate information processing based on CMS and the Department's listing of non rebatable drug products and claims;
- d. Review and recommend automated conversions to resolve inconsistencies in measurement units between the CMS product file and Department drug reference data;
- e. Process utilization data from the Department or its contractor(s) converting j-codes, where applicable, into active NDCs with correct units;
- f. Adjust the OBRA, Supplemental, Diabetic Supply, EPIC, and other rebate program units to correct errors for specific NDC/HCPCS/UPN codes (subject to Department approval);
- g. Maintain information related to providers that are public health service entities (340B providers) that have separate agreements with rebate labelers and ensure that the invoice process includes or excludes the related claims;
- h. Update and maintain the crosswalk(s) and conversion factors between all physician administered drugs and their corresponding active NDC codes and inform the Department of the changes; and
- i. Invoice compound claims (a single claim with multiple NDCs) for the Program.

6.2.10 Proposed Approach – Invoice Generation and Mailing

Describe how you will:

- a. Produce an accurate trial of quarterly invoices for State review before invoice release, according to specifications and turnaround times outlined in this RFP;
- b. Accurately produce and electronically bill or mail final quarterly invoices within (60) days after the end of a calendar quarter, with the State's approval (See Attachment P Performance Standards for required timeframes regarding the accuracy and timeliness of invoicing rebates);
- c. Reconcile claims utilization data with rebate data (on a quarterly basis) to ensure that the appropriate claim utilization data has been invoiced to the appropriate participating labelers;
- d. Store, maintain and retrieve current and historical rebate invoice and associated utilization data;
- e. Provide key invoicing statistics to the Department upon finalization of invoices;
- f. Generate off cycle/special invoices that may be requested by the State due to statutory changes, responses to audits or some other reason that would necessitate such invoices;

- g. Prepare, produce, distribute and manage the OBRA 90 (both managed care and fee-for-service programs), Supplemental, Diabetic Supply, EPIC, program invoice generation and notification processes;
- h. Identify the claims that are included on each invoice;
- i. Generate rebate labeler specific invoice and claim level extracts; and
- j. Generate invoices such that prior period adjustments are accounted for and reconciled.

6.2.11 Proposed Approach – Receipt of Rebate Payments, Account Receivable and Collections

Describe how you will:

- a. Accept data and payment information for checks received by the State;
- b. Log, image, electronically associate to the invoice and route through the contractor's system, payments received and reconcile those payments to invoices for each rebate program;
- c. Log, image, electronically associate and/or data enter and verify hard copy Resolution of State Invoice (ROSI) information, Prior Quarter Adjustment (PQA) and supporting documents received;
- d. Process transactions or accounting entries for payments that have been inappropriately deposited as drug rebate payments or incorrectly credited to the wrong rebate program;
- e. Post receipts in a timely manner to the accounting records of the contractor (see Attachment P Performance Standards for required timeframes regarding the application of receipts to the accounting records);
- f. Apply rebate labeler credits to outstanding accounts receivable balances;
- g. Process accounting entries to resolve outstanding credit balances as required by the Department;
- h. Write off uncollectible amounts within your systems, in accordance with Department business rules;
- i. Reconcile rebate accounts with the State approved financial institution records;
- j. Log, image, electronically associate and/or data enter dispute resolution agreements and route transactions through your system;
- k. Provide the capability to search and review payment and account information for rebate labelers;
- l. Maintain the audit trail of all transactions within the accounting systems for each rebate program;
- m. Administer a rebate collection program and dunning process that maximizes the rate or rebate collections (See Attachment P Performance Standards for collection percentages due within required timeframes);
- n. Manage and monitor accounts receivable and collection activities (See Attachment P Performance Standards for the timeliness of maximizing accounts receivable collection);
- o. Produce and mail monthly statements on the 15th of each month for all labelers with outstanding rebates and/or disputes due;
- p. Apply interest to outstanding accounts receivable;
- q. Automatically generate notices to rebate labelers regarding outstanding accounts receivable balances based on Department business rules;
- r. Provide monthly aged accounts receivable to the Department;
- s. Administer an internal audit process in place to assure full accountability; and

- t. Perform internal reviews to ensure the integrity of the rebate programs and to appropriately safeguard the State's assets.

6.2.12 Proposed Approach – Dispute Resolution Process

Describe how you will:

- a. Retrieve and review the invoice and dispute information received from rebate labelers;
- b. Track dispute resolution contacts with rebate labelers and pharmacies;
- c. Produce claims level detail to labelers upon request including how you will track these requests;
- d. Maintain, track and provide an audit trail for interim and final dispute resolution agreements;
- e. Provide access at the Department to the appropriate systematic routines, reports and data needed to resolve open disputes;
- f. Brief and report to Department staff, the status of ongoing disputes;
- g. Perform dispute resolution according to the performance timeliness standards in Attachment P;
- h. Prioritize, assign, manage and monitor dispute resolution workflow;
- i. Perform internal reviews to ensure that all State approved dispute resolution procedures are being followed;
- j. Track and report on ongoing unresolved dispute proposals;
- k. Retrieve and review the claim utilization related to the NDC's being disputed;
- l. Provide a clear concise method for viewing resolved NDCs per labeler and quarter;
- m. Synchronize substantiated OBRA 90 dispute information with the supplemental rebate process; and
- n. Generate a dispute resolution proposal through your system.

6.2.13 Proposed Approach – Support of the Medicaid Information Technology Architecture (MITA)

In order to support the MITA Level 2 Capabilities, describe how you will:

- a. Implement a robust Drug Rebate invoice and recovery management function to support the Manage Drug Rebate business process,
- b. Adopt standard processes that can be used to ensure recoveries are closely tracked,
- c. Facilitate more automated reporting of drug rebate monies to CMS,
- d. Implement and maintain a user configurable and rules based workflow process for completion of drug rebate activities that includes all drug rebate categories defined by the Department (i.e. Medicaid Rebate, Supplemental Rebate, J-Code Rebate, etc.),
- e. Implement and maintain a web enabled information system that allows for centralization of drug rebate activities through a single access portal,
- f. Implement and maintain a centralized data repository to ensure DOH users have access to all drug rebate information for tracking, monitoring, querying, and reporting of drug rebate activities,

- g. Implement and maintain a web enabled dashboard that allow DOH staff to review and monitor drug rebate activities including user defined triggers and alerts; and
- h. Implement and maintain on the dashboard bidder proposed process metrics aligned to MITA capability areas.

6.2.14 Proposed Approach – Data Records and Reporting

Describe how you will:

- a. Provide information to the DOH on the number of data records received, processed and the total number of records successfully added to files. Describe how you will be responsible for ensuring data accuracy by applying record-specific editing specifications, and for accessing overall submission quality, based on a percentage of all records successfully processed. If any major problems in the receipt or distribution of data are encountered, describe how you will report it to the DOH in a timely manner.
- b. Be prepared to respond to special requests for reports and/or to supply data via electronic media to DOH on short notice as requested;
- c. Provide direct secure access on an ad-hoc basis, to a variety of state specific reports in electronic and paper format, which include data elements of particular and periodic interest;
- d. Create and maintain database files including historical files and tables for each rebate program;
- e. Provide direct secure access to an online reporting system with controlled role specific access by DOH representatives whereby a number of Federal and State required management reports (generated by the contractor) are easily accessible by the State through their own PCs or secure web connection; (See Attachment P Performance Standards for required online rebate and reporting system availability).
- f. Develop in conjunction with NYSDOH, a robust suite of management, financial, and utilization reports required by the NYSDOH for its use in the review, management, monitoring and ongoing analysis of the rebate Programs. A master list of reports along with an explanation are contained in Attachment N. While the reports do not have to be exactly formatted duplicates, the data contained in these reports must be replicated by the contractor. The final format of these reports is subject to NYSDOH review and approval; (See Attachment P Performance Standards for required accuracy standard around rebate reporting).
- g. Allow State users to query and/or access all source data elements such as payment amounts, invoiced amount, rebate units invoiced, etc;
- h. Allow users to save queries and reports;
- i. Incorporate and account for HIPAA requirements;
- j. Provide reports that should be available for viewing and printing as well as for export in the following formats: text, RTF, MS-Excel, HTML and PDF over a web connection;
- k. Provide a monthly report regarding the amount of supplemental rebates received by each program. The report shall be delivered to the State by the 20th day of the following month;
- l. Provide an annual report to the State for the SFY ending March 31 for each contract year. The report will be delivered to the State within two (2) months of the end of the SFY, and will include the following:
 - 1. A concise executive summary, including a cost/benefit analysis of all initiatives and information/data necessary for the State to complete required evaluation reports;
 - 2. The savings attributable to the state, and to each county and the city of New York,; and
 - 3. The aggregate amount of rebates received for fiscal year and by month.

6.2.15 Proposed Approach – Data Storage, Transfer and Sharing

Describe how you will:

- a. Support, systematically send and monitor via a secure file transfer protocol process the Program's **Medicaid** quarterly invoice files to CMS in a manner, form and timeliness acceptable to DOH and be in compliance with CMS requirements;
- b. Support, systematically send and monitor via a secure file transfer protocol process the Program's **non-Medicaid** (EPIC and Supplemental) quarterly invoice files to the manufacturers in a manner, form and timeliness acceptable to DOH and be in compliance with CMS requirements;
- c. Transmit secure **Medicaid** files to CMS that contain prior quarter units adjusted as a result of ongoing dispute resolutions;
- d. Transmit secure **non-Medicaid** (EPIC and Supplemental) files to manufacturers that contain prior quarter units adjusted as a result of ongoing dispute resolutions;
- e. Establish and implement proper safeguards against the unauthorized use and disclosure of the data exchanged pursuant to the administration of the rebate programs as well as other aspects of the interface between DOH, CMS, and manufacturers (including but not limited to encryptions). Such safeguards shall include the adoption of policies and procedures to ensure that the data shall be used solely in accordance with program requirements and applicable federal and state law. Describe how you will establish appropriate administrative, technical, procedural, and physical safeguards to protect the confidentiality, integrity, accessibility, and security of the data and to prevent unauthorized access to the data. The safeguards shall provide a level of security at least comparable to the level of security required by DOH by CMS, as specified by CMS. Any and all personnel interacting with this data must be advised by you of the confidential nature of the information, the safeguards required to protect the information, and the administrative, civil and criminal penalties for noncompliance contained in the applicable federal laws;
- f. Support and monitor the export of secured information to the Medicaid Data Warehouse (MDW) or any other secure system as approved by the Department (See Attachment P - Performance Standards for required timeframes regarding the transfer of outbound files);
- g. Electronically capture and process data from the State and DOH approved contractors, and develop control procedures that will ensure a high level of accuracy, completeness, and accountability;
- h. Provide access to computer software and hardware capable of storing and processing the volume of data required by the various rebate programs;
- i. Maintain an active online database of rebate records and disputes for a minimum ten year period. At least one copy must be stored securely off site in case of fire or other catastrophe. In the event that any of the data are lost, stolen, or destroyed through your negligence or fault, the contractor agrees to recreate the information at no cost to the DOH;
- j. Be capable of responding to special programming requests and systems modifications within a reasonable time frame, not to exceed 30 calendar days or a timeframe as agreed to by the bidder and DOH, as requested by the DOH;
- k. Collect data either at the record level and/or aggregate level. This data is owned by the DOH and you agree to provide to the DOH any and all data upon request; and
- l. Provide secure and confidential storage for hard copy and electronically stored information. Under no circumstances will any records, hard copy or electronic, nor any information contained therein, be released to any person, agency, or organization without specific written permission of the DOH. All data storage, posting and access must comply with the minimum policies, standards, and procedures found in the Federal HIPPA Security Regulation and the NYS Cyber Security Critical Infrastructure and Coordination (CSCIC) Policy P 03-002, Information Security Policy and with the DOH Network Configuration Policy). The DOH must be notified immediately if any breach of confidentiality occurs.

6.2.16 Proposed Approach – Budgeting, Forecasting and Audit Support

Describe how you will:

- a. Conduct targeted audits of rebate labelers;
- b. Provide at no cost, unrestricted access to the records and facilities associated with this contract, to the Department, any other authorized Federal and State agency, and any law enforcement authorities (including validation personnel or third parties acting on behalf of such entities) with audits and in the investigation, documentation, and litigation of possible fraud and abuse cases or any other possible misconduct which may affect the Programs, consistent with the requirements of Appendices A including provisions of access to protected health information and all other confidential information when required for audit purposes as determined by the State as appropriate;
- c. Assist Department staff in responding to audit findings or requests for information from authorized Federal and State agencies that perform audits relating to the services rendered by the Contractor and any subcontractors;
- d. Respond in a timely fashion to all State audit requests for information and/or clarification;
- e. Maintain adequate personnel and system resources that will be allocated to comply with the Program's audit requirements;
- f. Maintain an audit trail of current and historical data;
- g. Maintain accounting books, accounting records, documents and other evidence pertaining to the administrative costs and expenses of this contract that relate to the performance of the contractual requirements of this contract for a period of six years after the contract end date;
- h. Have an independent auditor perform an annual SSAE 16 audit of internal controls, including all contract related policies and procedures. The independent audit firm will conduct tests and render a decision as to the operating effectiveness of controls and procedures. The audit firm will provide a detailed report of the finding that will be provided to the Department within 30 calendar days of completion;
- i. Assist the State with budgeting and forecasting of rebate revenue based on the projected utilization data and the contracts with labelers within each rebate program;
- j. Perform supplemental rebate analysis, trending and benchmarking associated with specific State initiatives whereas only a subset of products utilization would be eligible for supplemental rebates. An example of such an initiative is the End the AIDS Epidemic, where the State intends to decrease additional medication costs, through supplemental rebates;

6.2.17 Proposed Approach – Customer Service

Describe how you will:

- a. Develop and maintain adequate fully trained staff to respond to all stakeholder inquiries while protecting confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe requirements related to confidentiality and operating guidelines for functions included in this RFP (See Attachment P Performance Standards for required timeframes regarding correspondence timeliness);
- b. Establish a toll free customer service line that is available at a minimum, during the routine business hours, defined as Monday through Friday, 8:00am-5:00pm Eastern Time. Contractor will submit their holiday schedule each year to the Department for approval;
- c. Image and analyze documentation from stakeholders;
- d. Respond to written and electronic communications received from rebate labelers and other stakeholders. The contractor must have a central, NY specific dedicated e-mail address to receive and respond to inquiries;

- e. Maintain a search and tracking document control system for all communications received, and actions taken, that is available to staff members and select State employees to view. Access to this system must be available through a web-based application for Department and other authorized users;
- f. Maintain up-to-date procedures to ensure timely and accurate responses while ensuring confidentiality of information;
- g. Keep informed and up to date on Medicaid and other State rebate programs in order to stay abreast of changes in rebate policies and regulations;
- h. Develop and deliver pertinent alerts when necessary;
- i. Provide stakeholders with access to materials and/or data needed to support rebate payments including but not limited to invoice copies, claims level detail and prior communications; and
- j. Provide on-going training for personnel to ensure that they are knowledgeable about the functional and technical aspects of the drug rebate programs and Medicaid policy.

6.2.18 Proposed Approach – Turnover

Describe how you will:

- a. Provide no later than four (4) years from the contract start date of the rebate program, a Turnover Plan to the Department. The contractor must also, within ninety (90) days prior to the end of the Agreement resulting from this RFP, or within ninety (90) days of notification of termination, if the Agreement resulting from this RFP is terminated prior to the end of its term, provide the DOH with a detailed written plan for transition;
- b. Transfer the rebate toll free number to the Department or successor contractor;
- c. Review and comment on any implementation plan forwarded by the State/vendor;
- d. Turn over the data files to the successor contractor in an electronic 'state approved format' including record layouts and field descriptions for all files. All data related files including but not limited to: claims data including historical files, rebate data including historical files, database tables, labeler database information including contacts, rebate invoices, participating rebate labeler lists, outstanding rebate totals by manufacturer and NDC including all closed and open disputes, and historical payment information, and logs of communications;
- e. Encourage all employees, including management, to remain throughout the turnover. Over the final six months of the contract term, the contractor should not transfer or otherwise reassign any of its key or core staff without prior State approval;
- f. Provide a list of all job titles/levels and the number of staff (in full time equivalents) within each title/level. Provide an organization chart detailing the reporting relationships and number of personnel by level (e.g., manager, professional, clerical) in each organizational unit;
- g. Provide quarterly detailed statistics on operational volumes for the most recent twenty four (24) month period, furnished in an electronic medium acceptable to the State to include at a minimum:
 - 1. Processing statistics by program - Number of labeler invoices by quarter, number of receipts received by quarter, and number of disputes received, number of disputes resolved, and number of disputes worked on by the contractor.
- h. Retain and turn over dictionaries for all master files and databases;
- i. Provide availability of computer resources during turnover for exporting of data and parallel testing;
- j. Forward any checks and documentation that are received, for a maximum of sixty (60) days after the end of the contract (to an address supplied by the Department, if applicable);

- k. Complete all required reports in the reporting section of this RFP;
- l. Provide the Program with sufficient resources in order to address State audit requests and reports in a timely manner;
- m. Fully cooperate with any authorized Federal and State agency, any law enforcement authorities (including validation personnel or third parties acting on behalf of such entities) and The Office of State Comptroller (OSC) with all audits consistent with State requirements;
- n. Perform timely reviews and responses to audit findings submitted by the DOH and the Comptroller's audit unit in accordance with State requirements; and
- o. Remit any monies due the Program in a timely manner upon final audit determination consistent with State requirements.

6.2.19 Proposed Approach - Security Requirements and Deliverables

Provide a detailed description of how the proposed solution will support any applicable security requirements, and meet the deliverables, described in this section. This description must include information about the specific security controls that apply to the solution, and how the Contractor plans to implement those controls.

The Contractor must comply fully with all current and future updates of the security procedures of the DOH, as well as with all applicable State and Federal requirements, in performance of this contract.

The Contractor's proposal must include a description of:

- All security controls (physical, logical and administrative), hardware and software that the contractor will use, and how these are integrated to form a comprehensive security architecture;
- How the proposed solution will meet each of the relevant controls from the General Security Requirements section below;
 - The Contractor must provide details regarding which controls will be implemented and how they will be implemented;
 - For the CMS MARS-E requirement, the Contractor must address each of the control families specified for the controls they plan to implement;
- The approach to provide secure and confidential storage for hard copy and electronically stored information; and
- The approach to support, receive and monitor the secure transmission of quarterly pricing data files.

The Contractor's proposal must describe which of the following policies, standards, laws and rules apply to the solution, and how the solution will comply with each, if applicable:

- All policies and standards defined in the New York State ITS security policies and standards (<http://its.ny.gov/eiso/policies/security>) and as specified above;
- Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security and Breach Notification Rules;
- Health Information Technology for Economic and Clinical Health (HITECH) Act (<http://www.healthit.gov/policy-researchers-implementers/health-it-legislation>);
- CMS Minimum Acceptable Risk Standards for Exchanges - MARS-E (<https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Minimum-Acceptable-Risk-Standards-for-Exchanges-ERA-Supp-v-1-0-08012012-a.pdf>);
- Federal Risk and Authorization Management Program (FedRAMP) if cloud computing is utilized (<http://www.gsa.gov/portal/category/102371>); and
- All NYS laws and regulations related to privacy protections.

If selected, the Contractor must undergo a comprehensive Risk Assessment, identify appropriate Security Controls related to the project, develop a Security Privacy and Confidentiality Plan (SPCP) to address potential

security issues, and describe the steps that the Contractor will take to ensure these issues will not compromise the operation of the program.

6.3 Cost Proposal

Submit a completed and signed [Attachment C – Cost Proposal](#). The Cost Proposal shall comply with the mandatory format and content requirements as detailed in this document and in Attachment C. Failure to comply with the mandatory format and content requirements may result in disqualification.

The bid price is to cover the cost of furnishing all of the said services, including but not limited to materials, equipment, profit and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

Forms FP-1, FP-2 and Form FP-3 must be used to provide the financial proposal. The Bidder may reproduce the form using their own software; however, the content and format must remain intact.

Annual financial proposals and total proposed costs for each of the primary programs (OBRA'90, Supplemental, Diabetic Supply and EPIC) must be developed based on an implementation schedule that involves all primary programs being prepared to go live by the date specified in Section 2.3.

Form FP-1, Form FP-2 and Form FP-3: The Bidder should fill out FP-1, FP-2 and FP-3 taking into consideration the following:

A1. Implementation Fee (FP Form-1) - Total associated with the initial design, development, testing and implementation for each rebate program prior to full acceptance by the Department. This is a one-time implementation fee per rebate program subject to the following payment terms:

1. One payment for each rebate Program's implementation fee, if applicable, shall be made after the implementation tasks have been completed, reviewed and approved by the State.
2. The Contractor shall be paid the fixed implementation price for each rebate program provided in the resulting contract.
3. The Contractor shall submit a voucher for each implementation fee, payment to the Contractor shall be made after receipt of such voucher that is satisfactory to the Department and the Office of the State Comptroller.

In the event that the Contractor fails to achieve all milestones or furnish all deliverables required, the portion of payment attributable, in the judgment of the State, to the milestones or deliverables for which the Contractor is deficient shall be withheld by the State, in its sole discretion, until such time as the milestones or deliverables are determined by the State to have been properly achieved or furnished.

If the Contractor fails to achieve major implementation milestones or furnish major implementation deliverables as required by the State, the contract may be terminated for non-performance.

A2. Base Operational Fee (FP Form-1) – Failure to provide a proposed Monthly Base Operational Fee shall result in a bidder's disqualification.

Monthly Fee associated with the daily operation for each rebate program. When determining Base Operational Fee, do not include; 1) postage costs associated with mailing rebate invoices or 2) printing costs for custom/special letters that may be requested by the Department. These costs will be handled as pass through expenses. The Contractor shall be paid based on its monthly base operational fee in the resulting contract subject to the following payment terms:

1. The monthly base operation fee will begin on the contract Go Live date specified in section 2.3.
2. The Contractor is required to guarantee that key and core staff positions be filled within sixty (60) calendar days after vacancy or face financial penalties. This requirement and its effect on the Contractor's compensation is covered in the staffing section of the performance standards included in Attachment P.
3. For years 4 and 5 of this contract, the Contractor's monthly base operational fee for the previous year will be subject to an increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the effective date of an increase to the Contractor's monthly base operation fee.

Turnover costs are those costs associated with the turnover of the rebate programs either to the State or to another vendor subject to the following payment terms. There is no separate fee allowed for the Contractor's turnover costs. These costs must be built into the monthly Base Operational Fee.

The Department will pay the Contractor its last monthly base operational fee payment upon completion, to the Department's satisfaction, of all tasks and deliverables required in the Contractor's Department approved turnover plan. Should the Contractor initially fail to provide the services and tasks required of the approved turnover plan, the Department, in its sole discretion, may withhold the monthly base operational payment for the final month of the contract. This amount, minus any amounts owed the Department pursuant to Attachment P Performance Standards will be paid upon State review and determination that all milestones and deliverables relating to the Turnover tasks have been, in the judgment of the State, properly achieved or furnished.

B. System Change Rate (FP Form-2) - Failure to provide a proposed System Change Rate shall result in a bidder's disqualification.

Should the Department need to make system programming changes to the rebate system to support changes based on new state or federal rebate requirements, the Department shall reimburse the Contractor monthly for approved billed hours at the system change rate as set forth in the resulting contract, for the applicable period. Additional rebate reporting and/or changes to existing reporting formats would not qualify as a system programming change unless it is documented and approved by the State that the change is related to the incorporation of a new rebate program or related to a change based on new state or federal rebate requirements. System hours only apply to State approved system changes subsequent to implementation.

For Years 4 and 5 of the contract, the Contractor's system change rate (for each position) for the previous year will be subject to an increase of the lesser of three percent (3%) or the percent increase in the National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C. for the twelve (12) month period ending ninety (90) days prior to the effective date of an increase to the Contractor's monthly base operation fee.

C. Contract Term Total Cost (FP Form-3) - Failure to provide this completed form shall result in a bidder's disqualification.

The Bidder must enter their total implementation fee across all program areas as instructed on FP Form-3 as provided.

The Bidder must also enter their total Monthly Base Operation Fees for Year 1 across all programs as instructed on FP Form-3 as provided. This should only reflect the costs of one (1) month of Base Operation Fees for Year 1.

The Bidder must only enter in the Year 1 hourly rate for each position listed on FP Form-2 as instructed on FP-Form 3.

The Bidder's proposed cost will be equal to the "Total Contract Cost" listed on Form FP-3.

7.0 PROPOSAL SUBMISSION

A proposal consists of three distinct parts: (1) the Administrative Proposal, (2) the Technical Proposal, and (3) the Cost Proposal. The table below outlines the required format and volume for submission of each part. Proposals should be submitted in all formats as prescribed below.

	Electronic Submission	Original	Copies
Administrative Proposal	2 copy in a standard searchable PDF format on a flash drive, with copy/read permissions only.	3 Original Hard Copies	6 Hard Copies
Technical Proposal	2 copy in a standard searchable PDF format on a flash drive, with copy/read permissions only.	3 Original Hard Copies	6 Hard Copies
Cost Proposal	2 copy in a standard searchable PDF format on a flash drive, with copy/read permissions only.	3 Original Hard Copies	6 Hard Copies

1. All hard copy proposal materials should be printed on 8.5" x 11" white paper (two-sided) and **be clearly page numbered on the bottom of each page with appropriate header and footer information.** A type size of eleven (11) points or larger should be used. The Technical Proposal materials should be presented in three-ring binder(s) separate from the sealed Cost Proposal. The sealed Cost Proposal should also be presented in separate three-ring binder(s);
2. Where signatures are required, the proposals designated as originals should have a handwritten signature and be signed in ink.
3. The NYSDOH discourages overly lengthy proposals. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the NYSDOH to evaluate proposals fairly and completely, proposals should follow the format set out below to provide all requested information. The Bidder should not repeat information in more than one section of the proposal. If information in one section of the proposal is relevant to a discussion in another section, the Bidder should make specific reference to the other section rather than repeating the information;
4. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team; and
5. The complete proposal must be received by the NYSDOH, no later than the Deadline for Submission of Proposals specified in **Section 1.0**, (Calendar of Events). Late bids, for whatever reason, including delay by the carrier or not being received in the NYSDOH's mail room will not be considered.
6. In the event that a discrepancy is found between the electronic and hardcopy proposal, the original hardcopy will prevail.

Proposals should be submitted in three (3) separate, clearly labeled packages: an Administrative Proposal, a Technical Proposal and a Cost Proposal, prepared in accordance with the requirements stated in this RFP. Mark the outside envelope of each proposal as "RFP# (Name) – (Technical) (Administrative) or (Cost) Proposal submitted by (Bidder's name)". The three sealed proposals may be combined into one mailing, if desired.

Proposals must be submitted, by U.S. Mail, by courier/delivery service (e.g., FedEx, UPS, etc.) or by hand as noted below, in a sealed package to:

Department of Health (RFP # 16378)
 Attention: Office of Health Insurance Programs, Justin Seastrum
 One Commerce Plaza Room 1706
 Albany, NY 12237

NOTE: You should request a receipt containing the time and date received and the signature of the receiver for all hand-deliveries and ask that this information also be written on the package(s).

Submission of proposals in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted.

7.1 No Bid Form

Bidders choosing not to bid are requested to complete the No-Bid form [Attachment I](#).

8.0 METHOD OF AWARD

8.1 General Information

DOH will evaluate each proposal based on the “Best Value” concept. This means that the proposal that best “optimizes quality, cost, and efficiency among responsive and responsible offerers” shall be selected for award (State Finance Law, Article 11, §163(1)(j)).

DOH at its sole discretion, will determine which proposal(s) best satisfies its requirements. DOH reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall remain confidential until both evaluations have been completed and a selection of the winning proposal is made.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **70%** of a proposal’s total score and the information contained in the Cost Proposal will be weighted **30%** of a proposal’s total score.

Bidders may be requested by DOH to clarify the contents of their proposals. Other than to provide such information as may be requested by DOH, no Bidder will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals listed in [Section 1.0](#) (Calendar of Events),

In the event of a tie, the determining factors for award, in descending order, will be: (1) lowest cost and (2) proposed percentage of MWBE participation.

8.2 Submission Review

DOH will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in [Section 6.0](#) (Proposal Content) and [Section 7.0](#) (Proposal Submission), and include the proper documentation, including all documentation required for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of DOH, may be rejected.

8.3 Technical Evaluation

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of program staff of DOH will review and evaluate all proposals.

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual Committee Member scores will be averaged to calculate the Technical Score for each responsive Bidder. The scores will be normalized by using the following formulas:

$$Z = (X/Y) * 70$$

X is the technical score of the proposal being scored;

Y is the technical score of the highest scoring proposal; and

Z is the technical score.

The technical evaluation is **70% (up to 70 points)** of the final score.

8.4 Cost Evaluation

The Cost Evaluation Committee will examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost requirements. If a cost proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

Each proposal that meets the submission requirements passes the Preliminary Evaluation, and meets the cost proposal requirements will receive a cost score. The Cost Proposals will be scored based on a maximum cost score of 30 points. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

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

A is Total price of lowest cost proposal;

B is Total price of cost proposal being scored; and

C is the Cost score.

The cost evaluation is **30% (up to 30 points)** of the final score.

8.5 Composite Score

A composite score will be calculated by the DOH by adding the preliminary Technical Proposal points and the Cost points awarded. Finalists will be determined based on preliminary composite scores.

8.6 Interviews

For all bids, and as part of the bid review process, the Department reserves the right to interview proposed project participants. The purpose of an interview is to allow the evaluators to validate the Bidder's experience and qualifications.

Each Finalist will be notified of the date, place, and time of their interview to be held not earlier than the Interview date designated in **Section 1.0** (Calendar of Events) at the Offices of the Department of Health. The interview should confirm the Bidder's ability to provide the required services. The Bidders, including any key personnel, should be present and participate in the interview. **No new material will be permitted to be introduced during the interview.**

8.7 Reference Checks

The Bidder will submit references using [Attachment D](#) (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process.

8.8 Best and Final Offers

NYSDOH reserves the right to request best and final offers. In the event NYSDOH exercises this right, all bidders that submitted a proposal that met the minimum mandatory requirements will be asked to provide a best and final offer. Bidders will be informed that should they choose not to submit a best and final offer, the offer submitted with their proposal will be construed as their best and final offer.

8.9 Award Recommendation

The Technical Evaluation Committee will submit a recommendation for award to the Finalist(s) with the highest composite score(s) whose experience and qualifications have been verified.

The Department will notify the awarded Bidder(s) and Bidders not awarded. The awarded Bidder(s) will enter into a written Agreement substantially in accordance with the terms of **Attachment E**, DOH Agreement, to provide the required services as specified in this RFP. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller.

ATTACHMENTS

- A Bidder's Certified Statements
- B Proposal Document Checklist
- C Cost Proposal:
 - Description of Cost Scoring Sheets
 - FP Form 1 – Implementation Fee and Monthly Base Operation Fee
 - FP Form 2 – System Change Rate
 - FP Form 3 – Contract Term Total Cost
- D References
- E DOH Agreement
- F Guide to New York State DOH M/WBE Required Forms & Forms
- G Bidder's Disclosure of Prior Non-Responsibility Determination
- H Encouraging Use of New York Businesses in Contract Performance
- I No-Bid Form
- J Vendor Responsibility Attestation
- K Sales Tax Form CA-220 and TD-220
- L TP Form 1 – Estimate of Expected Rebate Savings
- M Acronyms
- N Rebate Reports and Claims Database
- O Minimum Staffing Requirements
- P Performance Standards
- Q Rebate Program Statistics
- R Epic Rebate Agreement 2009
- S Rebate, EPIC Pricing Matrix January 2010
- T EPIC Quarterly Rebate Cycle Flow Chart

ATTACHMENT A

BIDDER'S CERTIFIED STATEMENTS

(MANDATORY SUBMISSION: to be completed and included in the Administrative Proposal documents)

RFP16378 – Drug and Diabetic Supply Rebate Administration and Management Services
1. Information with regard to the Bidder
A. Provide the Bidder's name, address, telephone number, and fax number.
Name: <input type="text"/>
Address: <input type="text"/>
City, State, ZIP Code: <input type="text"/>
Telephone Number (including area code): <input type="text"/>
Fax Number (including area code): <input type="text"/>
B. Provide the name, address, telephone number, and email address of the Bidder's Primary Contact with DOH with regard to this proposal.
Name: <input type="text"/>
Address: <input type="text"/>
City, State, ZIP Code: <input type="text"/>
Telephone Number (including area code): <input type="text"/>
Email Address: <input type="text"/>
2. By submitting the bid the Bidder acknowledges and agrees to all of the following: [Please note: alteration of any language contained in this section may render your proposal non-responsive.]
Bidder certifies that either there is no conflict of interest or that there are business relationships and /or ownership interests for the organization for the above named organization that may represent a conflict of interest for the organization as a bidder and attached to this form is a description of how the potential conflict of interest and/or disclosure of confidential information relating to this contract will be avoided.
The Bidder certifies that it can and will provide and make available, at a minimum, all services as described in the RFP if selected for award.
Bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such alternate proposals or extraneous terms will not be evaluated by the DOH.
Bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments.
The bidder is either registered to do business in NYS, or if formed or incorporated in another jurisdiction than NYS, can provide a Certificate of Good Standing from the applicable jurisdiction or provide an explanation, subject to the sole satisfaction of the Department, if a Certificate of Good Standing is not available, and if selected, the vendor will register to do business in NYS.

<<ADD ANY Additional ATTESTATIONS OR Information Required SPECIFIC TO THIS RFP>>

A. The Bidder is (check as applicable):

- A New York State Certified Minority-Owned Business Enterprise
- A New York State Certified Woman-Owned Business Enterprise
- A New York State Certified Minority and Woman-Owned Business Enterprise (Dual Certified)
- None of the above

B. Provide the name, title, address, telephone number, and email address of the person authorized to receive Notices with regard to the contract entered into as a result of this procurement. See Section __ of the DOH Agreement (Attachment E), NOTICES.

Name: Click here to enter text.

Title: Click here to enter text.

Address: Click here to enter text.

City, State, ZIP Code: Click here to enter text.

Telephone Number (including area code): Click here to enter text.

Email Address: Click here to enter text.

C. Bidder's Taxpayer Identification Number:

Click here to enter text.

D. Bidder's NYS Vendor Identification Number as discussed in Section 6.1.F, if enrolled:

Click here to enter text.

By my signature on this Attachment A, I certify to the statements made above in Section 2 and that I am authorized to bind the Bidder contractually. Furthermore, I certify that all information provided in connection with its proposal is true and accurate.

Typed or Printed Name of Authorized Representative of the Bidder

Title/Position of Authorized Representative of the Bidder

Signature of Authorized Representative of the Bidder

Date

ATTACHMENT B

PROPOSAL DOCUMENT CHECKLIST

Please reference Section 7.0 for the appropriate format and quantities for each proposal submission.

RFP16378 – Drug and Diabetic Supply Rebate Administration and Management Services		
FOR THE ADMINISTRATIVE PROPOSAL		
RFP §	REQUIREMENT	INCLUDED
§ 6.1.A	M/WBE Participation Requirements:	<input type="checkbox"/>
	Attachment F Form 1	<input type="checkbox"/>
	Attachment F Form 2 (If Applicable)	<input type="checkbox"/>
§ 6.1.B	Attachment G – Disclosure of Prior Non-Responsibility Determinations, completed and signed.	<input type="checkbox"/>
§ 6.1.C	Attachment J- Vendor Responsibility Attestation	<input type="checkbox"/>
§ 6.1.D	Freedom of Information Law – Proposal Redactions (If Applicable)	<input type="checkbox"/>
§ 6.1.E	Attachment A - Bidder's Certified Statements, completed & signed.	<input type="checkbox"/>
§ 6.1.F	Attachment D (References)	<input type="checkbox"/>
§ 6.1.G	Attachment H- Encouraging Use of New York Businesses in Contract Performance	<input type="checkbox"/>
FOR THE TECHNICAL PROPOSAL		
RFP §	REQUIREMENT	INCLUDED
§ 6.2.A	Title Page	<input type="checkbox"/>
§ 6.2.B	Table of Contents	<input type="checkbox"/>
§ 6.2.C	Documentation of Bidder's Eligibility	<input type="checkbox"/>
§ 6.2.D	Technical Proposal Narrative	<input type="checkbox"/>
§ 6.2.E	Estimate of Expected Rebate Savings (TP Form-1)	<input type="checkbox"/>
FOR THE COST PROPOSAL REQUIREMENT		
RFP §	REQUIREMENT	INCLUDED
§ 6.3	Attachment C- Cost Proposal	<input type="checkbox"/>

Attachment C

Description of Cost Scoring Sheets (Form FP-1 to Form FP-3)

Bidders should use the Microsoft Excel spreadsheets numbered FP FORM-1 through FP FORM-3 in the form and content provided with this RFP.

Form FP-1 – Implementation Fee

Provides an implementation pricing matrix the contractor should complete.

Bidders may, but are not required to include an implementation fee by rebate program. The implementation fee is the total amount associated with the initial design, development, testing and implementation for each rebate program prior to full acceptance by the Department. For more specifics on how the Contractor will be reimbursed for implementation, see Section 6.3.A1 of the RFP.

Form FP-1 – Monthly Base Operation Fee

Provides a pricing matrix the bidder must complete. Failure to provide a proposed Monthly Base Operational Fee shall result in a bidder's disqualification.

The Monthly Base Operational Fee includes the bidder's monthly fee to perform the daily operations of the rebate programs. Any costs for turnover must be included in the bidder's Monthly Base Operational Fee.

For more specifics on how the Contractor will be reimbursed including annual increases, see Section 6.3.A2 of the RFP.

Form FP-2 – System Change Rate

Provides a pricing matrix the bidder must complete. Failure to provide a proposed System Change Rate shall result in a bidder's disqualification.

The System Change Rate is the amount the bidder would charge to make system programming changes to the rebate system to incorporate new rebate programs or changes based on new state or federal rebate requirements.

For more specifics on how the Contractor will be reimbursed including annual increases, see Section 6.3.B of the RFP.

Form FP-3 – Cost Summary

Provides a total contract cost including implementation fee, monthly base operation fees for 5 years and estimated system change rates.

Drug and Supply Rebate Administration and Management Program

Implementation Fee and Monthly Base Operation Fee

Attachment C FP - Form 1

Page 1 of 1

Bidder: _____

Rebate Program Description	Implementation Fee (Imp Fee) ¹	% Allocated to Specific Program	Monthly Base Operation Fee (MBO Fee) ²	% Allocated to Specific Program	MBO Fee / Imp Fee Ratio
Medicaid OBRA Rebate/Physician Administered Drugs					
Medicaid Supplemental Rebate Programs (FFS & Managed Care)					
Medicaid FFS Diabetic Supply Rebate					
EPIC Rebate					
TOTAL	\$0		\$0		

Instructions for completing the matrix above.

¹ Insert a fixed dollar amount (use whole dollars only), if applicable, by Program. If no Implementation Fee is proposed, enter zero.

² Insert a fixed dollar amount (use whole dollars only), by Program.

Each program must have a monthly base operation fee. When determining Base Operational Fee, do not include; 1) postage costs associated with mailing rebate invoices or 2) printing costs for custom/special letters that may be requested by the Department. These costs will be handled as pass through expenses.

The cost provided by the Bidder for each program area on this form should only be provided as **one (1) month price**.

The Bidder must fill out FP Form 3 to determine a contract term total cost.

For more specifics on how the contractor will be reimbursed including restrictions on amounts and annual increases, see Section 6.3.A of the RFP.

System Change Rate - Hourly by Title

Drug and Supply Rebate Administration and Management Program

Bidder: _____

Instructions:

Enter the hourly rate to be billed for each job title for Years 1-3 of the contract.
 Hourly rate for each job title should be based on the general responsibilities listed in notes (a), (b), and (c) below.

System Hourly Rates by Job Title

Contract Year 1

Systems Analyst	(a)	<input style="width: 100%; height: 20px;" type="text"/>	(d) & (e) & (f)
Senior Systems Developer	(b)	<input style="width: 100%; height: 20px;" type="text"/>	(d) & (e) & (f)
Systems Developer	(c)	<input style="width: 100%; height: 20px;" type="text"/>	(d) & (e) & (f)

Notes:

- (a) General responsibilities include designing new IT solutions to improve business efficiency and productivity. Translates stakeholder requirements into design documents.
- (b) General responsibilities include research and develop estimates and write design specifications for proposed system modifications, as well as code and test complex computer programs. Service oriented design and analysis. Workflow design, development and implementation
- (c) General responsibilities include coding and debugging applications in the software language. Unite test computer programs, interface with co-workers and other project personnel. Prepare unit test cases, business rules implementation, assure computer programs are in compliance with specifications through careful review of test results.
- (d) Consistent with Section 6.3.B of the RFP, the proposed System hourly rate may be adjusted by a CPI factor for contract years 4 and 5.
- (e) System Hours only apply to approved System Changes subsequent to implementation.
- (f) For more specifics on how the contractor will be reimbursed including restrictions on amounts and annual increases, see Section 6.3.B of the RFP.

Attachment C FP Form-3

<u>Implementation and Operation Costs</u>		<u>Yearly Cost</u>	
Implementation Fee	\$ -		
Monthly Base Operation Fee Year 1	\$ -	\$	-
Monthly Base Operation Fee Year 2	\$ -	\$	-
Monthly Base Operation Fee Year 3	\$ -	\$	-
Monthly Base Operation Fee Year 4	\$ -	\$	-
Monthly Base Operation Fee Year 5	\$ -	\$	-
		Total Operations Fee	\$ -
<u>System Job Title</u>	<u>Hourly Rate</u>	<u>Estimated Annual Hours</u>	
Systems Analyst (Years 1-3)	\$ -	3120	\$ -
Systems Analyst (Year 4)	\$ -	3120	\$ -
Systems Analyst (Year 5)	\$ -	3120	\$ -
Senior Systems Developer (Years 1-3)	\$ -	3120	\$ -
Senior Systems Developer (Year 4)	\$ -	3120	\$ -
Senior Systems Developer (Year 5)	\$ -	3120	\$ -
Systems Developer (Years 1-3)	\$ -	4160	\$ -
Systems Developer (Year 4)	\$ -	4160	\$ -
Systems Developer (Year 5)	\$ -	4160	\$ -
		Total Systems Change Cost	\$ -
			Total Contract Cost \$ -

FP Form 3 Instructions

*Areas shaded in blue are the only cells that should be filled in by the Bidder
 The Bidder should enter their Implementation Fee in cell C6 and their Monthly Base Operation Fee for Year 1 in cell C8.
 The Implementation Fee entered in cell C6 should display the total cost for the 6 month implementation period.
 The Monthly Base Operation Fee for Year 1 entered in cell C8 should total one (1) month of costs for all program areas.
 The Systems Analyst hourly rate for Year 1 referenced on Attachment C FP- Form 2 should be entered in cell C23.
 The Senior Systems Developer hourly rate for Year 1 referenced on Attachment C FP-Form 2 should be entered in cell C27.
 The Systems Developer hourly rate for Year 1 referenced on Attachment C FP-Form 2 should be entered in cell C31.

ATTACHMENT D

REFERENCES

Submit a total of **THREE** references (Section 6.0.F) using this form.
 Expand fields and duplicate this page as necessary.

RFP16378 – Drug and Diabetic Supply Rebate Administration and Management Services	
BIDDER:	
Provide the following information for each reference submitted. Fields will expand as you type.	
Reference Company #1:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.
Reference Company #2:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.
Reference Company #3:	Click here to enter text.
Contact Person:	Click here to enter text.
Address:	Click here to enter text.
City, State, Zip:	Click here to enter text.
Telephone Number:	Click here to enter text.
Email Address:	Click here to enter text.
Number of years Bidder provided services to this entity:	Click here to enter text.
Brief description of the services provided:	Click here to enter text.

MISCELLANEOUS / CONSULTANT SERVICES

STATE AGENCY (Name and Address):
Department of Health
Corning Tower
Albany, NY 12237

NYS COMPTROLLER'S NUMBER:

ORIGINATING AGENCY GLBU: DOH01
DEPARTMENT ID:

CONTRACTOR (Name and Address):

TYPE OF PROGRAM(S):

CHARITIES REGISTRATION NUMBER:

CONTRACT TERM

FROM:
TO:

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

FUNDING AMOUNT FOR CONTRACT
TERM:

FEDERAL TAX IDENTIFICATION NUMBER:

STATUS:
CONTRACTOR IS () IS NOT () A
SECTARIAN ENTITY

NYS VENDOR IDENTIFICATION NUMBER:

CONTRACTOR IS () IS NOT () A
NOT-FOR-PROFIT ORGANIZATION

MUNICIPALITY NO. (if applicable)

CONTRACTOR IS () IS NOT () A
N Y STATE BUSINESS ENTERPRISE

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

BID OPENING DATE:

APPENDICES ATTACHED AND PART OF THIS AGREEMENT

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

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

Contract No.: C#

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

CONTRACTOR

STATE AGENCY

By: _____

By: _____

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

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

STATE OF NEW YORK)
)SS.:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

ATTORNEY GENERAL'S SIGNATURE

STATE COMPTROLLER'S SIGNATURE

Title: _____

Title: _____

Date: _____

Date: _____

GLBU: DOH01
APPENDIX X

Contract Number: _____

Contractor: _____

Amendment Number X-_____

BSC Unit ID: 345<XXXX>

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through NYS Department of Health, having its principal office at Albany, New York, (hereinafter referred to as the STATE), and _____ (hereinafter referred to as the CONTRACTOR), for amendment of this contract.

This amendment makes the following changes to the contract (check all that apply):

- _____ Modifies the contract period at no additional cost
- _____ Modifies the contract period at additional cost
- _____ Modifies the budget or payment terms
- _____ Modifies the work plan or deliverables
- _____ Replaces appendix(es) _____ with the attached appendix(es) _____
- _____ Adds the attached appendix(es) _____
- _____ Other: (describe) _____

This amendment *is* / *is not* a contract renewal as allowed for in the existing contract.

All other provisions of said AGREEMENT shall remain in full force and effect.

Additionally, Contractor certifies that it is not included on the prohibited entities list published at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> as a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Contractor (or any assignee) also certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Prior to this amendment, the contract value and period were:

\$ _____ From ____/____/____ to ____/____/____.
(Value before amendment) (Initial start date)

This amendment provides the following modification (complete only items being modified):

\$ _____ From ____/____/____ to ____/____/____.

This will result in new contract terms of:

\$ _____ From ____/____/____ to ____/____/____.
(All years thus far combined) (Initial start date) (Amendment end date)

Signature Page for:

Contract Number: _____

Contractor: _____

Amendment Number: X-_____

BSC Unit ID: 345<XXXX>_____

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of
the dates appearing under their signatures.

CONTRACTOR SIGNATURE:

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

STATE OF NEW YORK)
) SS:
County of _____)

On the ___ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of the individual taking acknowledgement)

STATE AGENCY SIGNATURE

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

By: _____ Date: _____
(signature)

Printed Name: _____

Title: _____

ATTORNEY GENERAL'S SIGNATURE

By: _____ Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____ Date: _____

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	4-5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with New York State Information Security Breach and Notification Act	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7

STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

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

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

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

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

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

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

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

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

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

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

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

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

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

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

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

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

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

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

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

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

STATE OF NEW YORK
AGREEMENT

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

WITNESSETH:

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

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

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

I. Conditions of Agreement

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

II. Payment and Reporting

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

1. Preferred Method: Email a .pdf copy of your signed voucher to the BSC at: accountspayable@ogs.ny.gov with a subject field as follows:

Subject: <<Unit ID: 345XXXX>> <<Contract #>>

(Note: **do not** send a paper copy in addition to your emailed voucher.)

2. Alternate Method: Mail vouchers to BSC at the following U.S. postal address:

**NYS Department of Health
Unit ID 345<<xxxx>>
PO Box 2117
Albany, NY 12220-0117**

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

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at helpdesk@sfs.ny.gov or by telephone at 1-855-233-8363. CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9, must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/vendors/vendorguide/guide.htm>.

III. Term of Contract

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

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

IV. Proof of Coverage

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

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

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

V. Indemnification

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

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

**APPENDIX D
GENERAL SPECIFICATIONS**

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

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

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

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

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

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

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

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

N. Date/Time Warranty

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

"Product" shall include, without limitation: when solicited from a vendor in a State government entity's contracts, RFPs, IFBs, or mini-bids, any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g., consulting, systems integration, code or data conversion or data entry, the term "Product" shall include resulting deliverables.

"Third Party Product" shall include product manufactured or developed by a corporate entity independent from the vendor and provided by the vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. "Third Party Product" does not include product where vendor is : (a) a corporate subsidiary or affiliate of the third party manufacturer/developer; and/or (b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Date/Time Warranty Statement

Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

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

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

- O. No Subcontracting Subcontracting by the contractor shall not be permitted except by prior written approval of the Department of Health. All subcontracts shall contain provisions specifying that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

- P. Superintendence by Contractor The Contractor shall have a representative to provide supervision of the work which Contractor employees are performing to ensure complete and satisfactory performance with the terms of the Contract. This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the Department of Health. A confirmation in writing of such orders or directions will be given by the Department when so requested from the Contractor.
- Q. Sufficiency of Personnel and Equipment If the Department of Health is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the Department shall have the authority to require the Contractor to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the State.
- R. Experience Requirements The Contractor shall submit evidence to the satisfaction of the Department that it possesses the necessary experience and qualifications to perform the type of services required under this contract and must show that it is currently performing similar services. The Contractor shall submit at least two references to substantiate these qualifications.
- S. Contract Amendments. This agreement may be amended by written agreement signed by the parties and subject to the laws and regulations of the State pertaining to contract amendments. This agreement may not be amended orally.

The contractor shall not make any changes in the scope of work as outlined herein at any time without prior authorization in writing from the Department of Health and without prior approval in writing of the amount of compensation for such changes.

- T. Provisions Upon Default
 - 1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
 - 2. If, in the judgment of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.
- U. Upon termination of this agreement, the following shall occur:
 - 1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
 - 2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.
- V. Conflicts If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the

Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
 - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).
 - b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction or property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

- X. Certification Regarding Debarment and Suspension Regulations of the Department of Health and Human Services, located at Part 76 of Title 45 of the Code of Federal Regulations (CFR), implement Executive Orders 12549 and 12689 concerning debarment and suspension of participants in federal programs and activities. Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. Executive Order 12689 extends the debarment and suspension policy to procurement activities of the federal government. A person who is debarred or suspended by a federal agency is excluded from federal financial and non-financial assistance and benefits under federal programs and activities, both directly (primary covered transaction) and indirectly (lower tier covered transactions). Debarment or suspension by one federal agency has government-wide effect.

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended,

proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

1. APPENDIX B TO PART 76-CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
 - a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Y. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this AGREEMENT.
4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.

5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.

Z. Provision Related to Consultant Disclosure Legislation

1. If this contract is for the provision of consulting services as defined in Subdivision 17 of Section 8 of the State Finance Law, the CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the following address New York State Department of Health, Bureau of Contracts Room -2756, Corning Tower, Albany, NY 12237; and
 - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting -or via fax at (518) 474-8030 or (518) 473-8808; and
 - c. The NYS Department of Civil Service, Albany NY 12239, ATTN: Consultant Reporting.

AA. Provisions Related to New York State Procurement Lobbying Law The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

BB. Provisions Related to New York State Information Security Breach and Notification Act CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

CC. Lead Guidelines All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

DD. On-Going Responsibility

1. General Responsibility Language: The CONTRACTOR shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Health or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
2. Suspension of Work (for Non-Responsibility) :The Commissioner of Health or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Health or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

3. Termination (for Non-Responsibility) : Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department of Health officials or staff, the Contract may be terminated by Commissioner of Health or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Health or his or her designee to be non-responsible. In such event, the Commissioner of Health or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

EE. Provisions Related to Iran Divestment Act As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) has developed a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list has been posted on the OGS website at <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>.

By entering into this Contract, CONTRACTOR (or any assignee) certifies that it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list. Additionally, CONTRACTOR agrees that should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. CONTRACTOR also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the New York State Department of Health may approve a request for Assignment of Contract. During the term of the Contract, should New York State Department of Health receive information that a person is in violation of the above referenced certification, New York State Department of Health will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then New York State Department of Health shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the CONTRACTOR in default.

New York State Department of Health reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Appendix H

for CONTRACTOR that creates, receives, maintains or transmits individually identifiable health information on behalf of a New York State Department of Health HIPAA-Covered Program

- I. Definitions. For purposes of this Appendix H of this AGREEMENT:
 - A. “Business Associate” shall mean CONTRACTOR.
 - B. “Covered Program” shall mean the STATE.
 - C. Other terms used, but not otherwise defined, in this AGREEMENT shall have the same meaning as those terms in the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and implementing regulations, including those at 45 CFR Parts 160 and 164.
- II. Obligations and Activities of Business Associate:
 - A. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this AGREEMENT or as Required By Law.
 - B. Business Associate agrees to use the appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this AGREEMENT and to comply with the security standards for the protection of electronic protected health information in 45 CFR Part 164, Subpart C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this AGREEMENT.
 - C. Business Associate agrees to report to Covered Program as soon as reasonably practicable any use or disclosure of the Protected Health Information not provided for by this AGREEMENT of which it becomes aware. Business Associate also agrees to report to Covered Program any Breach of Unsecured Protected Health Information of which it becomes aware. Such report shall include, to the extent possible:
 1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 2. A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 3. Any steps individuals should take to protect themselves from potential harm resulting from the breach;
 4. A description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and
 5. Contact procedures for Covered Program to ask questions or learn additional information.
 - D. Business Associate agrees, in accordance with 45 CFR § 164.502(e)(1)(ii), to ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same

restrictions and conditions that apply to Business Associate with respect to such information.

- E. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164.524.
 - F. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164.526.
 - G. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528; and Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164.528.
 - H. Business Associate agrees, to the extent the Business Associate is to carry out Covered Program's obligation under 45 CFR Part 164, Subpart E, to comply with the requirements of 45 CFR Part 164, Subpart E that apply to Covered Program in the performance of such obligation.
 - I. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- III. Permitted Uses and Disclosures by Business Associate
- A. Except as otherwise limited in this AGREEMENT, Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities, or services for, or on behalf of, Covered Program as specified in this AGREEMENT.
 - B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate.
 - C. Business Associate may disclose Protected Health Information as Required By Law.
- IV. Term and Termination
- A. This AGREEMENT shall be effective for the term as specified on the cover page of this AGREEMENT, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.

- B. Termination for Cause. Upon Covered Program’s knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if Business Associate has breached a material term of this AGREEMENT and cure is not possible.
- C. Effect of Termination.
 - 1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - 2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

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

VI. Miscellaneous

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

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

Appendix G

NOTICES

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

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

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

State of New York Department of Health

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

[Insert Contractor Name]

Name:

Title:

Address:

Telephone Number:

Facsimile Number:

E-Mail Address:

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

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

Appendix M

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State New York State Department of Health (the “New York State Department of Health”), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this contract, the New York State Department of Health hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<https://ny.newnycontracts.com/>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and

intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 - 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 - 4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- C. Form #4 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

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

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. For Waiver Requests Contractor should use Form #2 – Waiver Request.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

- A. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract

documenting the progress made towards achievement of the MWBE goals of the Contract. Data should be submitted via the online compliance system at <https://ny.newnycontracts.com>.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.

ATTACHMENT F

NEW YORK STATE DOH MWBE RFP REQUIRED FORMS

All DOH procurements have a section entitled “**MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE REQUIREMENTS.**” This section of procurement sets forth the established DOH goal for that particular procurement and also describes the forms that must be completed with their bid. Below is a summary of the forms used in the DOH MWBE Participation Program by a bidder.

Form #1: Bidder MWBE Utilization Plan - This document should be completed by all bidders responding to RFPs with an MWBE goal greater than zero. The bidder must demonstrate how it plans to meet the stated MWBE goal. In completing this form, the bidder should describe the steps taken to establish communication with MWBE firms and identify current or future relationships with certified MWBE firms. The second page of the form should list the MWBE certified firms that the vendor plans to engage with on the project and the amount that each certified firm is projected to be paid. Plans to work with uncertified firms or women and minority staffed firms do not meet the criteria for participation. The firm must be owned and operated by a Woman and/or Minority and must be certified by NYS Empire State Development to be eligible for participation. If the plan is not submitted or is deemed deficient, the bidder may be sent a notice of deficiency. It is mandatory that all awards with goals have a utilization plan on file.

Form #2: MWBE Utilization Waiver Request - This document should be filled out by the bidder if the utilization plan (Form #1) indicates less than the stated participation goal for the procurement. In this instance, Form #2 must accompany Form #1 with the bid. If Form #2 is provided and goal was initially set higher, revised goal approval will be necessary from DOB. When completing Form #2, it is important that the bidder thoroughly document the steps that were taken to meet the goal and provide evidence in the form of attachments to the document. The required attachments are listed on Form #2 and will document the good-faith efforts taken to meet the desired goal. A bidder can also attach additional evidence outside of those referenced attachments. Without evidence of good-faith efforts, in the form of attachments or other documentation, the Department of Health may not approve the waiver and the bidder may be deemed non-responsive.

New MWBE firms are being certified daily and new MWBE firms may now be available to provide products or services that were historically unavailable. If Form #2 is found by DOH to be deficient, the bidder may be sent a deficiency letter which will require a revised form to be returned within 7 business days of receipt to avoid a finding of non-compliance. DOH may work directly with firm to resolve minor deficiencies via e-mail.

Form #3: Replaced by Online Compliance System - <https://ny.newnycontracts.com> Contractors will need to login and submit payments to MWBE Firms in this online system once payments to these vendors commence.

Form #4 – MWBE Staffing Plan- This form should be completed based on the composition of staff working on the project. Enter the numbers or counts in the corresponding boxes and add up the totals in each column. This form is for diversity research purposes only and has no bearing on MWBE goal achievement.

Form #5 – EEO and MWBE Policy Statement -This is a standard EEO policy that needs to be signed and dated and submitted. If Bidder has their own EEO policy it may be submitted instead of endorsing this document.

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

Bidder/Contractor Name: Click here to enter text.	
Vendor ID: Click here to enter text.	Telephone No. Click here to enter text. Email: Click here to enter text.
RFP/Contract Title: Click here to enter text.	RFP/Contract No. Click here to enter text.

Description of Plan to Meet M/WBE Goals

Click here to enter text.

PROJECTED M/WBE USAGE

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

“Making false representation or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward MWBE utilization.”

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

MINORITY OWNED BUSINESS ENTERPRISE (MBE) INFORMATION

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

MBE Firm (Exactly as Registered)	Description of Work (Products/Services) [MBE]	Projected MBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____

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

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

In order to achieve the WBE Goals, bidder expects to subcontract with New York State certified WOMEN-OWNED entities as follows:

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number () -		\$ _____

**New York State Department of Health
Waiver Request**

Offeror/Contractor Name: Click here to enter text.		Federal Identification No.: Click here to enter number.	
Address: Click here to enter text.		Solicitation/Contract No.: Click here to enter number.	
City, State, Zip Code: Click here to enter text.		M/WBE Goal: MBE %%% WBE %%% (From Form #1)	
<p>By submitting this form and the required information, the officer or/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.</p>			
<p>Contractor is requesting a:</p> <p><input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. Total Partial</p> <p><input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. Total Partial</p> <p><input type="checkbox"/> Waiver Pending ESD Certification – (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development.)</p> <p>Date of such filing with Empire State Development: Click here to enter a date.</p>			
<p>PREPARED BY (Signature) _____</p>		<p>Date: _____</p>	
<p>SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.</p>			
Name and Title of Preparer (Printed or Typed):		Telephone Number:	Email Address:
<p>Submit with the bid or proposal or if submitting after award submit to: doh.sm.mwbe@health.ny.gov</p>		***** FOR DMWBD USE ONLY *****	
		REVIEWED BY:	DATE:
		<p>Waiver Granted: <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>MBE: <input type="checkbox"/> WBE: <input type="checkbox"/></p> <p><input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver</p> <p><input type="checkbox"/> ESD Certification Waiver</p> <p><input type="checkbox"/> *Conditional</p> <p><input type="checkbox"/> Notice of Deficiency Issued</p> <p>_____ *Comments:</p>	

- M/WBE Form #4 -

New York State Department of Health M/WBE STAFFING PLAN

For project staff, consultants and/or subcontractors working on this grant complete the following plan. This has no impact on MWBE utilization goals, or the submitted Utilization Plan - Form#1. This is for diversity research purposes.

Contractor Name _____

Address _____

STAFF	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
Executive/Senior level Officials							
Managers/Supervisors							
Professionals							
Technicians							
Administrative Support							
Craft/Maintenance Workers							
Laborers and Helpers							
Service Workers							
Totals							

(Name and Title)

(Signature)

Date

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

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

Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

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

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

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.

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

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Name & Title

Signature & Date

Detailed Instructions for Completing MWBE Forms 1 & 2

Form#1 – MWBE Utilization Plan

Page #1 of Form #1:

Description of Plan - Describe any steps/details that support Bidder/Contractor plan to meet the MWBE goals stated in the procurement/contract.

Line#1 - Total Dollar Value of Proposal Bid – This line should represent the total dollar amount of bid. The total value is eligible for MWBE goal setting.

Line#2 - MBE Goal Applied to the Contract– Bidder/Contractor lists the amount to be paid/subcontracted to Certified Minority-owned Business Enterprise(s) and the percentage this amount represents of the Total Dollar Value of Proposal Bid listed on Line #1.

Example: If paying two MBE firms \$100,000 & \$50,000 each and Total Dollar Value of Proposal Bid listed on line #1 is \$1,000,000, list 15% and \$150,000 on Line #2.

Line#3 - WBE Goal Applied to the Contract– Bidder/Contractor lists the amount paid/subcontracted to Certified Woman-owned Business Enterprise(s) and the percentage this amount represents of the Total Dollar Value of Proposal Bid listed on Line 1 of the “Form #1 MWBE Utilization Plan”.

Example: If Bidder/Contractor is paying two WBE firms \$50,000 & \$100,000 each and the Total Dollar Value of Proposal Bid listed on line#1 is \$1,000,000 Bidder/Contractor would list 15% and \$150,000 on Line #2 of the Utilization Plan.

Line#4 - MWBE Combined Totals – Total of Line #2 and Line #3. [Line #2 + Line #3 = MWBE Combined Totals]

Example: Using the above Line #2 and Line #3 examples for payment data, Bidder/Contractor achieves a combined MWBE % of 30% and a combined MWBE dollar amount of \$300,000. (15%M and 15%W; \$150,000M + \$150,000W). MWBE total/Total dollar value of bid = %.

Page#2 of Form#1:

The first column (left column): Bidder/Contractor lists any Minority-owned Business Enterprises (MBE) that Bidder/Contractor will be subcontracting with or purchasing from and the MBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified MBE will be providing or what product certified MBE will be supplying to Bidder/Contractor.

Third column (right column): Bidder/Contractor states the amount to be paid to the certified MBE during the term of the contract. The amount totaled from Page #2 should equal the amount listed on Line #2 of Page #1.

Page#3 of Form#1:

The first column (left column): Bidder/Contractor lists any Woman-owned Business Enterprises (WBE) that Bidder/Contractor will be subcontracting with or purchasing from and WBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified WBE will be providing or what product certified WBE will be supplying to Bidder/Contractor.

Third column (right column): Bidder/Contractor states the amount to be paid to the certified WBE during the term of the contract. The amount totaled from Page#3 should equal the amount listed on Line#3 of Page#1.

Form#2 – MWBE Waiver Request

“Form#1 MWBE Utilization Plans” that commit to a goal % less than the stated MWBE goal percentage in procurement, must be accompanied by a “Form#2 MWBE Waiver Request”.

A Bidder/Contractor may qualify for a partial or total waiver of the MWBE goal requirements established on a State contract only upon the submission of a waiver form by a Bidder/Contractor, documenting good-faith efforts by the Contractor to meet the goal requirements of the state contract and a consideration of applicable factors. The ability to subcontract with M/WBEs and separately the ability to purchase with M/WBEs must be addressed in attachments on all waiver requests.

Fill out the header with the name of the Bidder/Contractor requesting the waiver under Offeror/Contractor Name, include your Federal Identification ID, Address, Solicitation/Contract Number, and M/WBE Goals.

Check off the appropriate box for the type of waiver that is being requested and whether it is a total or partial waiver. If the waiver is Pending ESD Certification, meaning the subcontractor has applied for certification with Empire State Development, check off that box and state the date that they applied for certification.

Next, and directly below the Pending ESD Certification area, please sign and date the waiver. Provide the name of the preparer as well as a telephone number and email address (Bidder/Contractor direct contact number of person authorized to discuss submission).

The following attachments should also be provided:

1. A statement setting forth your basis for requesting a partial or total waiver. The statement should at a minimum include the services being subcontracted out and why a portion of those services cannot be subcontracted to Certified MWBE(s). In addition, statement must also include what purchases of equipment and supplies are being made and why those purchases cannot be provided by certified MWBE(s).
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals related to this contract.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.

6. Provide copies of responses to your solicitations received by you from certified M/WBEs.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.

*** All attachments are created by the entity requesting the waiver. These are self-generated attachments and are not provided by the agency.**

ATTACHMENT G

BIDDER’S DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Procurement Title: **Unexpected End of Formula**RFP #: [Type text]

Bidder Name: [Type text]

Bidder Address: [Type text]

Bidder SFS Vendor ID #: [Type text]

Bidder Federal ID#: [Type text]

Affirmations & Disclosures related to State Finance Law §§ 139-j & 139-k:

Offerer/Bidder affirms that it understands and agrees to comply with the procedures of the Department of Health relative to permissible contacts (provided below) as required by State Finance Law §139-j (3) and §139-j (6) (b).

Pursuant to State Finance Law §§139-j and 139-k, this *Invitation for Bid or Request for Proposal* includes and imposes certain restrictions on communications between the Department of Health (DOH) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit *bids/proposals* through final award and approval of the Procurement Contract by the DOH and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is/are identified on the first page of this *Invitation for Bid, Request for Proposal, or other solicitation document*. DOH employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the Office of General Services Website at: <http://ogs.ny.gov/acpl/>

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

No Yes

If yes, please answer the next questions:

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

No Yes

1b. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

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

Governmental Entity: [Type text]

Date of Finding of Non-responsibility: [Type text]

Basis of Finding of Non-Responsibility: [Type text]

(Add additional pages as necessary)

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

No Yes

2b. If yes, please provide details below.

Governmental Entity: [Type text]

Date of Termination or Withholding of Contract: [Type text]

Basis of Termination or Withholding: [Type text]

(Add additional pages as necessary)

Offerer/Bidder certifies that all information provided to the Department of Health with respect to State Finance Law §139-k is complete, true and accurate.

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

ATTACHMENT H

ENCOURAGING USE OF NEW YORK BUSINESSES IN CONTRACT PERFORMANCE

I. Background

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing service and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

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

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

II. Required Identifying Information

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract?

YES **NO**

If yes, identify New York State businesses that will be used and attach identifying information. Information should include at a minimum: verifiable business name, New York address and business contact information.

New York Business Identifying Information Business Name	Business Address	Contact Name	Contact Phone	Contact Email Address

ATTACHMENT I

NO-BID FORM

PROCUREMENT TITLE: _____ RFP # _____

Bidders choosing not to bid are requested to complete the portion of the form below:

- We do not provide the requested services. Please remove our firm from your mailing list
- We are unable to bid at this time because:

- Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

FAILURE TO RESPOND TO BID INVITATIONS MAY RESULT IN YOUR FIRM BEING REMOVED FROM OUR MAILING LIST FOR THIS SERVICE.

ATTACHMENT J

VENDOR RESPONSIBILITY ATTESTATION

To comply with the Vendor Responsibility Requirements outlined in Section E, Administrative, 8. Vendor Responsibility Questionnaire, I hereby certify:

Choose one:

- An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://portal.osc.state.ny.us> within the last six months.

- A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months.

- A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations.

Signature of Organization Official: _____

Print/type Name: _____

Title: _____

Organization: _____

Date Signed: _____

Attachment K

NYS Drug and Diabetic Supply Rebate Administration and Management Services

SALES TAX FORMS CA-220 AND TD-220

An electronic fill-in version of the *NYS Taxation and Finance Contractor Certification Form ST-220-TD*, can be found at:

http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

An electronic fill-in version of the *NYS Taxation and Finance Contractor Certification Form ST-220-CA* can be found at:

http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

Estimate of Expected Rebate Savings

Bidder: _____

Instructions:

1. Columns A, B, C and E have been prefilled and must NOT be changed by the Bidder.
2. Column D: Enter your supplemental rebate amount per unit in (Supplemental Rebate Amount per unit) for each drug listed. If no supplemental rebate is available enter zero (0).
3. Column F: Enter "yes" or "no". If "no" Column D should be zero (0).

Notes:

- a. NDCs provided depict annual NYS Medicaid Fee for Service Pharmacy units.
- b. A listed NDC does not mean the State currently receives a supplemental rebate on the drug or diabetic supply rebate.
- c. Bidders may not caveat rebates based on any market events such as upcoming generic drug launches, market shift or anticipated brand drug competition.
- d. Given that supplemental rebates can be dependent on the number of preferred drugs in a particular drug class, the bidders should provide their greatest supplemental rebate amount per unit available for the applicable NDC.
- e. A supplemental rebate amount should NOT be included for an applicable NDC if there is a contingency to have other manufacturer products included on a Preferred Drug List.
- f. Supplemental drug rebates and diabetic supply rebates are exclusive of any OBRA rebates.
- g. The Bidder is attesting that it has a supplemental drug or diabetic supply contract inforced for the particular NDC on the date of Bidder's submittal. The Bidder is also attesting that evidence is available for review if required/requested by the State of New York.

A	B	C	D	E (Column C x Column D)	F
Drug Name (Prefilled Field) DO NOT CHANGE	Drug NDC (Prefilled Field) DO NOT CHANGE	Annual Number of Units (Prefilled Field) DO NOT CHANGE	Supplemental Rebate Amount per Unit as of the date of the bid	Total Proposed Supplemental Rebate (Prefilled Calculated field) DO NOT CHANGE	Current Supplemental Rebate Contract in place as of the date of the bid? (Y or N)
				\$0	N
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	N
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y
				\$0	Y

Total Rebate Savings

\$0

Attachment M

NYS Drug and Diabetic Supply Rebate Administration and Management Services

Acronyms

CMS	The Federal Centers for Medicare & Medicaid
CPI-U	The National Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics, Washington, D.C.
DHHS	The federal Department of Health and Human Services
EFT	Electronic Funds Transfer
EPIC	Elderly Pharmaceutical Insurance Coverage Program
ETIN	Electronic Transmitter Identification Number
FFS	Fee-for-Service
GNUP	Guaranteed Net Unit Price
Go Live Date	Date that systems and operations are implemented and fully functional
HCPCS	Healthcare Common Procedure Coding System
IVR	Interactive Voice Response
LIS	Federal Low Income Subsidy
MDW	Medicaid Data Warehouse
MWBE	Minority/Women-owned Business Enterprise
NDC	National Drug Code
NMPI	National Medicaid Pooling Initiative
NYPS	New York Prescription Saver Card Program
OAG	NYS Office of the Attorney General
OBRA 90	Federal Omnibus Budget Reconciliation Act of 1990
OHIP	NYS Office of Health Insurance Programs
OMIG	NYS Office of Medicaid Inspector General
OSC	NYS Office of the State Comptroller
PART D	Federal Medicare Prescription Drug Benefit
PDP	Preferred Drug Program
PDSP	Preferred Diabetic Supply Program
PHL	NYS Public Health Law
POS	Point-of-Sale
PQA	Prior Quarter Adjustments
RFP	Request for Proposals
ROSI	Reconciliation of State Invoices
THE DEPARTMENT	The New York State Department of Health
THE STATE	New York State
UPN	Universal Product Code

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Audit							
Claim Load Audit	Report of all processed claims loaded into contractor's Rebate database. User chooses year/quarter and paid date (from and to) range to show claims count. The report must show Claim Description, Claim Count, Other Payer Payment, Patient's Responsibility, Total Pharmacy Reimbursement Amount, Program Paid Amount, Units.	x	x	x	x	x	x
Invoiced Claim Audit	This report takes the rebateable claim count from Claim Load Audit report and lists original counts, void counts and exclusion counts per year/quarter. User chooses year/quarter and paid date (from and to) range to show claims count. The report must show same field description as Claim Load Audit report.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Labeler Information							
Active Labelers	This report includes the start date (and end date, if applicable) for all active labelers, as supplied from the CMS quarterly tape or program historical files. This report may be sorted by individual quarter.	x	x	x	x	x	x
Labeler Contact Listings	This report is a simple listing of all active labelers that includes contact information for the financial, legal and technical departments of each company provided by CMS on quarterly basis or program historical files. This information must be updated in the system routinely.	x	x	x	x	x	x
Terminated Labelers	This report shows all labelers that were terminated in a particular quarter, per the CMS tape received quarterly or program historical files. This must show participating begin and end date for each terminated labeler.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Invoicing							
Pre-Invoice Audit Report Manufacturers Summary	This report summarizes the number of claims, total pharmacy reimbursement and units dispensed by date range for participating and non-participating manufacturers.						X
NDC's with Negative Units	This report lists any NDC, by year and quarter that has current units below zero. This will identify where any NDC may have been manually adjusted and subsequently systematically adjusted by the pharmacy (program unique).	X	X	X	X	X	X
J Code List	This report displays J-Code crosswalk information for a given date range.	X	X				
J Code Quarterly List	This report shows the J-Code claims summary information for a given year/quarter including rate, total units, total rebate amount and total billed amount paid to providers.	X	X				
Pre Invoice Unit Adjustment	Select Report Parameters for this report by entering either the year/quarter or the adjustment date range. This report provides unit adjustment for a given NDC and quarter and adjustment notes.	X	X	X	X	X	X

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Rebate Amount Exceeds Reimbursement Amount	This report shows when the rebate amount exceeds the reimbursement amount for a particular NDC in a particular quarter.	x	x	x	x	x	x
Invoice Totals for Quarter	This report allows for invoicing of reimbursement for a particular quarter. This report must allow the flexibility to sort by amount claimed, labeler number or labeler name.	x	x	x	x	x	x
Interest Calculation Detail report	This report is for audit purposes. Interest is at NDC level by year quarter. This report lists fields like Invoice postmark date, Payment due date, Invoiced Amount, Date Paid at labeler/yrqtr level, Amount Paid, Interest on Balance Interest Start Date and End Date, # of days past due, interest amount per day, interest amount to be invoiced, interest paid, and interest amount balance.	x	x	x	x	x	x
Interest Received	This report includes the total amount of interest received from all labelers for a specified date range. This report does not indicate how much interest is paid by each individual labeler.	x	x	x	x	x	x
Invoice Cover Letter	This is the invoice cover letter.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Invoice Media	This report pulls manufacturer invoices, by year and quarter; the user is able to download invoice media and the manufacturer is able to retrieve it at a secured website. The record format needs to reflect the most current CMS State utilization data record format. Field names must be program unique.	x	x	x	x	x	x
Invoice Totals for Quarter - PPA	This report allows for invoicing of reimbursement for prior period quarters for the quarter selected. The <u>From</u> Quarter should be always less or equal to the <u>To</u> Quarter. This report must allow flexibility to sort by amount claimed, labeler number or labeler name.	x	x	x	x	x	x
Invoice Mailing Labels	These are used for invoice mailing and are generated from the active labeler list, received from CMS or program historical files.	x	x	x	x	x	x
Quarterly Utilization Summary	This report provides the summary of claims by type (void or original), yrqtr and NDC for selected date range. It subtotals by type and yrqtr.	x	x	x	x	x	x
Voided Claims	This report lists the NDC, brand name, units paid amount and billed amount for claims voided within the requested quarter.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Drug Rebate Invoice(Labeler Copy)	This is a report that can be run for each labeler for a particular labeler or for all labelers. This report includes but is not limited the rebate amount per unit, total units reimbursed, total rebate amount claimed, number of prescriptions, total provider reimbursement amount, and total pharmacy reimbursement amount. CMS format with minor column heading that's program unique.	x	x	x	x	x	x
Drug Rebate Invoice(State Copy)	This is a report that can be run for a particular labeler or for all labelers. This report includes the rebate amount per unit, total units reimbursed, total rebate amount claimed, number of prescriptions, total provider reimbursement amount, and total pharmacy reimbursement amount. (program unique)						x
Revised Invoice Total – NDC level	This report retrieves all NDCs for selected yrqtr and labeler with any changes affecting the original invoice such as zero original or rate resubmission. The data includes NDC, total rebate amount claimed, revised rebate amount claimed, rebate amount paid, and rebate amount due.	x	x	x	x	x	x
Revised Rebate Amount Total For Quarter	This report can be run for a year quarter selected. This report includes the total rebate amount claimed, total units dispensed, total	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

	number of scripts , total program reimbursement amount and total pharmacy reimbursement along with Count of NDCs for the particular labeler. This report will give up to date information on labelers that carry open unit or rebate amounts from quarterly invoicing.						
Revised Rebate Invoice	This is a report that can be run for each labeler for a particular labeler or for all labelers. This report includes the revised rebate amount per unit, total units reimbursed, total rebate amount claimed, number of prescriptions, total provider reimbursement amount, and total pharmacy reimbursement amount.	x	x	x	x	x	x
Excluded NDC Summary Report	This report lists all excluded NDC from invoicing. This report can be pulled by begin and end date which must be based on the record add date. The report includes NDC, drug name, from quarter year, to quarter year, active indicator, date added and user id.						x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Accounts Receivable							
Batch Listing	This report allows user to view batch information by date range. The report shows Batch ID, total batch dollar amount, log date, OSC deposit date, check count.	x	x	x	x	x	x
Manufacturer Receipt Allocations by Labeler	This is a report of labeler receipts paid to the State. The user may choose a manufacturer and deposit or entry date range and view payment amount and allocated amount, by year and quarter, and also deposit date and entry date for those payments. The report shows batch ID, receipt#, payment type, program name, labeler ID, labeler name, year quarter, payment amount, allocated amount, payment comments, change date, change by, log date, OSC deposit date and check number.	x	x	x	x	x	x
Receipt Listing	This report allows the user to review deposit information by date range for all receipt numbers associated with a batch ID. The report shows payer name, check#, check date, postmark date, batch ID, receipt#, check	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	amount, deposit date, notes, last edited by, date entered on.						
Total Dollars by Check Number	This report is Searchable by check number.	x	x	x	x	x	x
NDC Payment Receipt Detail	This report provides payment detail for a PROGRAM by NDC for all receipt numbers for a selected labeler for a selected (or all) year/quarter. This report must show invoiced information (RAPU, units, rebate amount), drug name, payment information (paid RAPU, paid units, disputed units, paid rebate amount, interest due, interest paid), and payment type (ROSI or PQA) by year / quarter for an NDC11. Totaled by individual batch ID / receipt# that would include invoice#, check #, and labeler ID and a Grand total for all receipts. The report must also include the user and entry date.	x	x	x	x	x	x
NDC Summary	Provides all information on an NDC for a year quarter. Includes balance, adjustments, and rebate notes.	x	x	x	x	x	x
Prior Period Adjustment Information	This report shows changes in rebate amounts per unit from the previous quarter. This report can be for an individual labeler or all labelers. This report includes, among other	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	fields, the revised invoice amount, prior amount paid and the total amount due.						
Summary of Payment (NDC)	This report allows the user to choose a particular NDC and view the entire payment history for that item. Included in this report are the year/quarter of payment, receipt number, batch ID, payment amount, paid units, disputed units and date of deposit.	x	x	x	x	x	x
Monthly Statement	This is a report that can be run for a particular labeler or for all labelers. This report includes the current rate, original units invoiced, current units invoiced, units paid, total units unpaid, outstanding disputed units, total rebate amount, rebate amount paid, and rebate amount overdue.	x	x	x	x	x	x
Monthly Statement Negative Utilization	This is a report that can be run for a particular labeler or for all labelers. This report includes the current rate, original units invoiced, current units invoiced, units paid, outstanding disputed units, total rebate amount, rebate amount paid, and rebate amount overdue. Only Negative Units are displayed.	x	x				x
Unit adjustments at NDC level	This report must show unit adjustments sorted by reason code along with any rebate notes for that NDC and Yrqr. Selection can be by Yrqr or Adjustment From and To date.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Dunning Mailing Labels	This report must generate mailing labelers for the Labelers who have a dunning notice letter generated for the year / quarter selected.	x	x	x	x	x	x
Dunning Cover Letter	The dunning cover letter is used to notify Labelers/Manufacturers that the payment is due 30 days from the invoice date for the selected quarter.	x	x	x	x	x	x
Dunning Notice Report	This report lists all labelers with an outstanding account balance. User must have the ability to break this report down into a select number of days that the balance is past due- either 45, 90 or 210 days. Data can be sorted by labeler #, labeler name or quarter balance.	x	x	x	x	x	x
Estimated Rebate and Interest Invoiced for Quarter	This report pulls all manufacturers that have interest due for a selected YrQtr. The report includes rebate amount due, interest invoiced (calculated), and total due.	x	x	x	x	x	x
Quarterly Labeler Account Balance	This report allows the user to select a particular labeler or ALL and gives the account balance for each quarter on record. The report must also provide a grand total of balance due from all quarters on record.	x	x	x	x	x	x
Non Payer by Quarter	This report tracks for a particular year quarter all manufacturers that have not remitted the quarterly rebate amount due. The report	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	shows labeler code, labeler name, rebate year quarter, invoice number, invoice amount, paid amount, program paid amount and total pharmacy reimbursement amount.						
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Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Disputes							
Dispute Resolution ID Log	This report allows the user to identify all disputes created with a DRid. The report must allow the user to select the status of a DR by a specific labeler.	x	x	x	x	x	x
Disputed NDCs By Labeler By Quarter	Allows user to select a specific labeler and quarter and identify current units disputed for a particular NDC#, as entered in the program's Rebate application. Also identifies current rebate per unit, original number of units invoiced, current units-to-date, current units paid, the dispute code and total dollar amount due, including any other adjustments made to the NDC with DRid and comment at the NDC level.	x	x	x	x	x	x
Claims Level Detail Report (With PHI) with Export option	This is a report that allows the user to identify claims details for a particular NDC# (with an option for multiple NDCs) for a particular quarter or paid date. The data can be sorted by number of units dispensed or provider. The data includes but is not limited to provider demographics, claim line number, drug	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	<p>quantity dispensed, prorated drug quantity invoiced (program unique), billed amount, total pharmacy reimbursed amount, amount paid by the program, patient paid amount, TPL amount, Medicare Part D coverage amount (program unique), Rebate Discount Amount (program unique), DAW code, paid date, ICN, date of service, RX number / Procedure Code, number of days supply. Additional data fields may be required depending on program specific.</p>						
<p>Claims Level Detail- Quantity Greater than 500 or 4000</p>	<p>This report allows the user to identify which claims submitted over a chosen date range have the total drug quantity billed greater than @Quantity Parameter. This report includes but is not limited to the provider demographics, drug quantity, billed amount, paid amount, DAW code, paid date, Medicare Part D coverage amount (program unique), and recipient id, date of service, rx #, and source code. Additional data fields may be required depending on program specific.</p>						x
<p>PHS (340B) Providers</p>	<p>This report includes the current addresses, telephone number, begin and end date for PHS providers. Contractor will generate this</p>	x	x				x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	information from http://opanet.hrsa.gov/opa/CESearch.aspx						
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Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Pricing Processing							
CPI File Updates	This report provides CPI File Updates made in the application for a given date range. The data is used in calculation of additional rebate penalty.						X
Data Received in Error	This report provides information in the pricing data that has error's associated with it. It groups the error based on Data source either via Paper, SFTP, email attachment or CD and the Year Quarter it was received for a given date range.						X
Data Received on Paper/CD/SFTP	This report provides information related to data either received on Paper, CD or SFTP. It displays either in Raw Data Format or Column Data Format.						X
Error Codes	This report provides a list of error codes and description for either Input Error's or Calculation Errors.						X
Error Letter	This report identifies labelers for a given Quarter, who needs to provide additional data						X

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	to finalize quarterly pricing processing. This report works concurrently with the NDC Error Report.						
Exception Data Update	This report provides User and Date information related to any changes done to NDC9 product information for any given date range.						x
Historical NDC Calculation Error Report	This report identifies NDC's that error out for a given labeler when additional data is required to finalize quarterly pricing processing on a daily basis. The Manufacturer, YrQtr, NDC and Error Code are optional parameters for this report						x
List Pricing Data By Quarter for a NDC	This report provides details of pricing records received equal to or less than 3 years. It allows the user to select a date range and view the Labeler, NDC, YrQtr, AMP Price, Best Price, Record Type, Base AMP, etc. The report groups by labeler and NDC.						x
List Pricing Data By Quarter for NDC's Greater Than 3 Years	This report provides details of pricing records received older than 3 years. It allows the user to select a date range and view the Labeler, NDC, YrQtr, AMP Price, Type, Best Price, Base Amp, etc. The report groups by labeler and NDC.						x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

NDC Calculation Error Report	This report identifies NDC's for a given labeler where additional data is required to finalize quarterly pricing processing. This report picks up calculation errors occurred after the Daily Night Batch Processing.							x
No Submission Letter	This is a letter provided to labelers letting them know that pricing data has not been received for a Quarter. This report can be run for one labeler or all of the labelers for any given Quarter. This report needs to be generated for 1st and 2nd notification.							x
No Submission Report	This report provides NDC's that were not submitted for a Quarter for a labeler or all of the labelers.							x
Received Data Successfully Updated	This reports provides information related to Data that has been approved and validated making it ready for Pricing Calculation.							x
Terminated NDC Report	This report provides information where the termination date is greater than zero.							x
NDCs Not Found On EPIC Pricing File	This report shows all NDCs, that the client had utilization for, but had no EPIC pricing on file for a particular quarter. It shows the total number of units reimbursed, number of scripts and total reimbursement amount for each NDC. User must select the Report Type							x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	corresponding to the data desired (NDCs not found). (program unique)						
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Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Rate Information							
List Calculated Rates	This report allows the user to select calculated rates by manufacturer or by ndc.						x
List Rates by Quarter by Labeler	This report allows the user to select a labeler and view the amp price, baseline amp, Current CPI (consumer pricing index) and total pharmacy reimbursement for all of the NDCs for all labelers or a particular labeler for a particular quarter						x
List Rates by Quarter For an NDC	This report allows the user to enter an ndc and view the amp rate, baseline amp, total pharmacy reimbursement for a particular quarter or range of Year Quarters						x
Unit Rebate Amount Received	This report, from the manufacturers' pricing data load, shows the NDC#, the year/quarter, rate, and rate type code (0=original, 3=adjustment). This report must have the flexibility to be run by quarter and sorted by rate or NDC. (program unique)						x
Zero Rebate Amount Per Unit	This report shows all NDCs for which there was a zero rebate rate on the EPIC pricing file for a particular quarter. User must select the						x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

On EPIC Pricing File	Report Type corresponding to the data desired (Zero Rebate Amount). (program unique)						
Zero Rebate Rate for Consecutive Quarters	This Report will provide information on Zero AMP Rebate Rate (program specific) or No Unit Rebate Rates (URA) for NDCs Invoiced for the Year Quarter selected, and the Rate information for the Previous Two Quarters preceding the selected Quarter	x	x				x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
State Expenditure to CMS							
CMS 64-9R Adjustments	This report shows all adjustments identical to those reported on the CMS 64-9R report. It allows user to choose yrqtr and date range. (program unique)	x	x	x	x	x	
CMS 64-9r Drug Rebate Quarterly Report	This report shows payment receipts to CMS for the quarterly reporting period. (program unique)			x	x	x	
CMS 64-9R Receipt Details for Drug Rebate Quarterly Report	This report shows all payment receipts received that will be reported on the quarterly drug rebate report. (program unique)			x	x	x	
CMS 64-9R Drug Rebate and UROA Quarterly Report	This report shows payment receipts and UROA obligation to CMS for the quarterly reporting period. (program unique)	x	x				
CMS 64-9R Receipt Details for Drug Rebate and UROA Quarterly Report	This report shows all payment receipts received that will be reported on the quarterly drug rebate and UROA report. (program unique)	x	x				

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

CMS 64-9R UROA details for Drug Rebate and UROA Quarterly Report	This report shows UROA obligation for all payment receipts received that will be reported on the quarterly drug rebate and UROA report. (program unique)	x	x				
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Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Reports							
Category	Report Description	Program Name					
Report Name		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Management							
Labeler Paid Amount vs. Rebate Amount Invoiced-to-date	This report shows the rebate amount invoiced, the amount paid for each labeler and the overall percentage by deposit dates by year quarter. The paid amount can be =, > or < the rebate amount invoiced. This report must have the flexibility to sort by labeler number and paid amount. This report must reflect the most current rebate rate change and quantity adjustments.	x	x	x	x	x	x
Projected Invoice Amount For Zero Rate NDCs	This report shows the most recently reported RPU for NDCs for which there was not a rebate rate on the pricing file for a particular quarter.	x	x	x	x	x	x
Executive Summary	Summary of total invoiced, collected, disputed and still outstanding for year quarters selected.	x	x	x	x	x	x
Brand Generic Invoiced Amounts	Invoice Amounts broken out by Brand / Generic / Multi-Source	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Calculated URA vs. Projected URA	This report allows the rebate amount to be projected for the selected labeler and yrqtr. The amount projected is based on paid rate or if the paid rate is not present then it is based on 3% of reimbursement amount for non-innovators and 30% of reimbursement amount for innovators.	x	x	x	x	x	x
Current vs. Previous Quarter Invoice Comparison	Compares the current quarter with the previous quarter in terms of % difference in reimbursement amount. Broken down by labeler ID, units and number of scripts.	x	x	x	x	x	x
Current vs. Previous Quarter Payment Comparison	Compares the current quarter with the previous quarter in terms of % difference in rebate paid amount. Broken down by labeler ID, units and number of scripts.	x	x	x	x	x	x
Drug Report For 75% of Total Outstanding Amount Over 12 Months	This report takes the total amount due, by labeler, and gives the balance, by year and quarter, starting one year prior (i.e. report date 5/12/13 gives 2012Q4 balances and prior, whereas report date 6/1/13 will give 2013Q1 and prior). (Dependent on over 12 months of data).	x	x	x	x	x	x
Labeler Account Balance Projected	This is a Labeler Projected Account Balance report allowing the user to identify the total balance due from all labelers for a particular quarter. This report can be sorted by either	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	labeler number or balance due which allows for a breakdown of the amount due from each respective labeler.						
Labeler Paid Amount vs. Projected Rebate Amount	This report shows the projected rebate amount and the rebate paid amount for the selected yrqtr. Total pharmacy reimbursement, interest due and interest paid are also included. The report can be sorted by labeler or paid amt.	x	x	x	x	x	x
Projected Invoice Totals for Quarter	This report allows for projected invoicing of reimbursement for a particular quarter. This report can be sorted by amount claimed, labeler number or labeler name	x	x	x	x	x	x
Projected Manufacturer Rebate	This is a report that can be run for each labeler for a particular quarter or for all quarters. This report includes the current rate, original units invoiced, current units invoiced, units paid, total units unpaid, outstanding disputed units, total rebate amount, rebate amount paid, and rebate amount overdue. This report will give up to date information on NDC's that carry open unit or rebate amounts from quarterly invoicing.	x	x	x	x	x	x
Projected Rebate for Non Payer by Quarter	This report tracks for a particular year quarter for which all manufacturers have not remitted the quarterly rebate due. The date range can	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

	be defined by the user. The report includes both total pharmacy reimbursement and total provider reimbursement amount and the projected rebate due on the reimbursement; total number of non-payer for a quarter.						
Weekly Update Amount Exceeds Reimbursement	This report shows when the rebate amount exceeds the reimbursement amount for a particular NDC in a particular quarter	x	x	x	x	x	x
Cash Receipt Recap Support Details	This report allows the user to choose a deposit date range and view the payment activity for a particular labeler or payment type at a detail level.	x	x	x	x	x	x
Cash Receipt Recap Support Summary	This report allows the user to choose a deposit date range and view the payment activity for a particular labeler or payment type.	x	x	x	x	x	x
Summary Of Adjustment with Reason Codes by Quarter	Based on the adjustment timeframe requested, this report provides the total dollars, adjustment type and reason code Labeler and year/quarter. This report also summarizes by year/quarter and adjustment timeframe requested.	x	x	x	x	x	x
Summary of Interest Adjustment by Quarter.rpt	This report pulls all interest adjustments at labeler/yrqtr level, including interest write off adjustment and interest amount adjustment. It pulls by adjustment dates.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
 Attachment N
 Rebate Reports and Claims Database

Database							
Category	Database Description	Program Name					
Database		Medicaid		Supplemental			EPIC
		FFS	MCO	Supply	PDL	Direct	
Claims							
Claims	This database lists original, voided and excluded claims per year/quarter. Database field names are provided in below examples.	x	x	x	x	x	x
Queries	Queries will be designed program specific including but is not limited to Labeler summary, NDC9 Summary, Summary by NDC, Compound Claims.	x	x	x	x	x	x

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

EPIC Claims Database Example

Qtr	NDC	OCC	Total Pharmacy Reimb	Patient Pd	Reimb. Under EPIC	EPIC Pmt	TPL (Other Payer Amount Paid)	U&C	Actual or Assumed Provider Reimb
20132	NDC1	8	\$7.74	\$5.00	\$5.00	\$0.00	\$0.00	\$57.59	\$7.74
20132	NDC2	8	\$52.58	\$5.00	\$5.00	\$0.00	\$0.00	\$154.79	\$52.58

Lesser of U&C and Provider Reimb	Original Quantity Dispensed	Units (Non-Prorated)	Proration Factor	Prorated Units	Provider Number	Date of Service	Paid Date	Rx Number	Cardholder ID
\$7.74	120.00	120.00	0.65	77.52	1477657xxx	04/01/2013	04/15/2013	1	xxxxxxxxxx
\$52.58	30.00	30.00	0.10	2.85	1477657xxx	04/01/2013	04/15/2013	2	xxxxxxxxxx

DAW	Compound	Days Supply	Billed Amt	Co-Pay	Deductible	Refill Code	Claim Type	Other Payer Amt Recognized	ICN
0	N	30	\$57.59	\$0.00	\$5.00	0	O	0.00	000149xx043801
0	N	30	\$154.79	\$0.00	\$5.00	2	O	0.00	000149xx043901

GAD	AWP	FUL	SMAC	NPI	OPPR1 CODE	OPPR1 AMT	OPPR12 CODE	OPPR12 AMT	FINALPRICETYPE
\$83.95	\$64.09	\$13.38	\$7.74	1477657xxx	0	0.00	0	0.00	MCNY
\$188.17	\$142.25	\$0.00	\$52.58	1477657xxx	0	0.00	0	0.00	MCNY

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Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Medicaid Fee for Service (FFS) Claims Database Example

Service Date	Report Date	Payment Date	Claim Reference Number (CRN)	Link Crn	Formulary Code	Prov Id	Prescription Number	Claim Status Type Code
08/08/12	08/01/12	08/13/12	xx22100063626230	xx22100063626201	NDC11	00000000	1	1
08/22/12	08/01/12	08/27/12	xx23500079107530	xx23500079107501	NDC11	00000000	2	1

Recip Id	Service Claim Count	Quantity Dispensed	Other Insurance Paid Amount	Medicaid Paid Amount	Medicare Paid Amount	Total Paid	Charged Amount
xxxxxxx	1	9	0	1118		1118	1472.99
xxxxxxx	1	9	0	1118		1118	1735.99

Medicaid Managed Care Organization (MCO) Claims Database Example

Service Date	Report Date	Crn	Link Crn	Formulary Code	Prov Id	Claim Status
10/08/12	10/01/12	xx29000249115520	xx29000249115520	NDC11	xxxxxxx	1
11/21/12	12/01/12	xx33200302687220	xx33200302687220	NDC11	xxxxxxx	1

Enct Plan Id	Recip Fiscal County Code	Scripts	Quantity Dispensed	Mc Plan Total Paid Amt	Medicare Paid Amount	Oth Insurance Paid Amount	Total Paid
xxxxxxx	07	1	9	1135.45	0	0	1135.45
xxxxxxx	07	1	9	1135.45	0	0	1135.45

Drug and Diabetic Supply Rebate Administration and Management RFP (Request for Proposal)
Attachment N
Rebate Reports and Claims Database

Medicaid J-CODE Claims Database Example

Recip Id	Drug Name	Formulary Code	Jcode	Conversion Factor
XXXXXXXX	SANDOSTATIN LAR DEPOT (1&1/2"X19G,PFS) 10 MG	NDC11	J2353	0.1
XXXXXXXX	SANDOSTATIN LAR DEPOT (1&1/2"X19G,PFS) 10 MG	NDC11	J2353	0.1

Crn	Link Crn	Claim Status Type Code	Service Date	Report Date
xx10100017067720	xx10100017067704	1	12/12/11	04/01/13
xx16100020694120	xx16100020694103	1	04/19/12	06/01/13

Prov Id	Paid Amount	Total Paid	Total Rebate	Oth Insurance Paid Amount
XXXXXXXX	716.20	3581.01	2819.11	0.00
XXXXXXXX	735.48	3677.40	2819.11	0.00

Medicare Paid Amount	Unchanged Proc Units	Quantity Dispensed	Service Claim Count	Ri	Prov Cos Code
2864.81	30	3	1	I	0460
2941.92	30	3	1	I	0460

Attachment O- Minimum Staffing Requirements

KEY STAFF	GENERAL RESPONSIBILITY	QUALIFICATIONS/EXPERIENCE
Account Executive (Key)	<p>Ultimate responsibility for the Drug Rebate program</p> <ul style="list-style-type: none"> • Acquisition of adequate resources • Formal communication and correspondence with the Department • Foster cooperative relationship among State and Contractor staff • Ensures compliance with all SLAs; and • Ensures compliance with the approved Quality Management Plan <ul style="list-style-type: none"> • Production of a monthly report to the Department that includes results on performance measures and SLAs associated with this RFP • Contract Administration • Scheduling and provision of resources • Focal point of contact for the Department regarding financial and administrative issues and concerns 	<ul style="list-style-type: none"> • At least five (5) years previous account executive experience on a large-scale Drug Rebate project • At least two (2) years previous experience with a Medicaid program or other similar organization with significant pharmacy operations components • At least 3 years ongoing relationship management with a large client • At least 3 years implementing quality improvement and customer satisfaction monitoring programs • Demonstrated ability to effectively communicate with customer's senior management; and • Demonstrated strong analytical, organizational and problem solving abilities
Director Quality Assurance/Internal Audit (Key)	<ul style="list-style-type: none"> • Monitor performance to ensure compliance with the contract • Responsible for implementing continuous improvements • Ensures all services provided meet or exceed contract requirements • Ensures the quality of all deliverables including but not limited to reports, documentation, testing, and responses to telephone inquiries and correspondence 	<ul style="list-style-type: none"> • At least three (3) years experience in managing the Quality -Assurance component of a large-scale integrated healthcare IT system, preferably a Medicaid program • At least five (5) years experience in managing financial, technical and business quality programs • Demonstrated ability to communicate effectively, orally and in writing with all levels of management • At least two (2) years experience analyzing performance metrics and identifying corrective actions needed to comply with contract requirements • Demonstrated ability to manage independent testing of software quality
Rebate Manager (Key)	<ul style="list-style-type: none"> • Responsible for Management and oversight of all rebate operations, including but not limited to invoicing, reconciliation, supplemental rebate negotiations and bid solicitation, reporting and analysis and responses to audit findings and requests for information • Work with Department staff to monitor the market, examine utilization trends, rebate opportunities, new 	<ul style="list-style-type: none"> • At least five (5) years' experience managing pharmacy rebates operations, preferable with experience relating to both OBRA and supplemental rebates • Demonstrated knowledge of Federal law and regulations relating to the Medicaid drug rebate program, Medicare Part D and EPIC; knowledge of NYS pharmacy laws and regulations is preferred • At least three (3) years experience with contract

Attachment O- Minimum Staffing Requirements

	<p>technologies, and strategies to achieve program goals</p> <ul style="list-style-type: none"> • Work with Department staff, create work plans to implement agreed upon strategic direction for the pharmacy rebate programs 	<p>negotiations</p> <ul style="list-style-type: none"> • Bachelor's degree in Business Management or related field is required; MBA or related higher level degree is preferred • Demonstrated ability to analyze data and develop action plans • Demonstrated ability to collaborate with others in order to achieve the program's strategic goals
Financial Analyst (Key)	<ul style="list-style-type: none"> • Work with Department clinical staff to asses, track, analyze and monitor the financial performance of the pharmacy/rebate program, and make recommendations regarding rebate opportunities in order to achieve program goals • Provide the Department with up to date developments in the prescription drug field that financially impact rebates and pharmacy programs and collaborate with other State Medicaid programs • Develop and update pharmacy/rebate program reports and dashboards • Develop fiscals for pharmacy/rebate related proposals and/or budget initiatives 	<ul style="list-style-type: none"> • At least three (3) years of direct experience in analyzing and reporting on pharmacy and/or rebate program activity • Knowledge of pharmacy claim payment practices and polices • Bachelor's degree in business or accounting, financing or related field • Demonstrated strong analytical and problem solving skills • Demonstrated ability to analyze and synthesize large data sets • Demonstrated ability to collaborate with others in order to achieve the strategic goals of the pharmacy rebate programs • Demonstrated ability to communicate effectively, both orally and in writing with all levels of management
CORE STAFF	GENERAL RESPONSIBILITY	QUALIFICATIONS/EXPERIENCE
Rebate Negotiator (Core)	<ul style="list-style-type: none"> • Manage work plans to implement agreed upon strategic direction for the pharmacy rebate programs. • Conduct NY supplemental and non-Medicaid rebate negotiations. • Conduct rebate negotiations • Interface with manufacturers to clarify bids and/or contract provisions • Interface with State staff, as needed to ensure that the State's position/strategy is reflected in negotiations 	<ul style="list-style-type: none"> • Bachelor's degree in business or accounting, financing or related field. • Demonstrated experience in conducting prescription drug rebate negotiations with drug manufacturers and labelers; experience in leading rebate negotiations is preferred.
Rebate Attorney (Core)	<ul style="list-style-type: none"> • Develop legal agreements, rebate contracts • Provide guidance to the State on legal actions related to rebate activities 	<ul style="list-style-type: none"> • NYS licensed attorney • Three or more years experience with pharmacy rebate related issues

Attachment O- Minimum Staffing Requirements

Rebate Analyst (Core)	<ul style="list-style-type: none"> • Assists Rebate Account Managers with analyzing rebate program and ensuring that program goals are met 	<ul style="list-style-type: none"> • Bachelor's degree in business or accounting, math or financing with experience in data analysis • Two or more years' experience in rebate administration
Rebate Pharmacist (Core)	<ul style="list-style-type: none"> • Assist Rebate Account Managers with oversight of all day to day rebate operations 	<ul style="list-style-type: none"> • NYS licensed RPh or Pharmacist • Three or more years' experience with rebate operations • Demonstrates strong analytical, organizational and problem solving abilities
Systems Liaison/Business Analyst (Core)	<p>Responsibilities include:</p> <ul style="list-style-type: none"> • Acting as primary liaison to the Department regarding project status, meetings, reporting requirements, scope changes • Designing and maintaining business requirements and project documentation • Prioritization and development of business specifications and tracking of system changes and enhancements • Creating and executing project work plans, revising as appropriate to meet changing needs and requirements • Defining resources and schedule for project/program implementation • Creating strategies for risk mitigation and contingency planning • Directing project team and manages conflicts including those that are due to resource issues • Identifying and resolving project issues 	<ul style="list-style-type: none"> • At least five (5) years in project management oversight responsibilities, e.g., planning, design, development, implementation, and operation of large-scale Information Technology project • At least three (3) years health care claims processing environment, including development of system architecture and interfaces • At least three (3) years experience in scheduling and controlling all aspects of a large-scale IT system preferably in the health care field • Demonstrated strong analytical, organizational and problem solving abilities • Demonstrated ability to bridge business and system requirements • Strong organizational, presentation, and customer service skills

Qualifications/Experience and General Responsibility may change at the discretion of The Department of Health.



**Drug and Diabetic Supply Rebate Administration and Management Program
PERFORMANCE STANDARDS -ATTACHMENT P**

A. CONTRACTOR PERFORMANCE REQUIREMENTS

The contractor must at all times comply with all operational performance requirements and expectations specified in this RFP.

Notwithstanding anything to the contrary, the contractor must warrant that the programs and functions must meet all requirements of this RFP and must be fully operational by the Go Live date. The contractor further warrants that it shall meet all performance requirements listed in this RFP during the term of this contract.

The contractor must at all times administer the rebate programs and perform its activities in conformity with the policies and procedures of the programs. All requirements described in this RFP are subject to monitoring by the Department. The Department reserves the right to monitor performance at any time and may exercise such option, at its discretion, without notice. In the event of a failure to meet the performance requirements, the contractor agrees that the Department may assess and withhold from payments due its actual damages for the losses set forth below and as assessed at the Department's discretion.

Amounts due to the Department from assessment of damages shall be deducted from any money payable to the contractor pursuant to this contract.

A.1 PERFORMANCE STANDARDS AND DAMAGES

It is expressly agreed by the Department and the contractor that, in the event of a failure to meet the performance requirements listed below, damage shall be sustained by the State, and the contractor shall pay the State its actual damages according to the following subsections.

The contractor shall submit a Rebate Programs Performance Standards Report that details the contractor's compliance with all of the Performance Standards outlined in Section 3.4, 30 days after the end of the appropriate reporting period, specified as either monthly or quarterly.

A.1.1 Rebate Accuracy - Requirement

All transactions made for the rebate programs must be made in accordance with the methodology and policies of NYS. The contractor must notify the Department immediately upon discovery of any errors irrespective of cause.

A.1.2. Rebate Accuracy – Damages

The contractor is liable for the actual amount of all contractor caused miscalculations, failure to address past due accounts receivables adequately, and incorrectly invoicing rebates. Contractor-caused incorrect invoicing may result from either the contractor's failure to utilize available information or by a failure to process the data or transactions correctly.

The contractor must notify appropriate Department staff when a data or data quality issue has been discovered by itself or another third party, describing the nature of the defect and the columns, tables and data elements impacted and the extent of the errors including monetary estimates. At the direction of the Department, the contractor must notify affected parties in accordance with procedures outlined in a corrective action plan. The contractor is liable for the actual amount of the contractor caused error that is not recovered. The actual amount of the outstanding liability may be deducted from contractor payments. This responsibility shall apply to all outstanding liabilities caused by contractor negligence, system failure or other causes.

A.2 OPERATIONAL PERFORMANCE STANDARDS

Operational Performance standards play an important role in defining and managing the relationship between the contractor and the Department. Operational Performance standards define the Department's service requirements and expectations regarding how the contractor will meet these requirements. A successfully implemented service level management discipline ensures that systems function smoothly while fulfilling the business needs of stakeholders.

This section presents the following areas and their associated operational performance standards including calculation of damages:

1. System Availability;
2. Customer Service; and
3. Rebates.

The Operational Performance Standards are not subject to a maximum cap in damages on an individual performance standard nor in aggregate unless specified.

A.2.1. System Availability

System Availability				
Requirements Category	Program(s)	Description	Specifications	Damages
A.2.1.a Online Rebate and Reporting System Availability	All	<p>The contractor guarantees that the online rebate processing system including its reporting system be available at least ninety-nine and five-tenths percent (99.5%) of the time, excluding periods of scheduled down time which shall be reported in advance to DOH and kept to a minimum, based on a 24 hours a day, 7 days a week availability.</p> <p>The standard is calculated and reported on a monthly basis.</p>	<p>Access Hours:</p> <p>Accessible by Department staff between 7 am – 6 pm ET, 5 days/week (Monday – Friday).</p> <p>Online rebate processing system availability requirement is ninety-nine and five-tenths percent (99.5%).</p>	<p>For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the contractor's online rebate processing system including its reporting system based on access hours availability, and calculated on a monthly basis, excluding periods of scheduled down time, which shall be reported in advance to DOH and kept to a minimum, is not available, the contractor shall credit against the Program's administrative fee the amount of \$10,000.</p>

A.2.2 Customer Service

Customer Service				
Requirements Category	Program(s)	Description	Specifications	Damages
A.2.2.a Correspondence both hardcopy and electronic	All	The contractor guarantees at least ninety-eight percent (98%) of all written correspondence including email or any other electronic messaging, must be responded to within five (5) business days. Turnaround time shall be measured from the date the correspondence is received to the date the correspondence is received by the mailing agent or transmitted. The standard is calculated and reported on a monthly basis.	<u>Timeliness:</u> Ninety-eight percent (98%) of all written correspondence, including email or any other electronic messaging, must be responded to within five (5) business days of receipt. For example, correspondence received on 8/3/2015 (Monday), with the response received by the mailing agent or transmitted on 8/10/2015 (Monday) will have been turned around in five (5) business days.	For each .01 to .50% below the ninety-eight percent (98%), five (5) business day for response time, calculated on a monthly basis, the contractor shall credit against the Program's administrative fees the amount of \$2,000 for each of the standards not met.
Correspondence both hardcopy and electronic	All	The contractor guarantees that one hundred percent (100%) of all written correspondence (inquiries) including email or any other electronic messaging, must be responded to within ten (10) business days. Turnaround time shall be measured from the date the correspondence is received to the date the correspondence is received by the mailing agent or transmitted. The standard is calculated and reported on a monthly basis.	One hundred percent (100%) of all written correspondence (inquiries) including email or any other electronic messaging, must be responded to within ten (10) business days of receipt of the correspondence by the contractor. For example, correspondence received on 8/3/2015 (Monday), with the response received by the mailing agent or transmitted on 8/17/2015 (Monday) will have been turned around in ten (10) business days.	For each .01 to .50% below the hundred percent (100%), ten (10) business day for response time, calculated on a monthly basis, the contractor shall credit against the Program's administrative fees the amount of \$2,000 for each of the standards not met.

A.2.3 Rebates

Rebates				
Requirements Category	Program(s)	Description	Specifications	Damages
A.2.3.a Rebates – Invoicing Timeliness	All	<p>The contractor guarantees that one hundred (100%) percent of the drug rebate invoices must be mailed or transmitted within sixty (60) calendar days after the end of each quarterly rebate period for each program (Medicaid OBRA, Medicaid Supplemental Drug, EPIC and Diabetic Supply).</p> <p>Paper invoices and electronic invoices should have postmark or transmission date within sixty (60) calendar days after the end of each quarter. The standard is calculated and reported on a quarterly basis.</p>	<p>Mail or transmit drug rebate invoices no later than sixty (60) calendar days after the end of the quarterly rebate period.</p> <p>For example, for the first Quarter of 2015 ended 3/31/2015, paper invoices should be mailed and electronic invoices will be transmitted to manufacturers on or before 5/29/2015 (Friday).</p>	<p>For each quarter, and for each program (Medicaid OBRA, Medicaid Supplemental Drug, EPIC and Diabetic Supply) in which one hundred percent (100%) of the drug rebate invoices are not mailed or transmitted within sixty (60) calendar days after the end of each quarterly rebate period, the contractor shall credit against the Program's administrative fee the amount of \$5,000 for each calendar day beyond the sixty (60) days, up to and including the day that one hundred percent (100%) of the quarterly invoices are mailed or transmitted.</p>
A.2.3.b Rebates – Pricing Data- Timeliness	EPIC	<p>The Contractor guarantees that it will contact all contracted EPIC manufacturer labelers who have not submitted the required quarterly price data, within thirty eight (38) calendar days after the end of the calendar quarter (ie. 1st notice).</p> <p>A second notice must be sent to all manufacturer labelers who have not submitted the required quarterly price data, within two (2) business days after the production of the final quarterly invoice.</p> <p>The standard is calculated and reported on a quarterly basis.</p>	<p>Generate and send a notice to all EPIC manufacturer labelers that did not submit the required quarterly price data within the specified time periods.</p> <p>For example, for the first Quarter of 2015 ended 3/31/2015, first notices should be sent to manufacturers by 5/8/2015.</p>	<p>For each EPIC manufacturer labeler not contacted within the required turnaround time for the 1st notices, the contractor shall credit against the applicable Program's administrative fee the amount of \$200.</p> <p>For each EPIC manufacturer labeler not contacted within the required turnaround time for 2nd notices, the contractor shall credit against the applicable Program's administrative fee the amount of \$200</p>

Rebates continued

Requirements Category	Program(s)	Description	Specifications	Damages
A.2.3.c Rebates – Price Submissions	EPIC	The contractor guarantees to load and/or data enter EPIC price submissions (conforming to the required format specifications) into the rebate system within one (1) business day from the date of receipt by the contractor. The standard is calculated and reported on a monthly basis.	Load and/or data enter required EPIC price submissions within one (1) business day from the date of receipt. For example, pricing data received on 7/10/15 (Friday) and loaded into the rebate system by 7/13/15 (Monday), will have been processed within one (1) day of receipt.	For each EPIC pricing submission (conforming to the format specifications) not entered into the rebate system within one (1) business day from the date of receipt by the contractor, the contractor shall credit against the Program’s administrative fee the amount of \$200.
A.2.3.d Rebates – Timeliness of Providing Claims Level Detail	All	The contractor guarantees to provide claims detail data to manufacturer labelers in a state approved format within seven (7) business days of the request by the state or a labeler. The standard is calculated and reported on a monthly basis.	The contractor shall provide claims detail data to manufacturer labelers in a state approved format within seven (7) business days of the request by the state or a labeler. For example, if a request is received by the contractor on 7/7/15 (Tuesday), and the claims detail data is sent on 7/16/15 (Thursday), it will have been turned around in seven (7) business days.	For each claim detail file not sent out by the contractor in the state approved format within seven (7) business days of the request by the state or a labeler, the contractor shall credit against the Program’s administrative fee the amount of \$500 per day for each business day past the seven (7) business day standard.
A.2.3.e Accuracy of Drug Rebate Invoices	All	The contractor guarantees to produce invoices at a one hundred (100%) accuracy rate. The standard is calculated and reported on a quarterly basis.	Both the measurement methodology and measurement results must be approved in writing by DOH. All costs incurred for correcting and reissuing invoices found to contain material inaccuracies, as determined by DOH, will be the sole responsibility of the contractor.	For each quarter in which drug rebate invoices do not meet the one hundred percent (100%) accuracy rate, the contractor will pay \$20,000 for each .1% to 1.0% in which the contractor’s accuracy rate falls below one hundred (100%) as measured by the contractor utilizing a statistically valid measurement methodology.

Rebates continued

Requirements Category	Program(s)	Description	Specifications	Damages
<p>A.2.3.f Accounts Receivable - Rebates</p>	<p>All</p>	<p>The contractor guarantees to maintain and maximize the rate of drug rebate accounts receivable collection within 60, 90, and 180 days of invoicing for each program (Medicaid OBRA, Medicaid Supplemental Drug, EPIC and Diabetic Supply). The standard is calculated and reported on a quarterly basis</p>	<p>Maintain and maximize accounts receivable collection rates at 60, 90, and 180 days from the date each quarterly invoice is transmitted. The minimum standard for accounts receivable collection rates are as follows:</p> <p>60 days: 90% of invoiced amount collected</p> <p>90 days: 92% of invoiced amount collected</p> <p>180 days: 95% of invoiced amount collected</p>	<p>The calculation of the rate of total amount of rebates collected to total amount of rebates invoiced for each quarter is as follows:</p> <p>Total rebates received for the invoiced quarter divided by Total Rebates invoiced for the quarter</p> <p>For each quarter and for each program (Medicaid OBRA, Medicaid Supplemental Drug, EPIC and Diabetic Supply) in which the percentage of total amount of rebates collected to total amount of rebates invoiced do not meet the minimum standard, the contractor will pay \$5,000 for each .1% to 1.0% in which the collection rate falls below the standard as measured by the contractor and subject to review and approval by DOH.</p> <p>Maximum damages per quarter are \$360,000 with individual program limits as follows:</p> <p>60 days: \$50,000 90 days: \$25,000 180 days: \$15,000</p>

Rebates continued

Requirements Category	Program(s)	Description	Specifications	Damages
<p>A.2.3.g Rebates – Timeliness of Receipt processing</p>	<p>All</p>	<p>The contractor guarantees that at least ninety-seven percent (97%) of the time that payments will be posted within three (3) business days of receipt and one hundred percent (100%) posted within seven (7) business days of receipt. The standard is calculated and reported on a monthly basis.</p>	<p>Ninety-seven percent (97%) of rebate payments must be posted within three (3) business days of receipt and one hundred percent (100%) must be posted within seven (7) business days of receipt.</p> <p>For example, checks received on Monday and posted by Wednesday will have been posted in two (2) business days. Checks received on Friday and posted on the following Wednesday will have been posted in three (3) business days.</p>	<p>For each month in which ninety-seven percent (97%) of rebate payments are not posted within three (3) business days of receipt and one hundred percent (100%) of rebate payments are not posted within seven (7) business days, the contractor will pay damages of \$5,000.</p>
<p>A.2.3.h Drug Rebate Reporting</p>	<p>All</p>	<p>The contractor guarantees to provide accurate financial reporting to DOH according to the timeframe(s) mutually agreed upon. The standard is calculated and reported on a monthly basis.</p>	<p>Provide to DOH accurate financial reporting under the timeframe(s) mutually agreed upon and as referenced in section 3.2.8 of the RFP.</p>	<p>The contractor will pay \$200 per business day for which accurate financial reporting has not been provided to DOH according to the timeframe(s) mutually agreed upon.</p>
<p>A.2.3.i Outbound files</p>	<p>All</p>	<p>The contractor guarantees to process and send outbound files according to the schedule and timeframe(s) mutually agreed upon. The standard is calculated and reported on a monthly basis.</p>	<p>Process and send outbound files at a frequency as defined by the Department and as referenced in section 3.2.11 of the RFP.</p>	<p>The contractor will pay \$500 for each outbound file that has not been processed and sent according to the schedule and timeframe(s) mutually agreed upon.</p>

Rebates continued

Requirements Category	Program(s)	Description	Specifications	Damages
<p>A.2.3.j Labeler Applications</p>	<p>EPIC</p>	<p>The contractor guarantees that ninety-eight percent (98%) of all complete and error free labeler applications (labeler applications that are complete and do not require follow up for processing) will be processed and sent to DOH within two (2) business days of receipt.</p> <p>The contractor guarantees that one hundred percent (100%) of all error free labeler applications will be processed and sent to DOH within five (5) business days of receipt.</p> <p>The contractor guarantees that one hundred percent (100%) of all labeler applications that are not error free or complete will be processed within two (2) business days of receipt of the requested information.</p> <p>The standard is calculated and reported on a monthly basis.</p>	<p>Process to completion ninety-eight percent (98%) of all error free and complete labeler applications within two (2) business days of receipt.</p> <p>For example, a Labeler Application received on 7/10/15 (Friday) and processed and sent to DOH on 7/14/15 (Tuesday), will have been completed in two (2) business days.</p> <p>For applications that contain errors or are missing information, the contractor must:</p> <ul style="list-style-type: none"> • notify the labeler of what is required to complete the application within two (2) business days of receipt; • complete processing within two (2) business days of receipt of the requested information; and • maintain records and submit such records to the State on a monthly basis, to substantiate compliance. 	<p>The contractor will pay \$200 dollars per application per business day past the standard.</p>

Rebates continued

<p>A.2.3.k Rebate Disputes- Timeliness</p>	<p>All</p>	<p>The contractor guarantees that ninety (90%) of all disputes will be resolved within three (3) months of receipt and that one hundred percent (100%) of all disputes will be resolved within five (5) months.</p> <p>The standard is calculated and reported on a monthly basis and only applies to disputes that result from invoices generated by the contractor on or after the Contract Start date.</p>	<p>Ninety percent (90%) of disputes must be resolved within three (3) months. One hundred percent (100%) of disputes must be resolved within five (5) months.</p> <p>For example, if the contractor receives a payment dispute on 10/1/2015, and it is resolved on or before 1/1/2016, it will have been resolved within three (3) months</p>	<p>For each .1% to 1.0% below either the three (3) month or five (5) month standard, the contractor shall credit against the Program's administrative fee the amount of \$10,000</p>
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Drug and Diabetic Supply Rebate Administration and Management Services Rebate Program Statistics

Attachment Q

The number of ROSI or PQA we processed and inputted into the rebate system

Calendar Quarter	# of ROSI and PQA processed		
	Medicaid FFS & MCO	Supplemental	EPIC
Oct - Dec 14	2032	77	607
Jul - Sept 14	1901	85	565
Apr - Jun 14	2148	74	730
Jan - Mar 14	1183	71	545
Oct - Dec 13	1362	133	954
Jul - Sept 13	1221	133	565
Apr - Jun 13	1381	221	240
Jan - Mar 13	1100	153	235
Oct - Dec 12	1841	160	336
Jul - Sept 12	1616	154	307
Apr - Jun 12	1240	116	658

The number of invoices generated for each program

Invoice Quarter	FFS	MCO	Diabetic Supply	PDL	State Direct Contracting	EPIC
4Q2014	not available	not available	4	not available	terminated	255
3Q2014	423	478	4	49	terminated	259
2Q2014	428	471	4	49	1	256
1Q2014	429	468	4	56	2	261
4Q2013	417	499	4	58	2	255
3Q2013	410	460	4	61	2	265
2Q2013	410	456	4	60	2	266
1Q2013	406	450	4	59	2	268
4Q2012	410	438	4	61	2	27
3Q2012	433	459	4	65	2	54
2Q2012	429	469	4	66	2	134

Note: State Direct Contracting program terminated in 05/2014; last quarter to invoice new utilization was 2014Q2.

The number of checks received for the quarter

Calendar Quarter	# of Checks Received		
	Medicaid FFS & MCO	Supplemental	EPIC
Oct - Dec 14	656	42	194
Jul - Sept 14	648	40	154
Apr - Jun 14	855	44	203
Jan - Mar 14	393	29	134
Oct - Dec 13	809	30	236
Jul - Sept 13	527	35	130
Apr - Jun 13	594	30	71
Jan - Mar 13	523	30	47
Oct - Dec 12	623	34	113
Jul - Sept 12	747	28	97
Apr - Jun 12	604	30	179

The number of disputed invoices per quarter

Invoice Quarter	Medicaid		Diabetic Supply		PDL		State Direct Contracting	
	# of Labeler	# of NDCs	# of Labeler	# of NDCs	# of Labeler	# of NDCs	# of Labeler	# of NDCs
3Q2014	47	406	1	2	1	4	program terminated in 05/2014	
2Q2014	36	123			2	7	1	1
1Q2014	39	92			2	3	1	1
4Q2013	33	96			2	11		
3Q2013	75	342	0	0	0	0	0	0
2Q2013	32	267	0	0	3	15	0	0
1Q2013	40	90	0	0	3	14	0	0
4Q2012	79	391	2	7	1	9	0	0
3Q2012	89	392	0	0	0	0	0	0
2Q2012	79	495	0	0	5	12	1	1

Note: the number of disputed NDCs includes the unresolved decimal rounding, agreed upon unit and immaterial units.

Invoice Quarter	EPIC	
	# of Labeler	# of NDCs
3Q2014	8	23
2Q2014	24	51
1Q2014	12	40
4Q2013	16	34
3Q2013	12	50
2Q2013	17	30
1Q2013	13	24
4Q2012	0	0
3Q2012	0	0
2Q2012	1	7

Attachment R
 REBATE AGREEMENT
 Between
 The New York State
 Elderly Pharmaceutical Insurance Coverage (“EPIC”) Program
 and
ManufacturerName, Labeler Code XXXXX

This Agreement is made on _____ by and between The People of the State of New York, acting by and through the Program for Elderly Pharmaceutical Insurance Coverage having its principal office at 99 Washington Avenue, One Commerce Plaza – Room 720, Albany, New York 12210 (herein referred to as “EPIC”) and ManufacturerName, Labeler Code XXXXX, at _____ (hereinafter referred to as “Manufacturer”), and shall be interpreted pursuant to the laws of the State of New York. The 9-page 'Letter of Agreement' attached hereto, containing substantive terms and conditions of this EPIC REBATE AGREEMENT, is hereby incorporated into this AGREEMENT and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

AGREED ON BY MANUFACTURER:

By: _____

Signature

 Print Name

Title: _____

Date: _____

Labeler Code: XXXXXX

Federal ID No. _____

Manufacturer Name: ManufacturerName

STATE AGENCY SIGNATURES:

By: _____

Jason A. Helgeson
 Deputy Commissioner
 Office of Health Insurance Programs
 New York State Department of Health

Date: _____

State Agency Certification:

“In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

NYS Contract No.:

CORPORATION ACKNOWLEDGEMENT

STATE OF _____)

COUNTY OF _____)

On the _____ day of _____, 20__, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he/she is the (title)_____ of ManufacturerName the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he/she signed his/her name thereto by like order.

NOTARY PUBLIC
Affix Current Notary Stamp/Seal

LETTER OF AGREEMENT

LABELER CODE: XXXXX

MANUFACTURER NAME: ManufacturerName

WHEREAS, Article II, Title 3, Section 250, Subdivision 3 of the New York State Elder Law authorizes drug rebates for the EPIC program; and

WHEREAS, EPIC desires to implement a rebate agreement intended to decrease the cost of EPIC covered drugs; and

WHEREAS, EPIC agrees to make payments for drugs of the manufacturer utilized by EPIC enrollees; and

WHEREAS, the Manufacturer agrees to provide to EPIC a rebate for such utilized drugs;

NOW, THEREFORE, for and in consideration of mutual promises and covenants herein set forth, the parties agree as follows:

I. DEFINITIONS

Terms used in this Agreement shall have the same meaning as defined in the Secretary of Health and Human Services' manufacturer rebate agreement pursuant to Section 1927 of the Social Security Act (42 U.S.C.A, 1396 r-8), and shall include any amendments thereto and any future amendments in federal or state law or regulation that may be made from time to time, except as otherwise expressly provided herein:

- (a) "Covered Outpatient Drug" and "Covered Drug", as such term is defined in Section 241, subdivision 1 of the New York State Elder Law, have the same meaning for purposes of this agreement and mean a drug dispensed subject to a legally authorized prescription pursuant to Section 6810 of the New York State Education Law, and insulin, insulin syringes and insulin needles but shall not include any drug determined by the commissioner of the Federal Food and Drug Administration to be ineffective or unsafe.
- (b) "EPIC Utilization Information," means the information on the total number of units of each dosage form and strength of the Manufacturer's Covered Outpatient Drugs for which claims were approved and processed during a quarter under the New York State EPIC Program. This information is based on claims approved and processed by EPIC during a calendar quarter and not drugs that were dispensed during a calendar quarter (except it shall not include drugs dispensed prior to April 1, 1991). EPIC Utilization Information will include at a minimum for each product code, package size and unit of measure, the total number of claims, total allowed charges and total units dispensed. EPIC may, at its option, compute the total rebate

anticipated, based on its own records, but it shall remain the responsibility of the Manufacturer to correctly calculate the rebate amount.

II. MANUFACTURER'S RESPONSIBILITIES

In order for EPIC to authorize that a participating provider pharmacy receives payment for the Manufacturer's drugs under Elder Law Section 250, the Manufacturer agrees to the following:

- (a) Within thirty (30) days of the end of each calendar quarter, the Manufacturer will provide EPIC with an identical copy of the data required for all Covered Outpatient Drugs by the Centers for Medicare and Medicaid Services for the Medicaid drug rebate program pursuant to Section 1927 of the Social Security Act (42 U.S.C.A, 1396 r-8). For the initial data submission following execution of this Agreement, the manufacturer will provide EPIC with the Baseline Average Manufacturer Price (Baseline AMP) for all single source and innovator multiple source Covered Outpatient Drugs.

Data provided to EPIC by the Manufacturer shall contain the identical data elements, definitions, and specifications as the data required by the Centers for Medicare and Medicaid Services for the Medicaid drug rebate program pursuant to Section 1927 of the Social Security Act (42 U.S.C.A, 1396 r-8), and shall include any amendments thereto and any future amendments in federal or state law or regulation that may be made from time to time.

Manufacturers submitting data for six or more drug products agree to submit the data via diskette or electronic data interchange (EDI) in a format acceptable to EPIC. Manufacturers submitting data for five or fewer drug products may report the data via diskette, EDI or paper.

Manufacturers failing to submit required data in the agreed upon format within fifteen days of the due date without good cause as determined by EPIC shall be liable for a civil penalty amounting to the lesser of: \$1,000 for each day thereafter until the data is received by EPIC in the agreed upon format, or 2% of the rebate due for the quarter to which the data pertains.

- (b) The manufacturer shall calculate and, except as provided under Section IV (b) of this Agreement, make a timely rebate payment to EPIC for the Manufacturer's Covered Outpatient Drugs which have been approved and processed pursuant to the EPIC Program during the preceding quarter and which have been dispensed on or after the effective date of this Agreement, and for which a formula for calculating rebates is provided under subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future amendments in federal or state law or regulations that may be made from time to time affecting such rebate formula. The amount of rebate shall be calculated by multiplying the required rebate formulas by the total number of units of each dosage form and

strength dispensed. The Manufacturer shall utilize the following formulas to determine the amount of rebate payment due EPIC:

For all rebate periods and Covered Outpatient Drugs, the Manufacturer shall utilize the identical formula to determine the amount of basic rebate payment due to EPIC as used to determine the basic rebate pursuant to subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future amendments in federal or state law or regulations that may be made from time to time affecting such basic rebate calculation.

The manufacturer agrees that the total rebate owed to EPIC shall consist of the basic rebate pursuant to this paragraph increased by an additional rebate which shall be calculated as follows:

(i) For all covered drugs and rebate periods beginning after September 30, 2000 and ending before April 1, 2002 –

1) For each quarter for which a rebate is to be paid, the Average Manufacturer Price for each dosage form and strength of a covered drug shall be compared to the Average Manufacturer Price for the same drug for the Base Quarter and a percentage increase shall be calculated. The Base Quarter shall be the calendar quarter beginning October 1, 1998. 2) For each quarter for which a rebate is to be paid, the Consumer Price Index for All Urban Consumers for the month before the rebate quarter shall be compared to The Consumer Price Index For All Urban Consumers for the Base CPI Month and a percentage increase shall be calculated. The Base CPI Month shall be September 1998. 3) If the calculation under 1 is greater than the calculation under 2, the additional rebate amount per unit for each quarter shall be equal to the product of the difference between the calculations under 1 and 2, multiplied by the Average Manufacturer Price for the Base Quarter. If the calculation under 1 is not greater than the calculation under 2, the additional rebate amount per unit for each quarter shall be zero.

For new covered drugs approved by the Food and Drug Administration after the first day of the Base Quarter, the additional rebate shall be applied by substituting “the calendar quarter after the day on which the drug was first marketed” for “the Base Quarter” and “the month prior to the first month of the first full calendar quarter after the day on which the drug first marketed” for “the Base CPI Month”.

(ii) For rebate periods beginning after March 31, 2002 –

For each quarter for which a rebate is to be paid, the Manufacturer shall utilize the identical formula to determine the amount of additional rebate payment due to EPIC for single source and innovator multiple source drugs as used to determine the amount of additional rebate for single source and innovator multiple source drugs pursuant to subdivision (c) of Section 1927 of the Federal Social Security Act, including any amendments thereto and any future

amendments in federal or state law or regulations that may be made from time to time affecting such additional rebate calculation.

- (c) The Manufacturer certifies that Average Manufacturer Price (AMP), Best Price and Baseline AMP data reported to EPIC are identical to the data reported to the Centers for Medicare and Medicaid Services under Section 1927 of the Federal Social Security Act, if the Manufacturer is required to report such data to the Centers for Medicare and Medicaid Services.

Upon written request from EPIC, the Manufacturer agrees to provide detailed documentation to verify the accuracy of the AMP and Best Price data reported to EPIC. Such requests shall be made by EPIC in instances such as where there are significant or unusual changes in AMP or Best Price.

- (d) Except as provided under Section IV (b), the Manufacturer agrees to make such rebate payments within 30 days after receiving from EPIC the EPIC Utilization Information.

Rebate payments which are not made by the due date as required in this Section and Section IV(c) shall be subject to an interest charge calculated at a rate of 10 percent per annum.

- (e) The Manufacturer shall continue to make rebate payments to EPIC on all of its Covered Outpatient Drugs for the duration of this Agreement and EPIC Utilization Information reports that payment was made for that drug so long as such Covered Outpatient Drug was dispensed under the Manufacturer's NDC number, regardless of whether the Manufacturer continues to market that drug. If no sales are reported by the Manufacturer during a quarter, the AMP and Best Price last reported shall be used in calculating rebates.

III. EPIC'S RESPONSIBILITIES

- (a) EPIC each quarter must promptly notify pharmacies of those Manufacturers that have entered into a rebate agreement. EPIC must also promptly notify pharmacies regarding any changes to the list of Covered Outpatient Drugs.
- (b) EPIC will report EPIC's Utilization Information to the Manufacturer, within 60 days of the last day of each quarter subsequent to the effective date of this Agreement, and in a manner prescribed by EPIC. If EPIC does not submit a rebate invoice to the manufacturer within one year after the rebate period ends, the manufacturer is not required to pay a rebate on drugs approved and processed during that rebate period.
- (c) EPIC shall maintain electronic claim records for the most recent four quarters that will assist the Manufacturer in verifying the utilization information provided by EPIC. EPIC reserves the right to charge the Manufacturer an amount sufficient to cover the costs of providing such data.

IV. DISPUTE RESOLUTION

- (a) In the event that for any quarter a discrepancy in EPIC Utilization Information or payment is alleged by either party to this Agreement, the party must provide written notice of the discrepancy, by NDC number, to the other party. Discrepancies in utilization data must be reported to EPIC prior to the due date for payment of rebate for that quarter. Discrepancies in payments must be reported to the Manufacturer within 45 days following the due date for that payment.
- (b) If the Manufacturer in good faith disputes EPIC's Utilization Information, the Manufacturer shall pay EPIC that portion of the rebate amount claimed which is not disputed no later than the date of payment of the rebate for the quarter as prescribed in Section II(d) of this Agreement. If the dispute is resolved after negotiation, the balance due, if any, will be paid or credited by the Manufacturer or the State by the due date of the next quarterly payment as required in Section II(d) of this Agreement.
- (c) EPIC and the Manufacturer will use their best efforts to resolve any disputes within 60 days of receipt of the written notice of discrepancy. In the event that EPIC and the Manufacturer are not able to resolve a dispute within 60 days, EPIC shall appoint an administrative law judge who shall review written submissions by both parties and make a written finding thereon. Both EPIC and the Manufacturer shall implement this finding unless within 30 days the matter is brought before a court of competent jurisdiction.
- (d) Appropriate adjustments to rebate payments will be made no later than 30 days following the finding of the administrative law judge.
- (e) The Manufacturer has the right to audit EPIC utilization data using mutually agreeable audit procedures. Quarterly EPIC utilization data sorted by zip code of the dispensing pharmacies will be made available on demand for those Manufacturer's drugs which are among the top 300 most commonly used drugs. EPIC reserves the right to charge the Manufacturer an amount sufficient to cover the costs of providing such zip code specific information. The Manufacturer has the right of access to EPIC audit findings with respect to pharmacy purchasing of their products when such utilization information is under dispute.

V. CONFIDENTIALITY PROVISIONS

- (a) Information disclosed by the Manufacturer in connection with this Agreement is confidential and will not be disclosed, except as required by State and Federal law.
- (b) The Manufacturer will maintain the confidentiality of EPIC Utilization Information and use such information only for purposes approved by EPIC, as in furtherance of Elder Law, Article II, Title 3. If the Manufacturer audits this information or receives additional information on such data, that information shall also be held

confidential. The Manufacturer agrees to abide by applicable State confidentiality statutes, regulations and other properly promulgated policy.

- (c) Notwithstanding the non-renewal or termination of this Agreement for any reason, these confidentiality provisions will remain in full force and effect.
- (d) The Manufacturer hereby applies to EPIC for an exception to the disclosure of information under Public Officers Law, Article 6 (Freedom of Information) concerning information supplied by the Manufacturer for the determination of rebate amounts under this Agreement. The exceptions applied for are Public Officers Law Sections 87.2(c) and (d). The information if disclosed by EPIC would impair contract awards and cause substantial injury to the competitive position of the Manufacturer.
- (e) Both parties hereto shall inform and train, if necessary, its respective employees, agents, advisors, consultants and officials regarding the confidential nature of such data and shall cause such persons (including any board or committee) to keep such data and information confidential.

VI. NON-RENEWAL AND TERMINATION

- (a) This Agreement shall be effective for an initial period of one year from the date noted on Page 1 of the Agreement and shall automatically be renewed for additional terms of one year, unless the Manufacturer or EPIC gives written notice of intent not to renew the Agreement at least 90 days before the end of the contract period.
- (b) The Manufacturer may terminate the Agreement for any reason upon no less than 60 days prior written notice of the termination. Termination shall become effective the earlier of the first day of the next calendar quarter following the Manufacturer's 60 day prior notice of termination, or the ending date of the term of the Agreement if notice has been given, in accordance with Section VII(a).
- (c) EPIC may terminate the Agreement for violations of this Agreement or other good cause upon 60 days prior written notice.
- (d) If this rebate Agreement is not renewed or is terminated, EPIC and the Manufacturer agree not to enter into another rebate Agreement until a period of one calendar quarter has elapsed from the effective date of the termination, unless EPIC finds good cause for earlier reinstatement.

VII. GENERAL PROVISIONS

- (a) Notice and reports to the Manufacturer will be sent to the address as provided with this Agreement and updated upon Manufacturer notification to EPIC.

Notice and Reports to EPIC will be sent to:

Director
NYS Elderly Pharmaceutical Insurance Coverage (EPIC) Program
P.O. Box 15092
Albany, NY 12212-5092

- (b) In the event of a transfer in ownership of the Manufacturer, the Manufacturer shall assign its rights and responsibilities under this Agreement to the new owner, subject to the conditions specified in Section 2 of Appendix A.
- (c) Nothing in this Agreement will be construed to require or authorize the commission of any act contrary to law. If any provision of this Agreement is found to be invalid by a court of law, this Agreement will be construed in all respects as if any invalid or unenforceable provision was eliminated, and without any effect on any other provision.
- (d) Nothing in this Agreement shall be construed as a waiver or relinquishment of any legal rights of the Manufacturer or EPIC under the Constitution, the Social Security Act, other Federal law, or State law.
- (e) Any ambiguities in this Agreement shall be interpreted in the manner which best effectuates the statutory scheme.
- (f) This Agreement may be amended in writing subject to approval by the New York State Comptroller.
- (g) In the event that a due date falls on a weekend, federal or state holiday, the report or other items will be due on the first business day following that weekend, federal or state holiday.
- (h) The Manufacturer must submit changes to AMP or Best Price within three years after the quarter to which the data pertains. EPIC must submit changes to utilization within three years after the quarter to which the data pertains. Adjustments arising from fraud shall not be subject to this limitation.

VIII. APPENDIX

Appendix A is attached hereto and is made part of this Agreement. The Appendix A, "Standard Clauses for all New York State Contracts," supersedes any and all prior versions thereof heretofore applicable to this Agreement. If there is a conflict between Appendix A and any terms and conditions in the contract, then Appendix A will supersede these provisions.

**Drug and Diabetic Supply Rebate Administration RFP
Attachment S**

Rebate, EPIC Pricing Matrix January 2010 – Impact of Patient Protection and Affordable Care Act on Medicaid Drug Rebates

<p align="center"><u>04/02/2010</u></p> <p align="center">NYS EPIC Manufacturers Rebate Program</p>			For Rebate Periods: 2002Q2 – 2007Q3		For Rebate Periods: 2007Q4 – 2009Q4		For Rebate Periods: 2010Q1 – Present	
			<p align="center">Note: EPIC’s rebate calculation is identical to the federal Medicaid calculation for these periods.</p>					
Data Element Name	Data Source*	Required for	DEM < 10/1/1990	DEM = or > 10/1/1990	DEM < 07/01/2007	DEM = or > 07/01/2007	DEM < 07/01/2007	DEM = or > 07/01/2007
Baseline AMP		Innovator & Sole Source	<p>AMP for 1990Q3</p> <p>Reported as “Baseline AMP Data” on quarterly pricing data. (Must update quarterly for revisions.)</p>		<p>If DRA Base AMP is not present</p> <p>AMP for 1990Q3 for DEM < 10/01/1990</p> <p>Reported as “Baseline AMP Data” on quarterly pricing data. (Must update quarterly for revisions.)</p>		<p>If DRA Base AMP is not present</p> <p>AMP for 1990Q3 for DEM < 10/01/1990</p> <p>Reported as “Baseline AMP Data” on quarterly pricing data. (Must update quarterly for revisions.)</p>	
Base Quarter AMP	Quarterly pricing data	Innovator & Sole Source		<p>AMP for the first full quarter after the drug’s DEM.</p> <p>Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture Baseline AMP revisions.)</p>	<p>If DRA Base AMP is not present</p> <p>AMP for the first full quarter after the drug’s DEM.</p> <p>Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture Baseline AMP revisions.)</p>	<p>AMP for the first full quarter after the drug’s DEM.</p> <p>Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture Baseline AMP revisions.)</p>	<p>If DRA Base AMP is not present</p> <p>AMP for the first full quarter after the drug’s DEM.</p> <p>Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture Baseline AMP revisions.)</p>	<p>AMP for the first full quarter after the drug’s DEM.</p> <p>Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture Baseline AMP revisions.)</p>

**Drug and Diabetic Supply Rebate Administration RFP
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Rebate, EPIC Pricing Matrix January 2010 – Impact of Patient Protection and Affordable Care Act on Medicaid Drug Rebates

DRA Base AMP	Quarterly pricing data	Innovator & Sole Source			Reported as DRA Base AMP on quarterly (begin 4Q07 to 3Q08) product data. Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture DRA Base AMP revisions. Rebate re-calculation is PROSPECTIVE, not Retroactive**)		Reported as DRA Base AMP on quarterly (begin 4Q07 to 3Q08) product data. Requires interpretation of DEM & AMP data. (Must process all data, even beyond 3 years, to capture DRA Base AMP revisions. Rebate re-calculation is PROSPECTIVE, not Retroactive**)	
Baseline CPI-U	US Dept of Labor (DOL), Bureau of Labor Statistic (BLS)	Innovator & Sole Source	CPI-U for Sept. 1990 (always 132.7)	The CPI-U for the month prior to the first quarter after the drug's DEM.	DEM < 10/1/1990 CPI-U for Sept. 1990 (always 132.7) DEM > or = 10/1/1990 The CPI-U for the month prior to the first quarter after the drug's DEM.	The CPI-U for the month prior to the first quarter after the drug's DEM.	DEM < 10/1/1990 CPI-U for Sept. 1990 (always 132.7) DEM > or = 10/1/1990 The CPI-U for the month prior to the first quarter after the drug's DEM.	The CPI-U for the month prior to the first quarter after the drug's DEM.
Quarterly AMP	Quarterly pricing data	All drugs (I, S & N)	AMP for the quarter being calculated.					
Quarterly BP	Quarterly pricing data	Innovator & Sole Source	BP for the quarter being calculated.					
Quarterly CPI-U	Federal DOL BLS	Innovator & Sole Source	The CPI-U value for the month prior to quarter being calculated.					

**Drug and Diabetic Supply Rebate Administration RFP
Attachment S**

Rebate, EPIC Pricing Matrix January 2010 – Impact of Patient Protection and Affordable Care Act on Medicaid Drug Rebates

Innovator Code	Quarterly pricing data, if not provided use Exception file, then drug file	All drugs(I,S,N)	Required		Required		Required	
Date Entered Market	Quarterly pricing data then exception file then drug file	All drugs(I,S&N)	Required		Required		Required	
Base Qtr	Determined Based on Date Entered Market	Innovator and Sole Source	If DEM < 10/01/1990, Base Qtr = 1990-3	If DEM > or = 10/01/1990, Base Qtr is the first Full quarter after the DEM	If DEM < 10/01/1990, Base Qtr = 1990-3 or If DEM > or = 10/1/1990 and < 07/01/2007, Base qtr is the first full quarter after DEM	If DEM > or = 07/01/2007, Base qtr is the first full quarter after DEM	If DEM < 10/01/1990, Base Qtr = 1990-3 or If DEM > or = 10/1/1990 and < 07/01/2007, Base qtr is the first full quarter after DEM	If DEM > or = 07/01/2007, Base qtr is the first full quarter after DEM
Additional URA	Calculated based on CMS specifications	Innovator and Sole Source	Formula is as follows: Result1 = Baseline Amp / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0	Formula is as follows: Result1 = Base Quarter AMP / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0	Formula is as follows: Result1 = DRA Base AMP (or Baseline AMP, or Base Quarter AMP) / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0	Formula is as follows: Result1 = Base Quarter Amp / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0	Formula is as follows: Result1 = DRA Base AMP (or Baseline AMP, or Base Quarter AMP) / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0	Formula is as follows: Result1 = Base Quarter Amp / Baseline CPI-U Result2 = Result1 X Quarterly CPI-U If Result2 < Quarterly AMP then Additional URA= Quarterly AMP minus Result2. If Result2 >= Quarterly AMP, Additional URA = 0

**Drug and Diabetic Supply Rebate Administration RFP
Attachment S**

Rebate, EPIC Pricing Matrix January 2010 – Impact of Patient Protection and Affordable Care Act on Medicaid Drug Rebates

Basic URA	Calculated	All drugs(I,S,N)	For IC=N, Basic URA = Quarterly AMP X 11%, For IC= I or S, Basic URA = the greater of the two: Quarterly AMP X 15.1% or Quarterly AMP minus Best Price	For IC=N, Basic URA = Quarterly AMP X 11%, For IC= I or S, Basic URA = the greater of the two: Quarterly AMP X 15.1% or Quarterly AMP minus Best Price	For IC=N, Basic URA = Quarterly AMP X 11%, For IC= I or S, Basic URA = the greater of the two: Quarterly AMP X 15.1% or Quarterly AMP minus Best Price	For IC=N, Basic URA = Quarterly AMP X 13%, For IC= I or S, Basic URA = the greater of the two: Quarterly AMP X 23.1% or Quarterly AMP minus Best Price
TOTAL URA	Calculated	All Drugs(I,S,N)	For Non Innovators, Total URA = Basic URA. For I and S drugs, Total URA = Basic URA + Additional URA	For Non Innovators, Total URA = Basic URA. For I and S drugs, Total URA = Basic URA + Additional URA	For Non Innovators, Total URA = Basic URA. For I and S drugs, Total URA = Basic URA + Additional URA	For Non Innovators, Total URA = Basic URA. For I and S drugs, Total URA = Basic URA + Additional URA <u>URA cap at 100% of AMP</u> <u>URA can't be greater than 100% of AMP</u>

- **Health Care and Education Affordability Reconciliation Act of 2010 increases the minimum Federal Rebate for the following effective January 1, 2010:**
- **Phase 1 needs to be implemented as Day 1 after signing the agreement.**
 - **Single source and innovator multiple source drugs changed from 15.1 % to 23.1 percent (phase 1)**
 - **Generic drug changed from 11% to 13% (phase 1)**
 - **URA cap at 100% of AMP (URA can't be greater than 100% of AMP, (phase 1))**
- **The phase 2 change is targeted for implementation after CMS has published additional guidance.**
 - **17.1% base rebate for blood clotting and pediatric use products (phase 2)**
 - **Alternative additional rebate for “new formulations” of existing products (phase 2)**

Attachment T

EPIC Quarterly Rebate Cycle Flow Chart

