New York State
Office for People With Developmental Disabilities (OPWDD)
Division of Service Delivery

Andrew M. Cuomo
Governor

REQUEST FOR PROPOSAL (RFP)

ELECTRONIC HEALTH RECORD

Prepared by:
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Division of Service Delivery
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Section 1: Overview

1.1 Purpose

The New York State Office for People With Developmental Disabilities (OPWDD) is seeking proposals for a Vendor–hosted automated electronic health record for OPWDD's state-run and operated residential, clinic, and day service systems. Proposals are limited to Bidders with existing comprehensive electronic heath record systems that:

- Serve the unique needs of individuals with developmental disabilities.
- Are federally certified as meeting federal meaningful use (stage one and stage two) standards or are seeking federal certification.
- Have experience hosting an Electronic Health Record (EHR) application.
- Has been successfully implemented in at least one other organization serving individuals with developmental disabilities.
- Can be accessed by employees, individuals/families receiving services, and other healthcare providers.

The successful Bidder will be responsible for software customization, data conversion, maintenance, and OPWDD staff training in the use of the application. It is anticipated that OPWDD will implement the system initially in Region 3 (see http://www.opwdd.ny.gov/node/1211). This initial implementation in only Region 3 will be the pilot phase which will provide an opportunity to identify and remediate any potential problems or issues related to system implementation. Upon successful completion of the pilot phase, the Bidder will phase in implementation at remaining sites across New York State.

All data accessed under the contract with the successful Bidder must remain in the United States.

1.2 Background

The New York State Office for People with Developmental Disabilities (OPWDD) is a New York State executive agency responsible for the provision, regulation and oversight of services to New York citizens with developmental disabilities. Individuals served by OPWDD have a documented history of experiencing diagnoses which could include, but are not necessarily limited to, intellectual disabilities, cerebral palsy, epilepsy, neurological impairments, or autism spectrum disorders.

OPWDD operates as either a direct service provider through state operations or oversees and monitors services delivered by an extensive network of more than 800 not-for-profit service providers who employ more than 70,000 people. More than 126,000 New York citizens are served by either state operated, voluntary, or the combined public/private service system. OPWDD has extensive investment in stakeholder groups comprised of self-advocates, families, advocates, state and local human service agencies, state and local government, and the business community. It is overseen by a host of federal, state, and other oversight agencies.

The OPWDD State Operations system is divided into six regions, each having two districts with the exception of the Region 5 which covers the New York City area (see http://www.opwdd.ny.gov/node/1211). There are approximately 22,000 OPWDD employees, of which approximately 50-75% will directly access and utilize an EHR, although employee user roles and access authorization will vary by job function.

As a direct care provider, OPWDD performs a major role within New York's service system. Approximately 34,000 individuals receive services solely from OPWDD and an additional 28,000 individuals' services plans involve both OPWDD and voluntary agency programs. Settings in which OPWDD services are provided include:

- Home: Many individuals served by OPWDD chose to live at home which could include their own home, apartment, or the home of a family member. Services and supports are placed into the home so the person can live as independently as possible. The types of services and supports provided vary and are based on the individual's needs.

- Family Care- Certified Private Home: Individuals may choose to live in a home that is certified through OPWDD. Services can be provided by a family member or a house parent with other providers offering supports and services as needed.

- Supervised Community Residence: In this environment individuals have access to a supervised and supportive environment that can include staff available up to 24 hours a day depending on the individual's need. The residence offers a "home like" atmosphere with supports offered so individuals can access independent and community-integrated living. The extent of the supports provided varies depending on the individual's needs.

- Individualized Residential Alternative (IRA): Individuals served through an IRA reside in a community home where they receive room, board, and individualized services. These programs offer 24 hour staff support and supervision.

- Intermediate Care Facility (ICF): Individuals served through an ICF typically cannot live independently and therefore have a need for supervision, structure, and support that is more intensive than in other settings. Individuals receive a variety of therapies and day services as well as 24 hour staff support and supervision. Intensive clinical and direct support services are provided to assist with adaptive, medical, and behavioral needs.

- Article 16 Clinics: Article 16 Clinics provide a wide array of clinical services to individuals. Clinical services could include rehabilitation/habilitation services, medical/dental services, pharmacy, medication management, and health care services which could include nursing, dietetics and nutrition, occupational and physical therapy (OT/PT), speech and language pathology, audiology, podiatry, psychology, and rehabilitative counseling. Clinical services support an individual so they can live independently and remain in their current community based residential setting.

- Day Habilitation: Day Habilitation and day services are offered to individuals who may or may not reside in a residential setting. Services support the skills of self-help and advocacy, socialization, adaptive skills, communication, travel to access the community, leisure and recreation, adult education, etc. Services support independent living and community inclusion. Prevocational skills, supported employment, and general day habilitation services can be supported in this setting.

The complexities of managing this vast system, even in a relatively static environment, are significant. Adding to these complexities, OPWDD is committed to transformational goals designed to make its outcomes, supports and services, business processes, administrative structure, and decision-making capabilities more person-centric and streamlined. These transformation goals involve transforming the traditional service delivery model to a system with a heightened ability to offer more opportunities for self-direction including; self-directed living arrangements, allowing the individual and circle of support to make choices related to the types of interventions and services utilized, designing individualized and customized services, providing individuals opportunities to be part of and contribute to their community, and the provision of services that are community-integrated.

1.3 Current Technology Environment

Currently, record keeping is primarily a paper-intensive, manual effort. There is inconsistency in the type, form, and format of records across state-operated services. Personal computers are used for word processing and, to a limited extent, for development of Microsoft ACCESS applications and various data

collection forms that are then printed and stored in an individual's record. These ACCESS applications and forms may differ from region to region and can vary by employee.

Standardized throughout OPWDD programs are the following OPWDD software applications and tools.

- **The OPWDD Billing System (TABS)** generates electronic Medicaid claims to the fiscal agent for the New York State Department of Health (DOH). The TABS tracks the claims submitted to the fiscal agent, the Computer Science Corporation (CSC), and the payment information related to those claims. This all-Payor Billing System includes a Financial Eligibility Database, automated Payor Selection functionality, Liability Distribution module, and customized Billing Account Management software. The system also generates payment claims to third party insurers and charges to State appropriations. Information from this system also feeds approximately 40 sub-systems, including provider directories, quality assurance, incident reporting, etc. The proposed solution must be able to interface in near real-time with the OPWDD TABS, a legacy application performing numerous business operations and running on the Open VMS 8.4 Operating System, utilizing an Intersystem Caché 2013.1 database.

- **The OPWDD CHOICES System** houses a wide range of information about each service recipient. Information is entered into CHOICES around the initial time of assessment and information is updated periodically over the course of time. The type of information housed in CHOICES includes, but is not limited to, eligibility information and criteria, findings from an assessment of needs and identification of services that support these needs, and an individual's service plan which outlines supports and services that will be made available to help the individual to live as independently as possible. Information is entered into CHOICES through data entry into text fields or through the storage of scanned documents relating to an individual's service plan.

- **The Incident Report and Management Application (IRMA)** is used to track incidents that occur at both state-operated and voluntary programs. IRMA is a secure internet application that captures incidents or events, such as elopements or occurrences that result in individuals being displaced from their living environment. Agencies, agency directors, and OPWDD central office incident management and quality monitoring staff monitor IRMA data to ensure that incidents are responded to appropriately and to support quality assurance. Recent developments also enable IRMA to communicate with an incident tracking system utilized by the Justice Center. This enables OPWDD and the Justice Center to efficiently transmit data on incidents involving allegations of abuse or neglect. **The Restrictive Intervention Application (RIA)** is a component of IRMA and tracks the use of restrictive interventions (e.g. restrictive physical interventions, use of emergency medications (STAT), use of as needed medications (PRN), and time out). RIA provides a means for OPWDD state operated and voluntary providers to track and trend the use of restrictive interventions for quality assurance purposes. It is critical that there is interoperability between RIA and the EHR to avoid the need for duplicative entry of data. If the use of a restrictive intervention is entered into the EHR, this data must be populated into RIA. However, OPWDD does not anticipate replacing IRMA or RIA at this time.

- **The Medical Appointment Tracking System (MATS)** is a browser-based appointment tracking system. The system provides nursing staff, and other relevant users like a house manager, with reminders or alerts to make appointments for the individual, reminders to keep an appointment, and offers reports pertaining to appointments attended and/or needed. The system also supports appointment tracking as nurses can enter scheduled appointments, modify existing appointments, and maintain a consultation form that staff and the individual bring to appointments to support continuity of care. The EHR must provide a mechanism to track medical appointments and provide a "face sheet" that includes the individual's current diagnosis, medical needs, medication orders and prescriptions, allergies, etc. to ensure that relevant health information is communicated to care providers who do not work for OPWDD.

In addition to the above referenced applications, OPWDD's technical infrastructure consists of a variety of operating systems, databases and applications that use multiple interfaces.

- **Architecture:**
  - **Systems:** Intel-based, AIX, Tru64, Linux, HP-UX, VMS clusters, VMS stand alone and a VMS Test Network within an internal network and external DMZ zones
  - **Backups:** VMS tapesys, Unix sysback, Veritas and Oracle RMAN
  - **Robotics:** StorageTek, IBM, VMS and Multiple standalone backup storage devices

- **Applications:**
  - Oracle Forms 9i
  - InterSystems Caché /MUMPS
  - Java non-proprietary jsp /servlets
  - Various 3rd Party

- **Products:** OPWDD has a broad range of products, some of which include the following:
  - Oracle 9i, 10g, 11g databases, SQLServer 2005, 2008, and 2008R2
  - Oracle 10g Application Servers
  - Sun One and IIS web servers
  - Outlook Exchange; Pathworks File Share
  - Microsoft Exchange
  - Intersystem Cachè database (MUMPS programming language)
  - LDAP and Active Directory
  - Crystal Reports
  - McAfee
  - Citrix
  - VMWare
  - Microsoft Dynamics
  - WebSphere 8.5
  - Adobe Professional

Section 2: Procurement Information and Requirements

2.1 Title of the RFP

This RFP shall be identified as the NYS OPWDD Electronic Health Record (EHR) proposal.

2.2 Issuing Agency

This RFP is being issued by the New York State Office for People With Developmental Disabilities (OPWDD).

2.3 Contract Duration

This Agreement shall commence upon the approval of the New York State Comptroller's Office (OSC) except that, by mutual agreement, the parties may, retroactively or prospectively as the case may be, delay or advance the starting date by a period of up to thirty calendar days subject to OSC approval and shall continue for the implementation period plus five (5) years, subject to the termination provisions contained in the document titled *Standard Clauses for New York State Contracts* (Appendix A*)* of this RFP and section 2.47 titled *Termination*. A CPI-U adjustment, U.S. City Average, all items, index based on the prior contract year, annual September to September, may be requested by the vendor for years 3,4, and 5 of this contract. The adjustment must not exceed 3% annually, and must be requested by the contractor.

The OPWDD has the option, at its sole discretion and subject to the approval of the Office of the State Comptroller, to extend the date of this Agreement for up to one five (5) year period, at which time a CPI-U adjustment, U.S. City Average, all items, index based on prior contract year, annual September to September can be made available upon the request of the contractor. The adjustment must not exceed 3% annually, and must be requested by the contractor.

2.4 Closing Date for Bidders' Questions

Specific questions concering the RFP shall be submitted by letter or email to the contact listed in Section 2.7 prior to the conference so that the questions can be answered at the conference to the degree possible. Each inquiry should cite the relevant proposal section and paragraph number. No telephone calls will be accepted. Written questions will be accepted until 5:30PM on September 26, 2014.

Additional questions will be permitted at the conference. Answers to questions submitted and questions from the conference will be posted at:

http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities

2.5 Bidders Conference

A mandatory Bidder's conference is scheduled for October 6, 2014 and will take place at the NYS Office for People With Developmental Disabilities, Central Office, 44 Holland Avenue, Room 4B, Albany, New York at 9:00am. Bidders must attend this conference in person. Bidder attendance is mandatory; attendance will be taken.

2.6 Date for Response to Questions

The answers to all questions will be in the form of a formal addendum which will be annexed to and become part of this RFP and any ensuing contract. All answers to questions of a substantive nature, as well as copies of the questions, shall be posted to OPWDD's internet site at http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities The date for OPWDD's response to questions is October 15, 2014 close of business.

2.7 Primary Point of Contact

New York State Finance Law (SFL) §139-j restricts contact by Vendors with any governmental entity regarding procurement contracts. Subject to certain exceptions set forth in SFL §139-j (3), contacts between Vendors and governmental entity personnel, other than the governmental entity's designated contact person(s), are prohibited during the restricted period of the governmental procurement.

Pursuant to State Finance Law §§139-j and 139-k, this procurement includes and imposes certain restrictions on communications between OPWDD and a Vendor during the procurement process. A Vendor is restricted from making contacts from the earliest notice of intent to solicit bids through final award and approval of the procurement contract by the 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 identified in this RFP. OPWDD employees are required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Vendor pursuant to these two statutes. Certain findings of non- responsibility can result in rejection for contract award. In the event of two findings within a four-year period, the Vendor is debarred from obtaining governmental Procurement contracts. Further information about these requirements can be found on the Office of General Services (OGS) website:

http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html

State Finance Law also requires that every procurement over $50,000 include a certification by the Vendor that all information provided to the agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past four years based on (i) impermissible contacts or other violations of State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.

The Primary Point of Contact for **technical** questions regarding this procurement:

Mr. Michael Juzwak
New York State Office of Information Technology Services
500A Balltown Road
Schenectady, NY 12304
E-mail Address: Michael.Juzwak@its.ny.gov

The Primary Point of Contact for **clinical, program or service delivery** related questions regarding this procurement:

Dr. Virginia Scott-Adams
New York State Office for People With Developmental Disabilities
Division of Service Delivery
44 Holland Avenue, Fourth Floor
Albany, New York 12229-0001
E-mail Address: Virginia.L.ScottAdams@opwdd.ny.gov

The Primary Point of Contact for **contract** related questions regarding this procurement:

Ms. Lisa F. Davis
New York State Office for People With Developmental Disabilities
Contract Management Unit
44 Holland Avenue, Third Floor
Albany, New York 12229-0001
Email: Lisa.F.Davis@opwdd.ny.gov

Questions concerning this RFP **must** be received by OPWDD in accordance with the timetable included in this RFP (see section 2.8). **All questions must be submitted via electronic mail, or standard US**

mail, to the appropriate Technical, Program and/ or Contract contact as stipulated above. Each question should, to the degree possible, cite the specific RFP section and paragraph number to which it refers. The OPWDD will distribute its official answers to the questions by the date indicated in the Procurement Timetable, see below, to all prospective Vendors having filed a Letter of Intent.

The terms and conditions contained in *Appendix A – Standard Clauses for New York State Contracts* attached herein and the requirements and specifications outlined in this RFP provide the terms and conditions for such contract. Vendors are strongly encouraged to conduct a thorough review of the Standard Clauses for New York State Contracts and the requirements and specifications set forth in this RFP. Vendors MUST raise any potential exceptions to the terms and conditions, specifications, and requirements during the Questions and Answer phase of the procurement. Vendors submitting proposals that contain material changes to the terms and conditions, specifications, and/or requirements set forth throughout this RFP may be disqualified. The State reserves the right, in its sole discretion, to determine materiality of the Vendors stated exceptions.

2.8 Procurement Timetable

Release of RFP	September 3, 2014
Letters of Intent	September 26, 2014
Closing Date for Submission of Written Questions	September 26, 2014
Bidders Conference	October 6, 2014
Official Answers to Written Questions Posted	October 15, 2014
Closing Date for Receipt of Proposals/Bid Opening	**3PM - Nov. 3, 2014**
Proposal Evaluation**	
o Technical and Cost Evaluation	Nov. 4 –Nov. 14, 2014
o Oral Presentations/Interviews	Nov. 17 – Nov. 25, 2014
Preliminary Contract Award Announcement**	**December 5, 2014**
Estimated Control Agency Approvals**	February 2, 2015
Contract Start Date**	February 2, 2015
Pilot Start Date**	June 1, 2015
Successful Pilot Completion**	**September 2, 2015**
Successful Full System Implementation**	**September 2, 2016**

****NOTE:** These dates are target dates and are subject to change at OPWDD's sole discretion.

2.9 Letters of Intent

Any Vendor intending to submit a proposal in response to this RFP may submit a letter of intent (see Attachment 1). If a letter is submitted, it must be submitted to Virginia Scott-Adams, as identified in Section 2.7.

The letter of intent must reference the title of this RFP and must be submitted in accordance with the timetable in Section 2.8, *Procurement Timetable*. The letter of intent should provide the current mailing address, e-mail address, and telephone number(s) for the person who will be the Vendor's designated point of contact throughout the duration of this RFP. Vendors must notify Virginia Scott-Adams of any and all changes relative to the point of contact provided in the letter of intent. OPWDD is not responsible for any miscommunications that occur throughout this RFP process as a result of a Vendor's failure to provide notification of changes in the point of contact information.

Subsequent to the date for submission of letters of intent, prospective Vendors who do not submit letters of intent will not be considered "Vendors/ Offerors" as that term is used herein and will not be advised of subsequent changes in the scope of this RFP. Submitting a letter of intent is required in order for a prospective Vendor to submit a proposal. A prospective Vendor which elects not to submit a proposal but wishes to be kept advised of subsequent developments in this procurement (including changes to the RFP) can make arrangements in such regard by submission of a written request to Lisa F. Davis (see Section 2.7).

Notification of amendments to the RFP and official responses to vendor questions will be posted on the OPWDD website at:

http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities

2.10 Proposal Delivery Instructions

Submission of the Bidder's proposal, with submission of a cover letter, shall be construed by OPWDD as the Bidder's acceptance of the procedures, evaluation criteria, and other administrative instructions in the RFP.

Bidders must submit one (1) original and seven (7) copies of their proposal and the required Appendices and Exhibits. The original and each copy of the Cover Letter must have original signatures. In addition, (2) two electronic copies of **only** the Technical Proposal should be submitted on USB flash drives (one copy on each drive) in a Microsoft Office compatible format.

A proposal must consist of the following separate documents:

- **Cover Letter:** (see Section 5 of this RFP).
- **Technical Proposal:** (See Section 6 of this RFP). The cover of each copy is to clearly identify the Bidder's name, the title of this Request for Proposal and the wording, "Technical Proposal".
- **Cost Proposal**: (See Section 7 of this RFP). All copies of the Cost Proposal must be packaged separately from copies of the Technical Proposal and labeled "Cost Proposal".

Complete proposals must be submitted by 3:00PM eastern daylight time on November 3, 2014 addressed to:

Ms. Lisa F. Davis
New York State Office for People With Developmental Disabilities
Contract Management Unit
44 Holland Avenue, Third Floor
Albany, New York 12229-0001

Complete proposals must have a label on the outside of the package that states the following:

PROPOSAL ENCLOSED (Bold, Large Print, All capital letters);
TITLE OF THIS RFP;
BIDDER'S NAME AND ADDRESS; and
PROPOSAL SUBMISSION DATE.

If using a commercial delivery company that requires the use of their shipping package or envelope, the proposal must be placed within a sealed envelope labeled as detailed above and this envelope must be put into the commercial delivery company's envelope. This will ensure that the proposal is not prematurely opened. Non-Compliance with the submission of proposals as required by this section may result in disqualification of the offering.

Bids submitted via Facsimile or E-mail will NOT be accepted.

All proposals and accompanying documentation become the property of OPWDD and ordinarily will not be returned.

2.11 Late Bids

Proposals not received by the time indicated in Section 2.8 titled *Procurement Timetable* may not be opened at the sole discretion of OPWDD.

2.12 Bidder Covenant

In submitting a proposal, the Bidder covenants that they will not make any claims for, or have any right to, damages for any misinterpretation or misunderstanding of the specifications or because of any lack of information.

2.13 Offeror/ Vendor Presentations

Oral presentations will be required as outlined in Section 8 of this RFP.

2.14 OPWDD Rights Declaration

The OPWDD reserves the right to:

- Reject any or all proposals received in response to this RFP.
- Amend, withdraw or reissue a modified version of this RFP.
  NOTE: Any such modification issued on or before the due date for proposals shall go to all entities that have requested a copy of this RFP and/or submitted a letter of intent; after that date (or an amended date, as the case may be), notification will be only to Vendors who have submitted proposals or letters of intent. The OPWDD's right to issue modifications of this RFP permits any addition or deletion of requirements as the OPWDD may deem appropriate.
- Utilize any and all ideas submitted in the proposals received, unless legal patent or proprietary rights cover those ideas. Selection or rejection of any proposal does not affect this right.
- Disqualify any Vendor whose conduct or proposal fails to conform to the requirements of this RFP.
- Direct any Vendor, or number of Vendors, to submit proposal modifications addressing subsequent RFP amendments.
- Accept all or part of a selected Vendor's proposal.
- Eliminate any requirement(s) unmet by all Vendors upon notice to all parties submitting proposals.
- Make typographical corrections to proposals, with the concurrence of the Vendor.
- Correct computational errors with the written concurrence of the Vendor.
- Waive procedural technicalities in proposals received, upon notification to the Vendor.
- Change any of the scheduled dates, including start dates, stated herein upon notice to the Vendors.
- Request Vendors to clarify their proposal and/or submit additional information pertaining to their proposal.
- Re-solicit offers from the vendor community by re-publishing and re-advertising this RFP at any time.
- The OPWDD shall have unlimited rights to disclose or duplicate, for any purpose whatsoever, all information or other work product developed, derived, documented or furnished by the Vendor under any Agreement resulting from this RFP.

2.15 Right to Information

1. Except as otherwise provided herein, the ideas, concepts, know-how or techniques developed during the course of this Agreement by the selected vendor/contractor's personnel, or jointly by the selected vendor/contractor and OPWDD, can be used by either party in any way it may deem appropriate.

2. Each invention, discovery, or improvement and specifically, new software programs and associated documentation as well as modification, improvements and enhancements to existing software which includes ideas, concepts, know-how or techniques developed in the course of this Agreement shall be treated in accordance with the following general principles:

a. If a modification, improvement or enhancement to software generally licensed by the Contractor to end-users occurs, then such modifications, improvements, and enhancements shall be the property of the Contractor and the Contractor hereby grants to OPWDD a non-transferable (except to sibling State agencies to OPWDD), non-exclusive, irrevocable and royalty-free license to use and any necessary software or instruction manuals.

b. If a modification, improvement, or enhancement to application software which has not been licensed to OPWDD by the Contractor occurs and is used by the Contractor in its provision of services, then such modifications, improvements and enhancements shall be the property of the Contractor.

c. If a modification, improvement or enhancement to application software which is owned by OPWDD and has been licensed to the Contractor occurs, then such modifications, improvements, and enhancements shall be jointly owned, without right of accounting.

d. If a modification, improvement or enhancement to application software developed exclusively by the Contractor for use by OPWDD occurs, then such modifications, improvements, and enhancements shall be jointly owned without right of accounting. In all other cases, such modification, improvements and enhancements shall remain the sole property of the Contractor.

e. If a new application software program for OPWDD with development costs partially funded by the Contractor occurs, then such application software program shall be jointly owned, without right of accounting.

f. If a derivative of existing applications software, that is the property of the Contractor with development costs funded in whole or in part by OPWDD occurs, then such derivative application software shall be jointly owned, without right of accounting.

g. If a new application program for OPWDD which has been entirely funded by OPWDD occurs, then such new application software shall be the property of OPWDD.

h. If a new application software program for OPWDD with development costs partially funded by the Contractor or derived from the existing application software which is the property of the Contractor occurs, then such applications software program shall be jointly owned, without right of accounting.

3. Notwithstanding the provisions set forth above, the parties agree that the United States Department of Health and Human Services shall be granted a royalty-free, non-exclusive and irrevocable license to produce, publish or otherwise use such documents and software and to authorize others to do so for government purposes to the extent that the services which resulted in the production of such documents and software are Federally funded. The grant excludes the proprietary products, documentation, materials and information (and derivative works thereto) of the Contractor, the Contractor's sub-contractors and third-party product providers.

4. OPWDD acknowledges that the provision of Contractor services under this Agreement does not create a license by OPWDD to use any software generally licensed by the Contractor to end-users and if any such software is to be used in connection with the provision of Services hereunder, a separate license is necessary. Ownership of software modifications, improvements, and enhancements does not create any interest in or right to use underlying software, absent ownership of the underlying software or an express conveyance of rights or grant license from the party owning the underlying software.

5. The above provisions shall not preclude the Contractor from developing materials, including software, which are similar to those furnished to OPWDD in the course of providing services under this Agreement.

2.16 Incurred Costs

Neither the State of New York nor OPWDD is liable for any costs incurred by Vendors in the preparation, production, and submission of the Bidder's proposal. Neither the State of New York nor OPWDD is liable for any costs incurred by Vendors/Bidder for the preparation or execution of any activities including; but not limited to, any benchmark demonstration, simulation, or laboratory session occurring prior to an approval of an executed contact by the Comptroller of the State of New York.

2.17 Content of Proposals

To be considered responsive, a Vendor must submit complete proposals that satisfy all the requirements stated in this RFP. Proposals not conforming to the outline, content, and sequence requirements specified in of this RFP may be rejected.

2.18 Period of Validity

The Vendor's Proposal must include a statement as to the period during which the provisions of the proposal will remain valid. A minimum of 270 calendar days are required from the Closing Date for Receipt of Proposals as specified in this RFP.

2.19 Public Information Requirements

All of the proposals, upon submission, will become the property of the OPWDD. The OPWDD will have the right to disclose all or any part of a proposal to public inspection based on its determination that disclosure of all or any part of the proposal will serve the public interest. Prospective Vendors are further advised that, except for trade secrets, other proprietary information and certain personnel information (which the OPWDD has reserved the right to disclose), all parts of proposals must ultimately be disclosed to those members of the general public making inquiry under the New York State Freedom of Information Law (Public Officers Law, Article 6), although proposal contents cannot ordinarily be disclosed by the OPWDD prior to bid award.

Should a Vendor wish to request exception from public access to information contained in its proposal, the Vendor must specifically identify the information and explain in detail why public access to the information would be harmful to the Vendor. Use of generic trade secret legends encompassing substantial portions of the proposal or simple assertions of trade secret interest without substantive explanation of the basis therefore will be regarded as non-responsive to this requirement for specificity and explanation. Information relating to Contractor price submissions, including commercial, book or list pricing, applicable discounts or final bid price and like information, shall not be entitled to confidentiality protection whether or not submitted or designated as proprietary to Contractor. Non-responsive requests for exception from public access will not be considered by the OPWDD in the event a Freedom of Information request for proposal information is received.

2.20 Notification of Award

After selection of the successful Vendor, all Vendors will be notified of the acceptance or rejection of their proposals. News releases relating to this RFP or resulting contract shall not be made by any Vendor or its agent without prior approval of OPWDD.

2.21 Debriefing Procedures

Upon OPWDD's receipt of a written request within 30 calendar days of the award of this RFP, OPWDD shall provide a debriefing to any unsuccessful Vendor that responded to this RFP regarding the reasons that the proposal or bid submitted by the unsuccessful Bidder was not selected for an award. The discussion will be limited to only the evaluation results as they apply to the proposal of the Bidder receiving the debriefing.

2.22 Prime Contractor Responsibilities

In the event the selected Vendor's proposal includes the provision of goods or services by another firm or manufacturer, it shall be mandatory for the selected Vendor to assume full responsibility for the delivery, installation, maintenance and support services for such items described in the proposal. Should the selected Vendor seek external financing, the State reserves the right to approve the assignment of the contract for financing purposes. In any event, OPWDD will contract only with a Vendor, not the Vendor's financing institution or subcontractors. OPWDD shall consider the selected Vendor to be the sole contactor with regard to all provisions of the contract resulting from this RFP.

Prior written approval by OPWDD shall be required for all subcontracts entered into by any Vendor selected under this RFP. Copies of subcontracts must be supplied to OPWDD prior to their approval. Any subcontract related to performance of the contract resulting from this RFP shall be subject to the provisions of law set forth in Sections 220, 220-d, and 220-e of the Labor Law of the State of New York, Articles 15 of the Executive Law of the State of New York, and to the provisions set forth in Appendix A - Article 5 of this RFP.

2.23 Contract

The OPWDD will enter into a contract with the Vendor selected as a result of this RFP. Appendix A of this RFP provides the terms and conditions of the Standard State contract. The proposal shall be submitted with the understanding that only the acceptance in writing by a designated duly authorized OPWDD representative with the approval of the Attorney General, the Office of the State Comptroller and, when appropriate, the Division of the Budget shall constitute a contract between the Successful Bidder and the State of New York.

2.24 Award Contract in Event of Unsuccessful Negotiation

Should OPWDD be unsuccessful in negotiating a contract with the selected Bidder within a reasonable time frame as determined by OPWDD, then OPWDD may begin contract negotiations with the next ranked Bidder in order to serve the best interest of the State of New York.

2.25 Federal Requirements

All contracts awarded by a recipient, including small purchases, shall contain the following provisions as applicable where the cost of the contract is treated as a direct cost of an award:

1. *Equal Employment Opportunity* - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276c)* - All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti- Kickback" Act, 18 U.S.C. § 874, as supplemented by Department of Labor regulations, 29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States." The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. *Davis-Bacon Act, as amended (40 U.S.C. §§ 276a to a-7)* - When required by Federal program legislation, all construction contracts awarded by the recipients and sub-recipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act, 40 U.S.C. §§ 276a to a-7, and as supplemented by Department of Labor regulations, 29 CFR part 5, "Labor

Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the HHS awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333)* - Where applicable, all contracts awarded by recipients in excess of $100,000 for construction contracts and for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327-333, as supplemented by Department of Labor regulations, 29 CFR Part 5. Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement* - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401. "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any further implementing regulations issued by HHS.

6. *Clean Air Act (42 U.S.C. §§ 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq.)* - Contracts and sub-grants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. §§ 1251 et seq. Violations shall be reported to the HHS and the appropriate Regional Office of the Environmental Protection Agency.

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352)* -Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient. (See also 45 CFR Part 93).

8. *Debarment and Suspension (E.O.s 12549 and 12689)* - Certain contracts shall not be made to parties listed on the nonprocurement portion of the General Services Administration's "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." (See 45 CFR Part 76.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and

contractors declared ineligible under statutory authority other than E.O. 12549. Contractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principal prior to award.

2.26 Multi-Agency and Local Human Services District/County Use

Any contract entered into pursuant to an award resulting from this RFP shall contain a provision that grants the option to extend the terms and conditions of such contract to any other State agency in New York State as well as to the local social service districts in New York State providing human services. See Appendix A - *Standard Clauses for New York State Contracts* in Appendix A1 -*Contract Terms and Conditions* of this RFP.

2.27 Order of Precedence

In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) the order of precedence shall be: (1) Appendix A- *Standard Clauses for All Contracts with New York State*; (2) the contract and appendices; (3) This RFP; and (4) Bidder's proposal.

2.28 Contacts with Employees

Prospective Vendors may not approach OPWDD personnel with offers of employment during the procurement period. Any Vendor who is aware of an OPWDD employee who is considering employment with the Vendor must advise Lisa F. Davis via e-mail forthwith (see Section 2.7 for contact information).

2.29 Public Officers Law

All Vendors and their employees must be aware of, and comply with, the requirements of the New York State Public Officers Law, and all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State. In signing the proposal, each Vendor guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales, contracts, services, offers and relationships involving the State and/or State employees. Failure to comply with those provisions may result in disqualification from the bidding process and in civil or criminal proceedings as authorized by law.

2.30 Omnibus Procurement Act

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:

Empire State Development Corporation
Division for Small Business
30 N. Pearl Street
Albany, New York 12245

Phone: 1(800) 782-8369
http://www.esd.ny.gov

Bidders are hereby notified that if their principal place of business is located in a state that penalizes New York State vendors, and if goods or services they offer will be substantially produced or performed outside of New York State, the Omnibus Procurement Act 1994 amendments (Chapter 684, Laws of 1994) require that they be denied placement on Bidders mailing lists and contracts for which they would otherwise obtain.

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

Empire State Development Corporation
Minority and Women's Business Development Division
30 N. Pearl Street
Albany, New York 12245

Phone: 1(800) 782-8369
http://www.esd.ny.gov

The Omnibus Procurement Act of 1992 requires that by signing a bid proposal, Contractors certify that whenever the total bid amount is greater than one (1) million dollars:

1. The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State.

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

3. 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.

2.31 Information Technology Services Review

Prior to award selection, this RFP and all responses thereto are subject to review by the New York State Office for Information Technology Services (ITS). The Vendor will cooperate with any and all requests from ITS relating to this RFP, including requests for documentation and presentations.

2.32 Procedure for Handling of Protests/Appeals of Bid Specifications and Proposed Awards

a. Formal Written Protests

Final agency decisions or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below. Any Vendor or prospective Vendor who believes that there are errors or omissions in the procurement process or who otherwise has been aggrieved in the drafting or issuance of a bid solicitation, proposal evaluation, bid award, or contract award phases of the procurement, may present a formal complaint to the OPWDD and request administrative relief concerning such action ("formal protest").

A formal protest must be submitted in writing to the OPWDD, by ground mail, except where alternate arrangements have been made, to Mr. John F. Smith, Associate Commissioner of OPWDD Division of Enterprise Solutions, 44 Holland Avenue, 3rd Floor, Albany, NY 12229.

A formal protest must include a statement of all legal and/or factual grounds for disagreement with an OPWDD specification or purchasing decision; a description of all remedies or relief requested; and copies of all applicable supporting documentation.

b. Deadline for Submission of Formal Protests

OPWDD must receive formal protests concerning errors, omissions or prejudice including patently obvious errors in the bid specifications or documents at least ten (10) calendar days before the date set in the solicitation for receipt of bids.

OPWDD must receive formal protests concerning a pending contract award within seven (7) calendar days after the protesting party ("protester") knows or should have known of the facts which form the basis of the protest.

c. Review and Final Determination of Protests

Protests will be resolved through written correspondence. However, the protester may request a meeting to discuss a formal protest or the OPWDD may initiate a meeting on its own motion, at which time the participants may present their concerns. Either the protester or the OPWDD may elect to decline such a meeting.

Where further formal resolution is required, the Associate Commissioner shall designate an OPWDD employee ("designee") to determine and undertake the initial resolution or settlement of any protest.

The designee will conduct a review of the records involved in the protest, and provide a memorandum to the Associate Commissioner summarizing the facts as determined by the designee, an analysis of the substance of the protest, and a preliminary recommendation. The Associate Commissioner shall: (a) evaluate the procurement team's findings and recommendations, (b) review the materials presented by the protesting party and/or any materials required of or submitted by other Vendors, (c) if necessary, consult with agency Counsel, and (d) prepare a response to the protest.

A copy of the protest decision, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to the Office of the State Comptroller (OSC) shall be sent to the protester or its agent within forty-five (45) calendar days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest decision will be recorded and included in the procurement record, or otherwise forwarded to OSC upon issuance.

d. Appeals

Upon receipt of OPWDD's determination of a protest, a protester has ten (10) business days within which to file an appeal of the determination with the OSC Bureau of Contracts. The appeal must be filed with Charlotte Breeyear at New York State Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, NY 12236. The protester's appeal must contain an affirmation in writing that a copy of the appeal has been served on OPWDD and any other party that participated in the protest. In its appeal, the interested party shall set forth the basis on which it challenges the contracting agency's determination. The OSC Bureau of Contracts will conduct its determination of the appeal in accordance with its established policy.

2.33 Reservation of Rights and Responsibilities of the OPWDD

The OPWDD reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the State and OPWDD. If the OPWDD determines that there are compelling circumstances, including the need to proceed immediately with the contract award in the best interest of the State, then these protest procedures may be suspended and such decision shall be documented in the procurement record. The OPWDD will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of bids or withdraw the recommendation of contract award prior to issuance of a formal protest decision.

2.34 Procurement Activity Prior to Final Protest Activity

Receipt of a formal bid protest shall not stay action on procurement unless otherwise determined by the OPWDD. If a formal protest or appeal is received by the OPWDD on a recommended award prior to the underlying contract being forwarded to the Office of the State Comptroller (OSC), notice of receipt of the protest and appeal must be included in the procurement record forwarded to the OSC. If a final protest decision or final decision on appeal has been reached prior to transmittal to the OSC, a copy of the final decision must be included in the procurement record and forwarded with the recommendation for award.

If a final protest decision is made after the transmittal of a bid package to the OSC, but prior to the OSC approval under SFL § 112, a copy of the final OPWDD decision shall be forwarded to the OSC when issued, along with a letter either: a) confirming the original OPWDD recommendation for award and supporting the request for final § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final § 112 approval as modified; or c) withdrawing the original award recommendation.

2.35 Record Retention of Bid Protests

All records related to formal Vendor protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.

2.36 Information Security Breach and Notification Act

The New York State "Information Security Breach and Notification Act" also known as the "Internet Security and Privacy Act" took effect December 9, 2005. The Legislature and Governor have enacted the Law in response to past and continuing identity theft and security breaches affecting thousands of people. The Law requires any person or business that conducts business in New York State and that owns or licenses computerized data that includes private information (including but not necessarily limited to social security numbers, credit and debit card numbers, drivers license numbers, etc.) must disclose any breach of that private information to all individuals affected or potentially affected in an expeditious manner. Contractor shall comply with the provisions of the New York State Information Breach and Notification Act. Contractor shall be liable for the costs associated with such breach if caused by the Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor's agents, officers, employees or subcontractors. You may view a copy of the Law at http://public.leginfo.state.ny.us/MENUGETF.cgi?COMMONQUERY=LAWS by searching for "INTERNET SECURITY AND PRIVACY." The law is found at Article 2 of the State Technology Law and at Article 39-F of the General Business Law.

2.37 New York State Sales and Compensating Use Taxes

Tax Law Section 5-a. which was added to the Tax Law under Part N of Chapter 60 of the Laws of 2004, imposes upon certain contractors the obligation to certify whether or not the contractor and its affiliates are required to register to collect state sales and compensating use tax. Where required to register, the contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the New York State Comptroller, or other approving agency, from approving a contract awarded to a Vendor meeting the registration requirements but who is not so registered in accordance with the law. Pursuant to Tax Law Section 5-a, winning contractors resulting from this RFP must complete, sign, and file a properly completed Form ST-220-CA (with OPWDD) and Form ST-220-TD (with the New York State Department of Taxation and Finance). Contractors must also submit a copy of the Certificate of Authority, if available, for itself and any affiliates required to register to collect state sales and compensating use tax. If Certificates of Authority are unavailable, the contractor, affiliate, subcontractor or affiliate of subcontractor must represent that it is registered and that it has confirmed such status with DTF.

2.38 Vendor Responsibility

Section 163 of the State Finance Law requires that contracts be awarded on the basis of lowest price or best value to a responsive and responsible Vendor. The State and courts have determined that responsibility includes integrity, previous performance, legal authority to do business in New York State, and financial and organizational ability to perform the contract.

As part of the procurement process, Vendors, affiliates and any business entity of which the Vendor is a subsidiary and subcontractors (where the subcontractor is known at the time of the contract award, its qualifications are a material factor in the award, and its subcontract will equal or exceed $100,000 over the life of the contract) are required to complete the Contractor/Subcontractor Questionnaire (see Appendix F of this RFP) and submit it with its proposal.

OPWDD shall conduct reviews of each vendor for responsibility and responsiveness. OPWDD may, at OPWDD's sole discretion, request additional information, including meeting with the Vendor.

If the Vendor is determined by OPWDD to be not responsible, OPWDD shall inform the Vendor of such ruling. The Vendor shall have 30 days to request a meeting with OPWDD to explain the ruling and to demonstrate the finding to be incorrect or to correct/resolve any issues affecting the Vendor's responsibility. If OPWDD's findings remain unchanged after meeting with the Vendor, the Vendor shall be removed from consideration for this contract.

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the OPWDD 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.

2.39 Suspension of Work (for Non-Responsibility)

The Commissioner of the OPWDD or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under the Contract resulting from this RFP, 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 the OPWDD or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

2.40 Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OPWDD officials or staff, the Contract may be terminated by the Commissioner of the OPWDD or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the OPWDD or his or her designee to be non-responsible. In such event, the Commissioner of the OPWDD 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.

The Vendor that is awarded this contract shall update the Contractor/Subcontractor Questionnaire (located in Appendix F) whenever such information changes and prior to any contract extensions and/or amendments. In the case of an assignment, a Contractor/Subcontractor Background Questionnaire should be submitted for the Contractor and Subcontractors. If the Vendor is determined on the basis of new or previously undisclosed information, to be not responsible, the contract may be terminated, at OPWDD's sole discretion.

2.41 Workers' Compensation Contract Requirements

The Workers' Compensation Law requires that the State obtain evidence that all contracting organizations maintain the required Workers Compensation and Disability Benefits Insurance for their employees. The successful Bidder will need to supply OPWDD with a copy of form C-105.2 Certificate of Workers' Compensation Insurances and a copy of form DB-120.1 Disability Benefits Insurance or a copy of form CE-200, Attestation of Exemption. These forms can be obtained from your insurance carrier. The name and address of OPWDD must appear as the entity requesting proof of coverage (listed as the certificate holder) on form C-105.2 and DB-120.1.

2.42 Minority and Women-Owned Business Enterprises (MWBE)

OPWDD 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. The Successful Bidder agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OPWDD, to fully comply and cooperate with the OPWDD 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"). Successful Bidder'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. 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 II.F of this Appendix or enforcement proceedings as allowed by the Contract.

For purposes of this procurement, OPWDD hereby establishes an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).

For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Successful Bidder should reference the directory of New York State Certified MBWEs found at http://www.esd.ny.gov/mwbe.html. Additionally, the successful Bidder is encouraged to contact the Division of Minority and Woman Business Development at: (518) 292-5250; (212) 803-2414; or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.

Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Successful Bidder 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 successful Bidder acknowledges that if the successful Bidder 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 successful Bidder shall be liable to OPWDD for liquidated or other appropriate damages, as set forth herein.

2.43 MWBE Reporting Requirements and Forms

MWBE reporting requirements and forms are contained in Appendix A through B of this RFP.

2.44 Vendor Responsibility Status

Procurement laws and guidelines require the award of New York State contracts to responsible contractors. Vendor responsibility generally means that a contractor has the integrity to justify the award of public dollars and the capacity to fully perform the requirements of the contract. Instructions for documenting vendor responsibility are included in Attachment F.

During the period of the contract, the successful Bidder shall notify OPWDD of any changes in vendor responsibility disclosures. The State reserves the right to terminate the contract for non-responsibility or failure of the successful Bidder to disclose accurately.

2.45 Tax Provisions

Purchases made by the State of New York are not subject to state or local sales taxes or federal excise taxes. The official State of New York Voucher for materials, equipment, supplies and services is sufficient evidence to exempt the transaction from sales tax under section 1116 (a)(1) of the Tax Law.

Section 5-a of the Tax Law, as amended and effective April 26, 2006 requires certain contractors awarded certain contracts valued at more than $100,000 to certify to the NYS Department of Taxation and Finance (hereinafter referred to as Tax and Finance) that they are registered to collect New York State and local sales and compensating use taxes if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of $300,000, for the four (4) completed sales tax quarters in which the certification is made. In addition,

contractors must certify to Tax and Finance that each affiliate and subcontractor exceeding such sales threshold during the period previously indicated, is registered to collect New York State and local and compensating tax.

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 Tax and Finance that each affiliate and subcontractor exceeding such sales threshold is registered with Tax and Finance 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 a Bidder meeting the registration requirements but who is not so registered in accordance with the law.

The Bidder that is awarded the contract as a result of this RFP will be required to complete and submit to Tax and Finance the Contractor Certification Form, ST-220-TD (Part IV-2.). The selected Vendor must also submit the Contractor Certification to Covered Agency Form, ST-220–CA (Part IV-2.) to OPWDD certifying that they filed Form ST-220–TD and that the information contained on Form ST-220-TD was correct and complete as of the date it was filed. These forms as fill able PDF documents can be found at: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf and http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

Vendors may call Tax and Finance at 1-800-698-2931 for contractor sales tax information. For additional information and frequently asked questions, please refer to Tax's web site: http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf
Bidders may call Tax and Finance at 1-800-972-1233 for questions relating to Tax Law§5-a and relating to a company's registration status with Tax and Finance. For additional information and frequently asked questions, please refer to Tax's web site: http://www.tax.ny.gov/

2.46 Security Breach Notification

If the successful Bidder breaches the confidentiality of a person's HIPAA or State protected information, the successful Bidder must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. The successful Bidder and the State will cooperate to mitigate the effects of any breach, intrusion, or unauthorized use or disclosure. The successful Bidder must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within two hours after becoming aware of the use or possible disclosure.

Bidder's terms referenced in the RFP and mutually agreed upon by both parties.

2.47 Termination

The Agreement shall be subject to the following termination provisions:

2.47.1 All or any part of the Agreement may be terminated by OPWDD in the event of failure of the Contractor to perform within the time requirements set forth in the Agreement.

2.47.2 All or any part of the Agreement may be terminated by OPWDD for cause upon the failure of the Contractor to comply with the terms and conditions of the Agreement, including the attachments hereto, provided that OPWDD shall give the Contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand - receiving the Contractor's receipt therefore, such written notice to specify the Contractor's failure and the termination of the Agreement. Termination shall be effective ten business days from receipt of such notice, established by the receipt returned to OPWDD, unless the Contractor, in the opinion of OPWDD, has cured said failure. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.

2.47.3 The Agreement may be terminated for convenience, provided that OPWDD shall give written notice to the Contractor not less than 30 days prior to the date upon which termination shall become effective, such notice to be made via registered or certified mail, return receipt requested or hand-delivered with receipt made. The date of such notice shall be deemed to be the date of postmark in the case of mail or the date of the Contractor's receipt for notice in the case of hand delivery. In the case of termination under this subsection, OPWDD agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith. The Contractor, on its part, agrees to incur no new obligations after receipt of notification of termination and to cancel as many outstanding obligations as possible.

2.47.4 The Agreement may be deemed terminated immediately at the option of OPWDD 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 OPWDD to the Contractor.

2.47.5 Should OPWDD determine that Federal and State funds are unavailable; OPWDD may terminate the Agreement immediately upon notice to the Contractor. If the initial notice is oral notification, OPWDD shall follow this up immediately with written notice. OPWDD will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from OPWDD.

2.47.6 In the event of termination for any reason, the Contractor shall not incur new obligations for the terminated portion and the Contractor shall cancel as many outstanding obligations as possible. The Contractor shall take all reasonable measures to mitigate any damages for which OPWDD may be liable. OPWDD will not be obligated to pay the Contractor for any lost and/or anticipated profits.

2.47.7 If the Agreement is terminated for any reason, OPWDD shall have the right to award a new contract to a third party. In the event of termination for cause, OPWDD shall have the right to seek recovery of damages, and for all additional costs incurred in reassigning the contract.

2.47.8 OPWDD reserves the right to terminate the award resulting from this procurement in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, OPWDD may exercise its termination right by providing written notification to the award recipient.

2.48 Contractor Transition Responsibilities

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of services to the State or a third party designated by the State. The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties to effect an orderly transition. The Contractor must provide the State with data generated from the inception of the Contract through the date on which the Contract is terminated in a comma-delineated format unless otherwise requested by the State.

Section 3. Project scope

3.1 Functions

This RFP is soliciting Bidders to address the automation needs of OPWDD State-operated programs only. While many services are provided through a network of voluntary agencies, the RFP is not proposing a single statewide Bidder solution for all organizations. Several voluntary organizations already have EHR and case management/care coordination systems that OPWDD is not seeking to replace through this RFP. That said, the EHR System must be able to integrate an individual's care coordination data, and information pertaining to services delivered, when services are received from both state operated and voluntary providers. Individuals who receive services directly from OPWDD, which is considered the lead agency, as well as non OPWDD providers must have their service delivery information integrated into the Bidder's solution.

Bidder's responses to this RFP will describe a proposed EHR solution to address the functional areas noted below:

- An Electronic Health Record System that encompasses care and service coordination and financial billing;
- An Electronic Health Record system that utilizes ICD-9-CM coding at the time of system implementation and will utilize ICD-10 codes by the federally mandated due date to ensure compliance with Center for Medicare and Medicaid Services (CMS) standards;
- A proposal that envisions a Software-as-a-Service solution;
- Data conversion of existing structured and unstructured data files for current service recipients;
- Ongoing data exchanges between the Bidder's solution and multiple State applications, including those listed in Section 1.3- *Current Technology Environment*;
- Implementation of a work plan/ implementation plan to ensure successful transition from the current paper charts/records to an EHR System within the timeframe specified in Section 2.8 (*Procurement Timetable*) of this RFP; and
- Training applicable to users who work in various disciplines to support successful implementation of the EHR.
- The successful Bidder's solution must also recognize current and future federal mandates, comply with the federal meaningful use standards, and accommodate implications of managed care that are universal and comply with federal meaningful use standards.
- In reflecting Federal goals for electronic health information exchange, New York State has implemented the State Health Information Network for New York (SHIN-NY) (http://www.health.ny.gov/technology/technical_infrastructure.htm). SHIN-NY incorporates a network of Regional Health Information exchange organizations (RHIOs) as part of its structure. Health organizations participate as members of one or more of these RHIOs, with the RHIOs maintaining the infrastructure for data exchanged across the State. The Bidder's solution will be required to access the SHIN-NY to exchange health care data.
- OPWDD is initiating a pilot managed care program with Developmental Disabilities Individual Support and Care Coordination Organizations (DISCOs) in 2015 with a complete transfer to managed care services expected within the next five years. Bidder solutions offered in response to this RFP will be required to electronically transfer data between the Bidder's system and multiple managed care organizations.

3.2 Electronic Health Record.

This project involves the Bidder's implementation of a "turnkey" solution for an electronic health record system for persons with developmental disabilities. Service functions that the Bidder's solution should

consider are referenced below. Corresponding to these narrative descriptions, are detailed system requirements listed in *ATTACHMENT 3 – Application Capabilities*. Bidders must respond to these processing features in *ATTACHMENT 3* indicating whether the feature is already included in the proposed solution, not planned as part of the solution, or will be a provided as a customized feature.

3.2.1 Data integration from existing systems.

The proposed solution must allow OPWDD to receive data from systems that are either existing at the time of implementation of the EHR or will be utilized within five years after implementation of the EHR. The Bidder must ensure that the EHR can receive data from various systems from OPWDD and outside parties. See Sections titled *Current Technology Environment* and *System Interoperability Requirement* for details.

3.2.2 Assessments.

The EHR is expected to maintain assessment data, including information entered in narrative form and scanned documents. Information maintained should document an individual's needs, document services offered and utilized, and document an individual's progress in achieving goals that are clearly linked to their individualized service plan (ISP).

a. Service recipients must be assessed based on the individual's needs or condition and at intervals and frequencies specified by both state and federal entities. Sample copies of assessments currently used by OPWDD can be found at: http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities Bidders are not expected to modify their software to include these specific OPWDD forms but are expected to provide a comprehensive set of assessment tools that maintains similar data elements and complies with required assessment functionality:

- The individual's medical problems;
- The level of impact these problems have on the individual's independent functioning;
- All current medications used by the individual and the individual's response to any prescribed medications. Drug groups include:
  - Hypnotics,
  - Antipsychotics (neuroleptics),
  - Mood stabilizers and antidepressants,
  - Antianxiety-sedative agents, and
  - Anti-Parkinson agents.
- Assessment of the individual's ability to self-monitor health status;
- Assessment of the individual's ability to self-administer and schedule medical treatments;
- Assessment of the individual's ability to self-monitor nutritional status;
- Sensorimotor development, such as ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand coordination, and extent to which prosthetic, orthotic, corrective or mechanical supportive devices can improve the individual's functional capacity;
- Speech and language (communication) development, such as expressive language (verbal and nonverbal), receptive language (verbal and nonverbal), extent to which non-oral communication systems can improve the individual's ability to function, auditory functioning, and extent to which amplification devices (for example, hearing aid) or a program of amplification can improve the individual's functioning;
- Social development, such as interpersonal skills, recreation-leisure skills, and relationships with others;

- Academic/educational development, including functional learning skills;
- Self-help and activities of daily living such as toileting, dressing, grooming, and eating;
- Independent living skills such as meal preparation, budgeting and personal finances, ability to respond in an emergency, ability to maintain safety, mobility skills (orientation to the neighborhood, town, city), laundry, housekeeping, shopping, bed making, care of clothing, and ability to navigate the environment;
- Vocational development, including present vocational skills;
- Affective development such as skills involved with expressing and managing emotions, making reasonable judgments, and healthy decision making; and
- The presence of identifiable maladaptive or inappropriate behaviors of the individual based on systematic observation (including, but not limited to, the frequency and intensity of identified maladaptive or inappropriate behaviors).

b. Within the next two years, OPWDD is planning to participate in a Uniform Assessment System (UAS) hosted by NYS Department of Health. The UAS will provide an integrated core data set of information on individuals served by State health and disability agencies. As part of this integrated system, OPWDD is developing a Coordinated Assessment System (CAS) that will serve as an initial assessment tool designed to identify the needs of those with Intellectual and Developmental Disability (ID/DD). The CAS, unique to New York State (NYS), is part of the interRAI (http://www.interrai.org/) integrated assessment suite. The EHR must be able to integrate data gathered from the CAS. Information about OPWDD's use of the CAS is available through:

http://www.opwdd.ny.gov/people_first_waiver/coordinated_assessment_system and http://www.opwdd.ny.gov/people_first_waiver/coordinated_assessment_system/documents/interRai_fact_sheet_final

The CAS Core Assessment maintains information from the following categories:

- Identification information
- Intake and initial history
- Community and social involvement
- Strengths, relationships and supports
- Lifestyle
- Environmental assessment
- Communication and vision
- Cognition
- Health conditions
- Everyday activities
- Oral and nutritional status
- Mood and behavior
- Medications
- Services
- Disease diagnosis
- Assessment information

c. OPWDD is also piloting a project, called START (Systemic Therapeutic Assessment Respite and Treatment) which will provide community based crisis intervention and prevention services (www.centerforstartservices.com) with the goal of providing intensive services in the community whenever possible rather than relying on inpatient or other restrictive settings. The START program promotes collaboration between service providers and individuals so that individuals can be active in the treatment planning and service delivery process. The START program utilizes an electronic system called SIRS (START Information Reporting System). SIRS is used to track various data elements including current stressors, behavior demonstrated by the individual, crisis prevention plans, activities completed by START staff

such as referrals, education, planning, and outreach, and documents services provided. SIRS also captures intake information and assessment data from tools such as MEDS (Matson Evaluation of Drug Side Effects Checklist), ABC (Aberrant Behavior Checklist), and the RSQ (Recent Stressors Questionnaire). The EHR must be able to integrate data elements from SIRS.

3.2.3 Electronic Individualized Service Plan (eISP).

A core component of an electronic health record serving persons with developmental disabilities is a comprehensive individualized and person centered Service Plan that summarizes what a person wants, needs, and aspires to. It is expected that the Service Plan would be automated as part of the Bidder's solution allowing for regular online entry, updating and query of the plan.

The ISP data fields can be found at:
http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities
Bidders are expected to include these data fields within their person-centered electronic service plan format.

The person-centered service plan should:

- Integrate the individual's needs and wants identified through the completion of various assessments.
- Identify and outline services and supports that the person chooses that will help them achieve their identified and desired outcomes.
- Be maintained in a manner that is usable to OPWDD employees, the individual, and other people whom the individuals wishes to have access to their ISP.
- Support linkages across the multiple organizations that may be involved in delivering the plan. Document that components are designed to meet an individual's unique needs. Document and track the use of multiple services and supports that may be provided through multiple programs by varied staff.
- Integrate data pertaining to outcomes, including but not limited to quality of life and the maintenance of rights. Personal outcome data is obtained through collecting feedback from the individual and members of their circle of support. This person centered approach is used to promote choice, decision-making, and self-advocacy and overall captures whether an individual believes the services and supports they receive contribute to their unique and personal goals, overall well-being, and desired outcomes. Information about assessing these outcomes can be found through:

http://www.opwdd.ny.gov/opwdd_services_supports/person_centered_planning/POMs_fact_Sheet_clean

3.2.4 Service Monitoring and Recording.

The proposed solution should offer a comprehensive system of tracking planned and delivered services. Aggregated data regarding these services must permit:

- Generating reports that capture the types and categories of services provided on a given day and the duration in which services were utilized;
- Identifying services-by-day for each individual, including staff assigned to provide the service, the amount of time the individual was involved in the service, and the amount of time staff spent providing the service;
- Tracking of consents, including consent for treatment and intervention, and rights acknowledgement;

- Identifying a care or service coordinator as well as the list of participants who received services by day;
- Means of assuring that appropriate services are provided based on the ISP; and
- Means of identifying utilization or underutilization of services by an individual's ISP.
- The EHR must be able to electronically transfer service delivery data to TABS in near time, and in the service record format provided by OPWDD.

3.2.5 Self-Directed Care and Portal.

Self-directed care is a key element of OPWDD's transformation of services. A self-directed Portal is envisioned as a component of the EHR allowing individuals, their families and/or advocates to view available information regarding the individual and their services. The Individual portal should also provide individuals and their families and/or advocates, a means to communicate their satisfaction with particular services and their perspective regarding the service and how receipt of the service contributes to their quality of life or desired outcomes. The portal provides a means to document individual involvement or utilization of services offered based on the ISP. Information gathered from and maintained in the Individual portal will be used to track personal outcomes as well as quality of services.

3.2.6 Quality Assurance Activities.

This function will allow OPWDD to continuously monitor the quality of services provided based on a person's Individualized Service Plan (ISP). Activities monitored could include the individual's response to the intervention, their satisfaction with the service, and agency and program compliance with State and Federal laws and regulations governing services, and OPWDD management directives, policies and procedures. It is expected that the Bidder's solution will offer quality metrics, data manipulation and analytics, and robust reporting capability.

It is a future goal of OPWDD to incorporate quality assurance indicators such as personal outcome measures to assess an individual's quality of life and to assess whether services and supports meet the individual's personal goals and desires. Bidders are requested to document how the functionality within Bidder's proposed solution would be used to track the effectiveness of services through indicators, such as personal outcome measures, and the extent to which this will integrate with the individual portal.

3.2.7 Financial Tracking and Billing.

(Optional Deliverable: OPWDD at its sole discretion may determine whether or not to include financial tracking and billing functionality as part of the award.) Bidders should describe any financial tracking and billing functionality available in the proposed system. **Bidders should also include the cost of financial tracking of billing functionality in the cost evaluation**.

The proposed software should be able to integrate financial assessment data with service data to establish on-line accounts that will provide the capability for processing bills and payments. The system must provide a secure environment that is capable of posting and displaying, in near real-time, an individual's account records as well as generating and displaying a variety of transactions and reports both on screen and in hard-copy format. Examples include, but are not limited to, the following: accounts receivable ledgers, aging-account reports, uncollectible and bad-debt write-off transactions, payment data, and balances outstanding as of the end of the billing cycle. Information about OPWDD's billing requirements and procedures can be found at http://www.opwdd.ny.gov/opwdd_regulations_guidance/links_to_opwdd_guidance_documents_with_payment_standards

As part of a financial module, the software should be able to bill for services. The software or proposed solution functionality must include the ability to:

- Generate electronic bills in a HIPAA-acceptable format to payors.
- Generate, in a format acceptable to payors, hardcopy bills that can be submitted to payors that will not accept electronic format.
- Allow for correction of billing data rejected by a payor upon initial submission, and the subsequent resubmission of the bill for full or adjusted payment.
- Maintain complete account receivable ledgers, reflecting payments made and balances outstanding as of the end of the billing period.
- Maintain an accounts receivable "aging" feature that displays account balances outstanding for 60 days, 90 days, 120 days, and more than 120 days; enable the write-off uncollectible accounts and bad debts, as appropriate, and produce individual and summary reports on screen and in hard copy.
- Include the ability to produce full-cost bills for submission to primary and secondary third party payors, including health insurance and managed care providers. The system must ensure that the billing sent to a secondary provider is not sent until the bill sent to the primary provider has been settled.
- The bill to secondary insurers should indicate whether the primary insurer has paid maximum benefit for its coverage.
- Generate third party bills which display the full cost on the bill and the full cost and anticipated payment amounts on the accounts receivable record. The system should automatically write off the unpaid balance upon receipt of the correct anticipated payment amount. The system should hold open any accounts with discrepancies until such discrepancies are resolved
- Ensure that necessary documentation is linked to the services billed.

3.2.8 Analytical and Reporting Requirements.

Ensuring appropriate and timely service requires comprehensive standardized reports and support for the creation of Ad Hoc reports. The Bidder's solutions should reflect this requirement. Reports will generally be used for quality assurance, tracking utilization, and tracking efficacy of services offered.

3.2.9 Federally Certified Medical Electronic Health Record.

Primary care medical services are key components of an Individual's Service Plan (ISP) and functionality required by OPWDD. The winning Bidder's solution must integrate standard medical EHR offerings with service delivery which is documented by an ISP. The EHR must also comply, or be seeking to comply, with Federal meaningful use standards. The winning Bidder must maintain compliance, at no additional cost to the State, with meaningful use standards.

3.2.10 HIPAA Security and Confidentiality.

The proposed solution is required to comply with Federal HIPAA privacy and security standards. The successful Bidder should expect to be able to certify such compliance with its hosted solution. The successful Bidder's solution is also subject to the terms of the New York Cyber Security Policy http://www.dhses.ny.gov/ocs/ and the New York State Information Security Breach and Notification Act (http://www.ag.ny.gov/new-york-state-information-security-breach-and-notification-act).

The contract with the successful Bidder will include provisions for notification of OPWDD within two hours of any suspected breach of security involving an individual's personal or health information.

The successful Bidder must agree to, and sign, the OPWDD HIPAA Business Association Agreement (see Appendix I of this RFP).

3.2.11 System Performance.

OPWDD anticipates as many as 5,000 concurrent users of the fully implemented solution. OPWDD further expects the system to be performant; given the variance in system design and architecture possibilities, OPWDD will work collaboratively with the selected Bidder to establish measurable performance goals for throughput, user load, and stability over time.

OPWDD anticipates that the Bidder's environment will utilize load balancing, cluster and failover technology. OPWDD recognizes that system performance can vary depending upon hardware, system design, architecture, and associated technologies.

3.2.12 System Interoperability Requirements.

The proposed solution must interface with various systems that are utilized within NYS agencies, by health care providers, and voluntary providers. Modifications made to existing OPWDD systems to interface with the proposed EHR system will be performed by OITS staff.

a. The EHR must exchange healthcare data with primary health care providers to ensure that OPWDD staff can access up-to-date health care data from external providers for all clients served by the EHR. Additionally, the EHR must make primary health care data available to authorize external health care providers serving OPWDD clients. The interface with primary health care is expected to be through the State Health Information Network for New York (SHIN-NY) (http://www.health.ny.gov/technology/technical_infrastructure.htm). SHIN-NY incorporates a network of regional health information exchange organizations (RHIOs) as part of its structure. Health organizations participate as members of one or more of these RHIOs, with the RHIOs maintaining the infrastructure for data exchanged across the State.

b. In addition to the data exchange requirements of the SHIN-NY, the proposed solution must be able to electronically accept and transmit data with applications maintained by OPWDD, DOH and OPWDD DISCOs.

1. The winning Bidder will be responsible for implementing a near real-time data exchange with the TABS system. This exchange must provide for the exchange of client data including but not limited to demographic, service, billing and assessment data. One set of data elements that the Successful Bidder must incorporate into the EHR is an OPWDD summary assessment tool known as DDP2 (Developmental Disabilities Profile Second Edition): http://www.opwdd.ny.gov/opwdd_resources/opwdd_forms/developmental_disabilities_profile_user_guide_and_forms/ddp_2 provides a description of the skills and challenges of a person with developmental disabilities that are related to their service needs. Data from the DDP2 is housed in OPWDD's TABS application and is used for several OPWDD functions. It should be noted that the DDP2 will be replaced by the Coordinated Assessment System (CAS) as described in Section 3.2.2, and that the winning Bidder will be required to alter the EHR system, at no additional charge to the State, when the conversion the CAS becomes available (the expected implementation of the CAS is April 2015) for integration with the EHR.

2. Additionally, the solution must provide a daily data feed to the OPWDD data warehouse. The data feed for the data warehouse must include a comprehensive set of data, including demographic, medical, service, assessment and billing data for each individual enrolled in the EHR.

3.2.13 The successful Bidder is expected to cooperate with New York State OITS staff.

3.2.14 Mandatory Deliverable 1: System Modifications and Acceptance Testing.

This Deliverable includes the modification of the Bidder's system to meet the unique needs of OPWDD, and verification by OPWDD that the modifications meet those needs.

3.2.14.1 System Modifications.

It is expected that winning Bidder will review all proposed customization identified in response to Attachment 3 *Application Capabilities* with OPWDD staff to ensure that the customization will meet OPWDD's needs. Once agreement on each customization has been reached, the successful Bidder will document each customization, customize the system, and conduct a comprehensive test the revised system.

3.2.14.2 Bidder (Vendor) Testing.

The Bidder is expected to perform a comprehensive test of the system after modifications have been made.

3.2.14.3 Successful Bidder (Vendor) Acceptance Testing.

The successful Bidder will set up and demonstrate an operating version of the revised system. The demonstration(s) is intended to assure that the System operates in the way that was agreed with the Contractor in the initial discussion of the customizations and to familiarize OPWDD staff with the operation of the System. After the demonstration OPWDD may request changes to bring the system into conformity with the documentation of customizations, and the Contractor will implement those changes as specified.

3.2.14.4 User Acceptance Testing (UAT).

A. After the successful Bidder and OPWDD agree that the system complies with the documentation of the customizations, the Contractor will:
   1. Allow the State to continue to test the operational System;
   2. Assist OPWDD by loading and/or refreshing test data;
   3. Provide instruction in the use of the System for all staff who will be participating in the System testing;
   4. Assist in the State's testing which will include testing system interfaces and will continue until the State is ready to proceed with actual use of the System at the pilot location. This testing is expected to last at least ten (10) business days; and
   5. Be available on-site to assist the State with this testing.

B. Upon completion of acceptance testing, the State may identify how and where the data does not conform to the documentation of the customizations, or where the modification have introduced errors into the original system, and provide the successful Bidder with a written list of necessary revisions.

C. The Contractor will incorporate such revisions as necessary.

D. If revisions are necessary the State may require additional rounds of preliminary acceptance testing and further revisions until successful completion of the testing.

3.2.15 Mandatory Deliverable 2: Pilot Testing.

Subsequent to UAT completion and approval, the pilot testing in a live environment will begin. The pilot testing will include all aspects of implementation and operation of the System at the OPWDD Central Office and throughout Region 3, which encompasses two DDSOs, Capital District and Sunmount (see 1.2 of this RFP and visit http://www.opwdd.ny.gov/node/1211). This phase of implementation will also include testing of the training plan.

3.2.15.1 Implementation.

The Bidder will provide OPWDD the following documentation prior to installation:

- Statement of work,
- Architecture design,
- Network infrastructure,
- Requirements traceability matrices,
- Test strategy,
- Test plans,
- Test cases,
- UAT test scripts,
- Test results,
- Release plans,
- Backup and disaster recovery plans,
- Site security plans, and
- System security plans.

At the time of installation, the Bidder must load initial data into the system and make the system available to the OWPDD Central Office and the pilot Region (Region 3). The Bidder will ensure that the System is operational, and implement the training plan.

3.2.15.2 Evaluation of the Pilot Testing.

1. OPWDD Staff and the successful Bidder will systematically test and monitor all activities at the pilot sites to ensure that the system is operational.
2. The successful Bidder will make all changes necessary to meet the requirements of the RFP and the customization that the State approved at no additional charge to the State.
3. The successful Bidder will assure that sufficient Bidder staff participate in the Systems test to assure a comprehensive and complete test of the System.

3.2.16 Mandatory Deliverable 3: Successful Full Implementation (Full Rollout).

Upon completion of the Pilot Testing, the Bidder will begin implementation at remaining OPWDD locations based upon the Bidder's proposed Implementation Plan (See section 3.5) including:

A. Converting existing OPWDD data to the new EHR data system as per Section 3- *Data Conversion Requirements*;
B. Providing consultation and direction to Local Agency staff in converting their procedures, filing system, and data over the new system; and
C. Implementing the Bidders proposed Training Plan (see section 3.6).

3.2.17 Mandatory Deliverable 4: System Operation and Maintenance.

The Contractor will operate the System in a reasonable and efficient manner, warranting that the System operates as intended. The Contractor will be responsible for any defects or corrections to the System. In addition, the State may require modifications to the System in order to meet State or Federal regulations or to enhance the EHR system in order to improve service delivery as per negotiated Change Orders. The contractor may be required to provide assistance to OPWDD, at no additional cost to OPWDD, to comply with federal and state audits including providing documentation of procedures and protocols, system audit trails, and records access.

The Operations Management consists of the following activities, which are described below:

3.2.17.1 Operations Management.

The Contractor is responsible for the provision of management activities sufficient to ensure the proper operation of the System, including:

3.2.17.1.1 Administrative Activities.

A. Establish and enforce a schedule for all central facility data processing activities:

1. Operations Calendar: A three month prospective plan informing the State of planned outages, and processing, including any overloads, disaster recovery tests, conflicts or hardware/software modifications at the Contractor's facility that may negatively impact the performance of the system.

2. System Maintenance/Enhancement Calendar: A six month prospective plan detailing future corrections, modifications, or enhancements to the EHR.

B. Establish and enforce a schedule for performance by all subcontractors;

C. Provide and maintain sufficient resources for the operation and management of the System;

D. Maintain and test a comprehensive Disaster Recovery Plan.

E. Meet (in person or via telephone/video conferencing) regularly with State employees to review operations and maintenance or enhancement projects:

1. The Contractor will meet at least monthly with State staff, typically OPWDD and/or OIT staff, to discuss operation of the System.

2. Conclusions and decisions reached at these meetings as well as future plans and matters related to problem resolution shall be documented in a detailed memorandum prepared by the Contractor and submitted to the State staff.

3.2.17.1.2 Coordinate and Audit Operational Activities.

Coordinate Contractor, State, and subcontractor staff in the event a technical problem arises that causes a breakdown in processing or system functionality.

3.2.17.1.3 Analysis of Operational Activities.

A. Monitor, analyze, and suggest improvements for increased efficiencies in:

1. Data communication between the various platforms;
2. Processing functions within the EHR; and
3. Computer system usage.

B. Make the State aware of any significant variances from the previous month’s activities.

3.2.17.1.4 Operational Reports.

A. Operational Status Reports

The Contractor will provide the State staff with monthly operational status reports detailing the operation of the System at the Contractor's central facility, including:

1. Detailed audit trails;
2. Lists of problems;
3. Results and actions taken to rectify any errors or problems detected; and
4. The Contractor's staff activities and time expended.
5. Status reports should also identify future action steps and identify potential problems or issues and document the steps necessary to overcome and resolve any potential problems or issues.

B. Maintenance/Enhancement Projects Report

3.2.18 Optional Deliverable 1: Financial Tracking and Billing Functionality.

This Deliverable includes the modifications or additional functionality to the bidders EHR system that would be necessary to replace and assume the billing functions currently performed by the TABS system.

3.2.18.1 Requirements Gathering.

The contractor must document the billing functionality in their solution, and conduct a series of Joint Application Development sessions with the state to identify and document the billing requirements in the TABS system. The contractor will develop a gap analysis document that describes the degree of change necessary to make the EHR conform to billing requirements used in the TABS system that are set forth by OPWDD.

3.2.18.2 Develop Testing Methodology.

The contractor will work with the state to determine an agreed upon methodology to test the billing modification to the EHR to ensure that the proposed EHR billing functionality works as intended. Consideration will be given to the parallel testing with both TABS and the financial tracking billing functionality of the EHR. The contractor will then develop an overall Test Plan, including detailed specifications, if applicable, and sub-tasks. The Test Plan will set forth the kind, type, volume considerations and number of tests to be performed. Where appropriate, the contractor will use automated tools for testing.

3.2.18.3 Testing.

Testing may begin once the system Test Plan has been approved by OPWDD. The Contractor shall notify OPWDD when the billing features and modifications have been made, tested by the Contractor, and are ready for parallel testing and/or testing by the State. State and Contractor staff will perform all tests according to the previously agreed upon and established Test Plan.

If system revisions are necessary the State may require the contractor to perform additional rounds of testing of system performance and the contractor is to use any necessary further revisions until successful completion of the Testing is achieved.

3.2.18.4 Implementation.

Upon successful completion of Testing, the Contractor will implement revised billing functionality in the production system. Once the new billing functionality has successfully operated for a complete monthly billing cycle the State shall certify that the Billing Functionality is complete. Such certification will not preclude the State from requiring the Contractor to make additional corrections that may be necessary to resolve problems (for example, internal inconsistencies) identified as a result of the normal system operation.

3.2.19 Optional Deliverable 2: End User Training.

This Deliverable includes training all end users in accordance with the bidder training plan (section 6.1.4, Item Q) without leveraging state staff to provide training.

A. Approximately 14,500 OPWDD staff must receive training in the use of the EHR system. Additionally, training must include assisting staff in implementing any newly required functional flow and/or altered work station responsibilities that may be required.

B. Training must be provided to OPWDD staff at each permanent site in accordance to the bidders training and implementation plan. Contractors must provide training sufficient to ensure that OPWDD staff, who have varied degrees of experience and knowledge regarding the use of technology, can operate the EHR at the completion of the training.

C. The Contractor will certify that OPWDD staff have attained proficiency in the System. If the Contractor finds that proficiency has not been attained, or if the State subsequently determines that proficiency has not been attained, the Contractor will provide such additional training at the next available training site within a maximum 50 mile radius in distance from the original training site, or by teleconference. This supplementary training will be coincidental with another scheduled training session when possible. If training is not scheduled to occur within a 50 mile radius within one (1) month of notice that the original training was unsatisfactory and teleconference training is not possible, the Contractor shall schedule supplementary training as necessary to achieve System proficiency without additional charge to the State.

3.3 Data Conversion Requirements.

OPWDD will provide the successful Bidder a CSV file of demographic and service information on approximately 34,000 individuals currently receiving services at OPWDD operated facilities and programs and an additional 28,000 individuals receiving services from both OPWDD and voluntary agencies. It will be the Successful Bidder's responsibility to use this data to populate individual care coordination records for each person. A copy of data elements that will be supplied for this data conversion effort can be found at:
http://www.opwdd.ny.gov/opwdd_resources/procurement_opportunities.

In addition to structured data referenced above, the successful Bidder will also be responsible for the data conversion of unstructured information contained in various forms and scanned materials that currently make up an individual's record in OPWDD's CHOICES application. The EHR must provide the ability for users to attach images of legacy forms to a client's record.

3.4 Development Lifecycle.

OPWDD requires that the Bidder describe their project developmental lifecycle. As part of the description the Bidder must include the milestones that the Bidder will adhere to and achieve throughout the development lifecycle.

An iterative approach is to be taken. The intent behind an iterative model is to enable OPWDD to plan for and measurably verify project progress and solution quality throughout the project.

An outline of the content of each iterative milestone will be established and will be included in the detailed project schedule and plan. OPWDD understands and accepts that the nature of an iterative approach means the detailed project plan and schedule will be subject to change throughout the project lifecycle. Specific content for any given iteration may be altered due to project conditions per OPWDD input and/or approval. The specific quality criteria for each iterative milestone will therefore be altered accordingly.

As part of the development lifecycle approach, the Bidder will include how they implement changes into the system. This will include but not be limited to: expected durations, impact on system, impact on business processes, training, and support.

3.5 Implementation Plan.

Bidders are required to provide a narrative work plan clearly describing their approach to this project. The Bidder must state specifically how deliverables, including the optional financial and billing modules, will be achieved by the Bidder. This work plan should address:

- The Bidder's approach to managing the system implementation and integration work. It is expected that the successful Bidder will assign an overall project manager for this engagement.
- A description of the requirements management process that the Bidder plans to use during system implementation.
- The approach to risk management and what the Bidder considers to be the key risks to the success of this implementation and how these risks should be addressed.
- A description of any proprietary tools, techniques or technologies that the bidding firm uses for such implementation work.
- A description of the Bidder's staffing level that is anticipated to accomplish the work including the level of onsite presence.
- A description on the use of subcontractors if applicable.
- A listing of roles the Bidder expects from State personnel to be involved in the implementation and description on how these State personnel will be incorporated into the project team.
- An outline of the project organization structure which depicts the key individuals and areas of responsibility.
- A plan on how all the parties involved in the implementation and integration effort will be coordinated.
- The timeframe after contract signing that the Bidders' resources can begin the project and the implementation start.
- The timeline for project tasks, milestones and deliverables that will allow for system rollout in the timeframe specified in Section 2.8 (Procurement Timeline).

3.6 Training Plan.

The successful Bidder will be responsible for providing training using a train-the-trainer approach at minimum. The Bidder will also be required to provide on-line tutorials for all modules. Any training available beyond the train-the-trainer approach and online tutorials is an optional deliverable (see Section 3.2.19). The cost sheet (see attachment 5) should include the cost for the train-the-trainer approach that includes on line tutorials. The cost sheet should also include the cost of any additional training approaches that the Bidder would be able to offer and that OPWDD could purchase at its sole discretion. It is expected that approximately 14,500 New York State OPWDD employees will require some degree of training to utilize the EHR solution.

The Bidder's proposed solution must describe the training approach for user personnel and the types of training offered. Bidder proposals must include a train the trainer approach that leverages state staff in their proposed Training Plan (Section 6.1.4.C). Bidders may also include an alternative approach where the Bidder will provide training to all end users without leveraging state staff (see 6.1.4 Q).

OPWDD will provide a training space near or at the state operations office within each district (e.g. Finger Lakes, Western NY, Broome, Central NY, Hudson Valley, Taconic, Brooklyn, Staten Island, New York City, Bernard Fineson (Queens), and Long Island). Trainings must be offered at a minimum of six

locations, one location within each region (see http://www.opwdd.ny.gov/opwdd_contacts/ddsoo). OPWDD will make video conferencing available upon request. OPWDD will identify and provide "trainers" who will be attending the train the trainer sessions provided by the Bidder. OPWDD will also provide an expert from the service delivery/clinical side as well as an expert from the Information Technology (IT) side to support the Bidder's trainers.

As part of the training plan, the Bidder should identify:

- How a train the trainer approach will be incorporated into the training plan.
- The types of additional training being proposed by job function including the method in which training is offered (i.e.; computer or web-based training, face to face classroom style training with an instructor, one to one training, or self-study). Bidders should be mindful that employees within the OPWDD system have a range of technological skills which could range from limited knowledge and experience with computers to proficient in the use of technology. Training will need to meet these varying abilities;
- The duration of each class;
- The number of classes that will be offered and/or the number of participants included in each training;
- How often the training will be offered (as needed, or on a set calendar schedule);
- The recommended number of people that should attend training;
- Identification of who will provide the proposed product training to each discipline;
- A description of ongoing training programs and how such training will be accessed;
- The extent that the Bidder provides a "Help Desk" or technical support to end users;
- A description of how training materials will be made available and accessible.

3.7 System Maintenance and Help Desk Support.

3.7.1 Bidders are required to provide Help Desk support, provided in a clear and understandable manner, to technical personnel. The Bidder's proposed solution must be based upon the following requirements:

- A system availability uptime of 99.7 percent 24 x 7 x 365 for service other than downtime for scheduled maintenance.
- A maximum 15 minute Help Desk response time to technical calls 24 x 7 x 365.

3.7.2 Bidders should identify the nature and extent of system support activities offered by the Bidder. Included in the documentation should be:

- Identification of the Bidder's normal support hours (specify time zone) and location of support staff.
- The extent to which the following support features are available:
  - Toll-free hotline;
  - Remote monitoring;
  - Remote diagnostics;
  - Training tutorials;
  - Web based support tracking.
- The typical response time for problems reported:
  - 1) During regular business hours and
  - 2) Off hours.
- The range and average for system downtime (scheduled and unscheduled) for your client's systems and the backup plan to be used during downtime. System downtime must not exceed four hours within a 24 hour period.

- The process for evaluating and fixing “bugs” or problems in your software as well as other system maintenance.
- The extent to which the Bidder has user groups and, or, advisory groups and the nature of their membership.
- The frequency, timing, and extent to which the system will be updated.
- The Bidder will provide documentation describing their system maintenance requires for planned downtime, disaster recovery, and recoverability.

3.8 Additional Services Change Orders:

A. If the modifications, additions, or deletions beyond the work described in this RFP are requested in writing by the State and are agreed to by the Bidder, during the contract period, then the Bidder will provide the State with the requested modifications, additions or deletions at the rates agreed upon in the resulting Contract. The price for additional services in effect at the time of the Change Order will apply.

B. If any modifications requested by the State cause an increase or decrease in the time required for performance of one or more Change Orders issued under the resulting Contract, or otherwise affect any other provision of the Contract, an equitable adjustment shall be made in the periods of performance, delivery schedule, or other terms of the Change Order(s), or of the Contract, and in such other provisions of the Contract as may be so affected. The affected Change Orders and the Contract shall be modified in writing to reflect agreed upon changes.

3.9 Change Order Project Schedule.

A. Overall Schedule.
The Bidder and the State agree that the work performed on Change Orders issued under the resulting Agreement will be completed within the time frame set forth in the respective Change Orders, unless circumstances beyond the Bidder's or State's reasonable control impact performance.

B. Milestone Dates.
The Work performed on Change Orders issued under the resulting Contract shall be completed in accordance with milestone dates, as set forth in the respective Change Orders.

C. Reports of Work.
The Bidder shall prepare a written report on the progress of the work on any outstanding Change Orders on a monthly basis. Up to four (4) copies of such reports shall be furnished in such form as specified by the State, and shall disclose all significant results, and indicate whether the work is on time, in conformity with the schedules set forth in the respective Change Orders and, if not, why not, and what steps will be taken by the Bidder to correct the delay.

D. Inspection.
The State, through any authorized representatives, has the right, at all reasonable times, to inspect or otherwise evaluate the work performed or being performed. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work being performed hereunder.

3.10 Issuance of Change Orders

A. Issuance of Change Orders.
Any Change Order issued under this Contract shall be subject to the terms and conditions of the Contract and shall be issued as specified in this RFP.

B. Contents of Change Orders.
The State shall:

1. Submit brief statements of work for any additional Change Orders that may be issued; and

2. Submit a broadly defined Acceptance Test for each deliverable under the Change Order.

C. To finalize the Change Orders, the Bidder shall then prepare a Change Order statement of work, proposed sub-tasks and proposed milestone dates. Such Change Order statements shall be prepared and delivered to the State by the Bidder within ten (10) business days of the request.

1. Statement of Work. The statement of work shall:
   a. Set forth the specific services or products desired by the State; and
   b. Specify any further requirements if other than set forth under the resulting Contract.
2. Submission of Proposal.
   Unless otherwise required, in preparing and submitting proposed Change Orders, the Bidder shall furnish the State with applicable pricing data consisting of:
   a. Total fixed or estimated price, based on the rates specified for additional services and any required travel arrangements based on the State Government rates;
   b. Critical milestones and payment schedules in the performance of fixed price work; and
   c. Documentation to be furnished, including updates to existing documentation (For example, FRL, TDD, Operations/User Manuals and Training Materials).
3. Finalized Change Order.
   Upon receipt of the proposed Change Order and upon completion of any necessary negotiations, the Bidder shall submit to the State a signed copy of the Change Order which includes a scope of work, period of performance, estimated or fixed price and any other terms and conditions agreed upon by the parties. Upon receipt of the signed Change Order, the State shall indicate its acceptance, return a copy to the Bidder who shall commence performance in accordance with the terms and conditions set forth herein.

3.11 Testing and Acceptance.

A. Testing.

For each Change Order, the State and Bidder will meet and develop a broadly defined Acceptance Test plan. The Bidder will then develop an overall Test Plan, including detailed specifications, if applicable, and sub-tasks. The Test Plan will set forth the kind, type, volume considerations and number of tests to be performed for acceptance of the Change Order. Every Test Plan shall be reviewed and responded to by the State within five (5) working days of submission of such Test Plan to the State. If the Plan is not approved by both parties at the end of a five (5) working day period, the parties agree to enter into good faith negotiations at an in person meeting for the purpose of producing an acceptable Test Plan within two (2) working days. Failure to reach such a result will then be a dispute under Section 3.13 *Dispute Procedure*.

Once the System Test Plan has been approved, the Bidder shall notify the State in writing when the System called for under the Change Order has been completed, tested by the Contract in accordance with the test plan, is ready for testing by the State. The contactor will supply the State with sufficient documentation of test result to verify that the acceptance test plan was successfully completed. Within five (5) working days of notification, the designated State personnel shall commence performing the acceptance testing. The Acceptance Tests, as defined by the Test Plan developed under the Change Order, shall determine whether the System operates and conforms to the specifications set forth in the Change Order.

B. Successful Testing and Acceptance.

The date that the System successfully passes the previously agreed to Acceptance Test at the State's site, set forth in the Test Plan, shall be the Acceptance Date. On the Acceptance Date, the State Project Director shall confirm in writing that the System is accepted.

C. Failure of Testing.

In the event the System does not pass the Acceptance Test at the State's site, the Bidder shall re-conduct and complete such portions of the Acceptance Test identified as failing the Test, until successful and accepted by the State. In the event the System still fails to pass the Acceptance Test after 60 days of the date of the initial failure and such failure is due to reproducible error malfunction in the System for which the Bidder is responsible, the State may immediately terminate the Change Order and shall be entitled to be reimbursed all payments made to date on the Change Order.

D. Successful Testing Dispute.

In the event the State disagrees with the Bidder on the issue of whether or not the System has successfully passed the Acceptance Test, such disagreement shall be a dispute; see section 3.13 *Dispute Procedure*.

3.12 Virus Warranty.

The Bidder warrants that services relating to the integration, development, and implementation of the Software by means of the Bidder's configuration, modification, and/or enhancement of such Software shall be performed in a manner so as not to result in introducing a virus or other malware to the software. The Bidder will utilize commercially reasonable virus detection and vulnerability scanning software on its equipment to ensure that any configuration, modification, and/or enhancement it creates and provides to the State shall not contain any virus vulnerability.

3.13 Date/Time Warranty.

The Bidder warrants that product(s) furnished pursuant to the resulting 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.

3.14 Vulnerability Assessment

The Bidder will be ready to demonstrate that there are no network vulnerabilities. The network must follow HIPAA and Hi-Tech Privacy and Security Standards, Federal Meaningful Use Standards and NY Cyber Security Policy. The Bidder will demonstrate through documentation that the network is secure and meets the aforementioned standards.

Further, OPWDD reserves the right to hire an industry recognized vendor to perform a network vulnerability assessment on the implemented system. The Bidder will be expected to support the vendor during the assessment. The Bidder will be expected to develop an implementation plan with ten days of receiving the assessment results to address any findings. The bidder is expected to resolve minor findings as soon as possible. If deemed appropriate by OPWDD, the change request process as described in this RFP may be used to address any major findings requiring redesign or significant changes to the system. OPWDD reserves the right to implement penalties on the Bidder for any findings not address satisfactorily within 30 days.

3.15 Penalties for vulnerabilities.

If a vulnerability is detected within the system, the successful Bidder, within ten days, will provide a plan to address and remediate the vulnerability. Upon identification of any vulnerability, the Bidder must supply a plan of corrective action to OPWDD for approval that outlines how the vulnerability will be addressed, and the timeframes for taking corrective actions.

Failure to provide a remediation plan within ten days, or failure to implement the approved plan of corrective action, will result in a daily fine of $250.00 to be deducted from monthly licensing fees.

3.16 Penalties for System Downtime and Incident Resolution.

For those incidents described herein that are within the Bidder's control (subject to OPWDD's reasonable agreement as to whether an incident is within the Bidder's control), and unless mutually agreed upon, OPWDD shall levy the following penalties upon the Bidder on a monthly basis:

i. System downtime exceeding four hours will result in a $250.00 fine for each additional four hours the system is down.

ii. Failure to provide Problem Resolution for any incident within thirty (30) days shall result in a $250.00 fine for each additional day that the incident is unresolved to OPWDD's satisfaction.

iii. Fines will be collected as a reduction to the Monthly Licensing Fees, including the monthly maintenance costs/hosting or licensing costs schedule.

3.17 Dispute Procedure

Except as otherwise provided in the Contract, any dispute arising under the resulting Contract shall be promptly referred to the New York State Project Director and the Bidder's Project Manager. If the parties are unable to amicably resolve the dispute within thirty (30) days of the referral, then either party may seek legal or equitable relief in a court of competent jurisdiction.

Section 4. MANDATORY BIDDER REQUIREMENTS

4.1 Qualifications of Prospective Bidders.

Proposals are limited to Bidders with an electronic health record system that serves the unique needs of individuals with developmental disabilities; and

- a solution that has been implemented in one or more organizations serving individuals with developmental disabilities; and
- an EHR that is federally certified as meeting federal meaningful use standards, stage one and stage two, or will be certified by the contract signing date*.
- a web-based solution.

* Bidders must provide OPWDD with documentation of their federal certification no later than the date of contract signing.

4.2 Structure of Bid.

Each Bidder must submit a complete and comprehensive proposal consisting of three parts:

1. Cover Letter (see Section 5 of this RFP).
2. Technical Proposal (see Section 6 of this RFP).
   a. The Technical Proposal must include the completed Bidders Experience Form (see Attachment 2 of this RFP).
   b. The Technical Proposal must also include the completed Application Capabilities table (see Attachment 3 of this RFP).
3. Cost Proposal (see Section 7 of this RFP).
   a. The Cost Proposal should include the completed Project Cost Form (see Attachment 5 of this RFP).

4.3 Non-responsive determination.

Failure to comply with the requirements of Section 4.1 and 4.2 may cause a Bidder's proposal to be deemed non-responsive to the RFP and removed from consideration.

Section 5. COVER LETTER SUBMISSION

5.1 Cover Letter Requirement.

A cover letter is an integral part of the proposal package. The cover letter must be signed by an individual who is authorized to contractually bind the successful Bidder. The letter must:

- Acknowledge that the Bidder has read the proposal, understands it, and agrees to be bound by all of the conditions therein.
- Include the Bidder's name, address, telephone and fax numbers, and the name(s), address(es), telephone number(s) and e-mail address(es) of the Bidder's contact(s) concerning the proposal;
- Acknowledge that the costs set forth in the Cost Proposal are firm costs that are binding and irrevocable for a period of not less than 270 days from the date of proposal submission;
- Acknowledge that the Bidder understands and accepts the provisions of this RFP and all attachments thereto.
- Explicitly set forth any questions or anticipated difficulty with any such contract provisions. OPWDD reserves the right to reject any or all issues raised by a Bidder and require full acceptance of the terms of this RFP.
- Provide the Bidder's Federal Employer Identification number.

The following completed and signed forms or documents shall be attached to the ***cover letter*:***

1. Contractor Certification Tax Form ST-220-TD and Contractor Certification to Covered Agency Form, ST-220-CA (See Section 10.14 Tax Provision for additional information. Fillable forms can be found at:
   http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf
   http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

2. The following Minority and Women Owned Forms located within Attachment B of this RFP:
   - Form MWBE 100 Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Program (MWBE-EEO) Policy Statement.
   - Form MWBE 101 Staffing Plan
   - Form MWBE 103 MWBE Utilization Plan
3. MacBride Fair Employment Principles (see Attachment C);
4. Affidavit of Non-Collusion (See Attachment D);
5. Bidder's Compliance with Communications during the Restricted Period (See Attachment E);
6. Bidder's Responsibility Questionnaire if the Bidder is not enrolled in the Office of the State Comptroller's VendRep System: http://www.osc.state.ny.us/vendrep/vendor_index.htm) (see Attachment F);
7. Use of New York Businesses (See Attachment G);
8. Iran Divestment Act Certification (See Attachment H); and
9. Documentation certifying and confirming that the proposed solution is currently certified as meeting federal stage one and stage two meaningful use standards OR documentation clearly describing the steps completed and the process that will be used to ensure that the proposed solution will be certified as meeting stage one and stage two meaningful use standards by the contract signing date.

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* Although these documents are not part of the bid evaluation process, they are required in order to enter into a contract with the successful proposer.

5.2 Check List of Submission Requirements.

A Checklist of Submission Requirements is found as *Attachment 4* of this RFP. The checklist may be of value to the Bidder in ensuring compliance with RFP requirements. It is recommended that the Checklist be completed and submitted with the proposal package. Submission of this checklist, however, is **not** mandatory so the failure to submit the Checklist will not result in the rejection of the proposal.

Section 6. TECHNICAL PROPOSAL SUBMISSION

6.1 Technical Proposal.

(Scoring Weight – 70 percent of the evaluation)

Each Bidder must submit a complete and comprehensive Technical Proposal that addresses all factors, including the phasing of tasks, methods to be utilized and scheduling of resources necessary to satisfactorily complete the requirements of the Scope of Project.

The technical proposal must reflect an understanding of OPWDD's need for an Automated Electronic Health Record System that supports care coordination. Specific responses to Application Processing Capabilities and brief biographical sketches and/or resumes of Bidder's staff are to be appended to each proposal to demonstrate the capability of the Bidder, through its employees or sub-contractors, to meet the requirements of **Section 3, Project Scope.** Bidders must be certain to accurately reflect and describe the functionality and features of the proposed system. Technical scores can be adjusted after the oral presentation if the evaluators identify discrepancies between the system as described in this section of the proposal and the system demonstrated during the oral presentation.

The Technical Proposal describes how the Bidder will supply a system that fulfills the specifications identified in Section 3, Project Scope.

6.1.1 Bidder Experience and Qualifications

(Scoring Weight -- 10 pts.)

OPWDD intends to enter into a contract with a qualified Bidder who is knowledgeable about automated systems for managing health services and care coordination described in this Request for Proposal. In order to fulfill all of the necessary roles required by this contract, the qualified Bidder must:

A. Demonstrate expertise in the development, customization, and hosting of an automated EHR system that supports and maintains care coordination information based on a person-centered individualized service plan (ISP) for individuals with developmental disabilities. Identify the:

- Total number of client installations using the proposed system.
- The number of client installations in organizations similar in size, specialty, etc. using the proposed system. Include the number of installations in organizations that serve people with developmental disabilities.
- Demonstrated experience in the ability to operate a HIPAA compliant web hosted service 24 hours by 7 day service, 365 days per year.

B. Provide the background and experience of the project manager and each of the key identified professional staff who shall be assigned to the project. If specific individuals have not been identified for the positions, then job descriptions and minimum staff qualifications for the positions must be submitted.

C. Identify the respective roles and specific expertise of any subcontractor involved in the Bidder's proposal. The Bidder submitting the successful proposal pursuant to the RFP must assume full responsibility for the performance under the resultant contract. OPWDD retains the right and privilege to approve the use of the subcontractors under the agreement resulting from this RFP. In any event, the prime Bidder (the successful Bidder) shall be responsible for all contract performance whether or not subcontractors are employed.

D. Provide three or more specific work references of businesses, corporations, or entities where the proposed solution, or similar systems, were implemented or are being implemented. OPWDD will contact these references to assist in judging past Bidder's performance (see Attachment 6). Each reference should include the name, business address and current telephone number of an individual who is qualified to judge the Bidder's past or current work. An OPWDD employee, with one witness, will contact each reference and ask a standard list of questions. All responses will be recorded. Responses provided by references will be shared with the evaluation team. The totality of the references responses will be considered and scored as part of the evaluation process.

E. Describe the current status of all litigation in which the Bidder is presently involved or in which it anticipates to become involved, and how, if at all, it impairs the Bidder's ability to perform under the proposed contract.

6.1.2 <u>Application Processing Capabilities and Proposed Solution</u>
(Scoring Weight – 40 pts.)

As part of the proposed application software solution, each proposal must describe the approaches that will be taken to address requirements specified in **Section 3 – Scope of Project** and *Attachment 3 – Application Capabilities*.

A. Clearly identify the name(s) and version(s) of the software package(s) or modules being proposed.

B. Include responses as specified in *Attachment3 – Application Capabilities*.

C. Describe warranty period and customer service provisions, including minimum response times.

D. Describe the level of support available during the implementation of the proposed software. If there are optional levels of support, these options should be clearly noted.

E. OPWDD anticipates that modification or custom development may be necessary to satisfy some of its unique requirements that cannot be accommodated by the proposed software packages. Bidders should clearly indicate the services they will provide to customize the application, when appropriate, to ensure the system fulfils requirements of Section 3 titled *Project Scope* and Attachment 3 – *Application Capabilities*. Bidder should also discuss the methodology and/or tools that are used to facilitate such product enhancement. Bidders should note where they have previously assisted clients in this manner. They should also define the effect that such customization or modification will have on their warranty provisions and future releases of the proposed application software. Bidders should also describe how their solution can be used to track the effectiveness of services as well as describe quality assurance activities and how the solution can track the effectiveness of services through indicators such as personal outcome measures.

F. Describe its computer environment, data security measures, description of the physical security of the computer center, hours of operation, backup and recovery procedures, transaction response time for when staff are using the application, guarantees of system availability and response times for resolving problems, and disaster recovery plans.

G. Bidders should describe the network requirements, protocols and end-user equipment necessary to operate the proposed application software effectively. This should include a description of the communication interfaces and network architecture required to interface the proposed software with OPWDD.

H. The Bidder's proposed solution should identify the nature and extent of system support activities offered by the Bidder. Included in the documentation should be:

- Identification of the Bidder's normal support hours (specify time zone) and location of support staff.
- The extent to which the following support features are available:
  - Toll-free hotline;
  - Remote monitoring;
  - Remote diagnostics;
  - Training tutorials; and
  - Web based support tracking.
- The typical response time for problems reported: 1) during regular business hours and 2) off-hours.
- The range and average for system downtime (scheduled and unscheduled) for the Bidder's systems and the backup plan to be used during downtime. System downtime cannot exceed four (4) hours within a 24 hour period.
- The process for evaluating and fixing "bugs" or problems in your software as well as other system maintenance.
- Disaster recovery plans, system features that mitigate risk, and plans to respond in the event of a disaster or notable system failure.
- Plans for responding to a HIPAA or related breach of information.
- The extent to which the Bidder has user groups and, or, advisory groups and the nature of their membership.
- The frequency, timing, and extent to which the system will be updated and a description of the accessibility to meaningful EHR data (e.g., health needs, medication, behavior alerts) during times when the system is updated.

6.1.3 **Proposed Implementation Plan**

(Scoring Weight -- 15 pts.)

Each proposal must provide a management and implementation plan that identifies and describes how the project will be planned, directed and controlled. The work plan should envision a phased-in EHR implementation within the timeframe specified in Section 2 of this RFP. The Bidder must include:

A. A description of your Project development life cycle and milestones.

B. The work plan for managing the system implementation and integration work.

C. A description of the requirements management process that the Bidder plans to use during the implementation of the EHR system.

D. A plan for converting data into the Bidder's EHR System to populate the individual's care coordination record as outlined in section 3 of this RFP.

E. The approach to risk management and what you consider to be the key risks to the success of this implementation and how these risks will be addressed and managed.

F. A method for status reporting and periodic status meetings.

G. The quality assurance measures and the plan that will be utilized to monitor the project and address issues, both foreseen and unforeseen.

H. A description of all work anticipated in implementing the scope of services, including a time frame for implementing project components.

I. A project plan identifying activities required for implementation, key milestones and the implementation timeframe.

J. A description of any proprietary tools, techniques or technologies that the Bidder's firm uses for such implementation work.

K. A project organization structure and a plan on how all the parties involved in the implementation and integration effort will be coordinated. This structure and plan should include:

- A description of the Bidder's staffing level that is anticipated to accomplish the work including any onsite requirements.
- A description on the Bidder's use of subcontractors if applicable.
- A listing of roles the Bidder would expect from State personnel to be involved in the implementation and description on how these personnel will be incorporated into the project team.
- For each project component, identify the title of staff that will be involved and an estimate of staff time to complete the component.

L. The timeframe after contract signing that your resources can begin the project.

6.1.4 <u>Training Plan</u>

(Scoring Weight -- 5 pts.)

The successful Bidder will be responsible for providing training, using a train the trainer model at minimum, to users who are located across the State of New York. The Bidder's proposed solution must:

A. Describe the extent to which on-line training modules are provided.

B. Describe the use of the "train the trainer" approach.

C. The types of training being proposed by job function.

D. The manner in which the "train the trainer" training, as well as any other training, will be presented (i.e., classroom style with an instructor, one-on-one, computer-based training, self-study, etc.).

E. Describe how often training sessions will be offered.

F. Describe ownership of training materials and the extent that training materials are available on an ongoing basis.

G. Describe the form and format of training materials.

H. The duration of each "train the trainer" class.

I. The location of the training (Note: OPWDD requires that training be offered at a minimum of six locations. See Section titled *Training Plan* located in Section 3 of this RFP).

J. How often training is offered (as needed, or on a set calendar schedule).

K. The number of classes or training courses that will be offered.

L. The recommended number of people that should attend training.

M. Who provides the proposed product training and expectations of OPWDD employees.

N. A description of ongoing training programs.

O. The extent that the Bidder's Help Desk support is available to end users.

P. Extent to which training materials address OPWDD customizations.

Q. Proposal for Optional Training Deliverable to provide training to all end users without leveraging state staff. This is an optional deliverable. Bidders should describe any training options they can offer in addition to the train-the-trainer approach.

Training costs are to be included on Attachment 5 titled Project Costs. The cost of statewide end user training using the train-the-trainer approach must be included in Section A of Attachment 5. The cost for the optional training deliverable must be included in Attachment 5 Section E.

Section 7. COST PROPOSAL REQUIREMENTS

7.1 Cost Proposal

(Scoring Weight – 20 percent of the evaluation)

The Cost Proposal identifies the Bidder's total cost for providing services as identified in this RFP. The Bidder is required to use the format presented in *Attachment 5- Project Costs* to provide the cost for each task as well as an overall cost. The Bidder's proposal must include:

A. The total cost of the mandatory deliverables,
B. Hourly rates for key staff involved with possible change orders,
C. Recurring costs,
D. Cost for optional deliverable "financial tracking and billing" reflecting contract year one and two costs,
E. Cost for optional deliverable "statewide training" reflecting contract year one and two costs.

Each of the above costs is to be reflected on the Project Costs form, Attachment 5.

The costs for the optional deliverables will be scored and the scores included in the overall 20% cost score. Scores for the optional deliverables will be determined using the same method deployed for the mandatory deliverable cost scoring; (X-20) X (Low bid/Proposer's bid), where X-20 is a to be determined percent applied to each optional deliverable.

Total Cost score = mandatory deliverable cost + optional deliverable financial tracking and billing cost + optional deliverable additional statewide training costs for a total of 20 percent of the evaluation.

In the event the optional deliverable financial tracking and billing will be implemented, the CPI-U index referenced in section 2.3 of this RFP will be applied, not to exceed 3%.

Costs should incorporate all Bidder costs associated with providing the services required (and optional deliverables) within this RFP, including travel* and administrative overhead.

*Travel is to conform to New York State travel guidelines.

7.2 Most Favored Nation Clause:

The successful Bidder guarantees that the pricing offered to the State shall be the same as or lower than that offered to other customers under the same or similar terms and conditions. If, for any reason during the term of the contract the successful Bidder reduces the pricing due to special offers to a similarly situated entity, the State shall receive an equivalent reduction in pricing for the product or services delivered to the State.

7.3 Extension of Use (Piggybacking):

This agreement may be extended to additional New York State governmental agencies, not-for-profit provider agencies, and/or municipal or local government entities upon mutual written agreement between OPWDD and the given jurisdiction. New York State reserves the right to negotiate additional discounts based upon any increased volume generated by such an extension.

Section 8. EVALUATION OF PROPOSALS

8.1 Evaluation Method.

The method of evaluation will be "best value" based on the optimization of quality, costs and efficiency. The Technical and Cost Proposals will be evaluated separately and the State shall award the assignment to the Bidder with the highest composite score. The technical and cost components will be weighted in accordance with the "best value" evaluation methodology bearing the weight assigned below:

Technical component……. 70%
Cost component…….. 20%
Oral Presentation……. 10%

Upon review of a Bidder's submitted proposal, OPWDD may, at its discretion, submit to the Bidder a request for clarification relating to its Cover Letter, Technical, and/or Cost Proposal. A Bidder will be provided the period of time in which the written responses to OPWDD's requests for clarification must be completed. Other than to provide clarifying information as may be requested by OPWDD, no Bidder will be allowed to alter its proposal.

8.2 Evaluation Process.

The evaluation criteria will be based on the RFP and consists of four levels:

- Level 1: Mandatory Bidder Requirements (pass/fail)
- Level 2: Technical Evaluation (Maximum score of 70 %)
- Level 3: Cost Evaluation (Maximum score of 20 %)
- Level 4: Oral Presentation (Maximum score of 10 %)

A Bidder's proposal score will be converted to a weighted score, with the highest scoring bid on the technical and cost components of the evaluation receiving the maximum score for that level. The formulae for this conversion are:

- Technical: Points = (bid being evaluated divided by highest bid score) x evaluation points

- Cost: Points = (lowest dollar amount bid divided by the bid being evaluated) x cost points

- The oral presentation will be scored on a full numeric point basis with scores ranging from 0-10.

The Bidder with the highest total score of technical, cost and oral components will be deemed the successful Bidder.

8.3 Level 1: Mandatory Requirements.

Proposals submitted in response to this RFP shall first undergo a completeness review. This review shall determine minimal compliance with the RFP. If a proposal fails to include all requirements listed in Section 4.1-*Mandatory Bidder Requirements*, it shall be deemed non-responsive and removed from consideration. (Note: OPWDD reserves the right to eliminate any mandatory requirement that cannot be met by all Bidders).

8.4 Level 2: Technical Evaluation.

Proposals that pass the review of the mandatory requirements will undergo a Technical Evaluation conducted by the Evaluation Team. This technical evaluation will identify the proposals that have the highest probability of best serving the needs of OPWDD. The following criteria will be used:

8.4.1 ***Bidder's Experience and Qualifications.***
(10 pts.)

The Bidder and their assigned employees' experience and performance with similar projects in the public and private sector will be evaluated. Reference and background checks will be conducted as well as a review of any litigation the Bidder is involved with. OPWDD will contact references provided by the Bidder in the proposal as well as communicate with other clients of which OPWDD may be aware.

8.4.2 ***Effectiveness of Proposed Project Application Solution in Meeting OPWDD's Needs.***
(40 pts.)

- The demonstrated understanding of OPWDD functions and service requirements.
- The ability to comprehensively describe how the proposal will meet OPWDD's needs.
- The comprehensiveness and appropriateness of the proposed technical solution.
- The degree of customization needed.
- The degree to which the system can be implemented using existing hardware.
- The flexibility of the proposed solution in making future customizations to address changing data needs or business requirements.
- The ability to interface with outside reporting systems.
- The commitment to customer service and support.
- The ability to take advantage of emerging technologies.
- The flexibility of the proposed system, including the flexibility for OPWDD to add data elements, create and modify reports and forms and modify the workflow of the task assigned to staff roles.
- The ability and intent of the Bidder to deliver additional application modules which may be relevant that are not specifically included in this Request for Proposal.
- The nature and extent of Bidder objections to OPWDD's and New York State's standard contracting terms and procedures.
- All other relevant information submitted by the Bidder as deemed appropriate by the Evaluation Team.

8.4.3 ***Proposed Implementation Plan.***
(15 pts.)

The proposed methodology for performing the work will be evaluated, including:

- The ability to delineate the Bidder's plan for providing these services.
- The ability to meet the proposed time table as outlined in Section 2 of this RFP.
- The Bidder's management structure and staffing, including the degree to which the Bidder's staff are available on-site.
- The experience of proposed Bidder staff.
- The ability to detail how it will use personnel, facilities and resources to complete the required work.
- The ability to describe the management controls and quality assurance techniques to be used.
- The overall requirements management approach.

- The ability to describe work plan assumptions and anticipated involvement of OPWDD or other parties.
- The approach for integration of State staff (OPWDD and Office of Informational Technology Services staff) in the project work and maintenance.
- The special experts available to respond to unanticipated situations or problems.
- The overall project management approach.
- The manner in which communication will occur between NY State and the Bidder (e.g. Degree to which Bidder's staff are available onsite, the degree to which communication will take place via phone or video conference, e-mail communication).
- The ability to meet a reasonable time frame.

8.4.4 <u>Training Proposal</u>
(5 pts.)

- Suitability of training offered for specific staff roles and responsibilities.
- Comprehensive nature of the train the trainer program.
- Availability of training materials.
- Ability to provide ongoing training support.

8.5 <u>Level 3: Cost Evaluation</u>
(Maximum score of 20 pts.)

All costs listed on Attachment 5 titled *Project Costs* will be included in the cost evaluation. The lowest cost workable solution will be given the highest costs score (20 points maximum). Other workable but more expensive solutions will be awarded points proportionally. The costs for the two optional deliverables (training in addition to the train-the-trainer model and the financial tracking and billing component) will be part of the total cost score.

8.6 <u>Level 4: Oral Presentation</u>
(Maximum score of 10 pts.)

After completion of the Technical and Cost Evaluation, a composite score will be assigned to each proposal with a technical score weighted at 70 % and a cost score weighted at 20 % to determine finalists for oral presentations. Bidders within 10 points of the top Bidder's composite score will be considered as finalists and will be required to deliver a demonstration of the Bidder's product to the Evaluation Team. The format of the oral presentation will be provided prior to the presentation. This presentation will be geared to assess the Bidders' full understanding of the project requirements and functionality of the application. OPWDD will provide Bidder's selected to provide the oral presentation with a script, or de-identified health and care coordination information that is to be entered into the proposed solution and presented during the oral presentation. Up to ten points will be awarded for a Bidder's oral presentation.

If as a result of the oral presentation, OPWDD determines that material differences exists in the proposed solution between what was submitted in the written Technical Proposal and subsequent oral presentation, OPWDD at its sole discretion may adjust the Technical score accordingly.

8.7 <u>Tie Bids</u>

Step 1. In the event of a tie, the award will be made to the proposer with the lowest cost. If a tie continues to exist, step 2 will be used.

Step 2. In the event costs are tied, the award will be made to the vendor who has the most number of years of experience with EHR systems that are designed to meet the unique needs of

individuals with intellectual or developmental disabilities. If a tie continues to exist, step 3 will be used.

Step 3. If the tie involves a New York State firm and another firm whose principal place of business is outside the State of New York, preference shall be given to the New York State firm. If a tie continues to exist, step 4 will be used.

Step 4. If a tie continues to exist despite use of the above methods, the award will be made by random selection.

Section 9. CONTRACT AWARD

9.1 Period of Contract Award.
The contract will be awarded for a period of five years.

9.2 Contract Renewal.
Upon mutual agreement of the parties, the contract may be extended for an additional five (5) year period. Revisions in prices or associated charges may be accepted upon contract renewal. The Contractor will agree to demonstrate the need for such revisions through written documentation. Approval will be at the sole discretion of OPWDD and the Office of the State Comptroller.

9.3 Notification of Award.
The successful Bidder will be advised of its selection by OPWDD through the issuance of a "Notification of Award Letter." Public announcements or news releases pertaining to this proposal or contract shall not be made public without prior approval from OPWDD.

9.4 Debriefing Unsuccessful Bidders.
Bidders will be notified by letter of the conditional award and possibility that a failed negotiation could result in an alternative award. Debriefings will also be offered, although the discussion will be limited to only the evaluation results as they apply to the proposal of the Bidder receiving the debriefing.

9.5 Expenses Prior Contract.
Under no circumstances will OPWDD be responsible for any expenses incurred by the successful Bidder occurring prior to the completion of a fully executed contract.

9.6 Contract Negotiations and Approval.
A contract containing terms and conditions will be negotiated with the successful Bidder based on this RFP and the successful proposal. The contract will include, but not be limited to standard clauses for all New York State contracts, the RFP, the proposal received and appendices, exhibits and any other attachments.

During contract negotiations, OPWDD expects to have direct access to Bidder's personnel who have full authority to make commitments on behalf of the Bidder. Bidders must include, as part of their proposal, any restrictions under which their primary negotiations will operate.

Any negotiated contract must conform to the laws of New York State, and the provisions of this RFP, and will be subject to approval by the Office of the Attorney General and the Office of the State Comptroller. The contract will not be considered fully executed until formal approval has been granted by both of these State Control Agencies.

9.7 Rights to Materials Produced.
All products, data and written materials developed pursuant to this contract shall be and remain the sole property of OPWDD. The successful Bidder must secure written permission from OPWDD to use any such materials for purposes other than those specified in the Project Scope of Work.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE.

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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
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.

APPENDIX A: SUPPLEMENT

The parties to the attached contract agree to be bound by the following, which are hereby made part of said contract:

1. The contractor shall not discriminate against any applicant for services for reasons based upon religion or religious belief. The contractor shall not use any monies received from the State to benefit or inhibit a particular religion or religious belief.

2. The relationship of the contractor to the State is that of an independent contractor and the officers and employees of the contractor shall conduct themselves in a manner consistent with such status, shall neither hold themselves out as nor claim to be officers, employees, or agents of the State by reason thereof, and shall not make any claim, demand or application to or for any right of the State, including, but not limited to, Workers' Compensation coverage, unemployment insurance benefits, Social Security coverage or retirement membership credit.

3. The contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons or property, including death, arising out of or related to the services to be rendered by the contractor. It shall indemnify and hold harmless the State and its officers and employees from any and all claims, suits, actions, damages and costs of every nature and description arising out of or related to the services to be rendered by the contractor or the violation by the contractor, its employees, servants, agents, or contractors, of any law, ordinance, rule or regulation in connection therewith.

4. Neither party shall be liable for losses, defaults, or damages under this contract which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this contract, due to or because of acts of God, the public enemy, earthquake, floods, typhoons, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party shall resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

5. If any term or provision of the contract shall be found to be illegal or unenforceable, then, notwithstanding, the contract shall remain in full force and effect and such term or provision shall be deemed stricken from the contract.

6. The contractor shall comply with all statutory requirements relating to the confidentiality of information obtained during the performance of the contract.

7. The contractor shall certify that payment requests do not duplicate reimbursement of costs and services received from other sources.

8. Upon termination of the contract, there shall be a reconciliation based upon the services provided by the contractor and the payments made by the State. The contractor shall refund to the State any overpayments made by the State pursuant to the contract.

9. Unless otherwise provided, the contract may be amended, modified, renewed, and/or renegotiated by written agreement of the parties which shall become effective upon approval by the Office of the State Comptroller.

10. Unless otherwise provided, the OPWDD may cancel the contract without cause upon serving thirty (30) days' written notice on the contractor. Cancellation by mutual agreement of all parties to the contract will be allowed subject to documentation in writing.

11. No part of the contractor's income or resources shall be used directly or indirectly for the benefit of, or payment to, any State employee for services provided under this contract other than employees whose names are furnished to the OPWDD and no employee so identified shall receive any benefit or payment under this contract without prior written approval by the OPWDD.

12. This contract contains all the terms and conditions agreed upon by the parties and no statement or representation, oral or written, express or implied, shall be deemed to exist or to bind either party or to vary any of the terms and conditions of the contract.

13. Where applicable, the contractor shall maintain eligibility for reimbursement from any program that provides payment for services and shall apply for and obtain all funds available for the program from any public or private source. Upon request, the OPWDD shall assist in establishing the contractor's eligibility for such funds.

14. General conditions relating to Article 15-A of the Executive Law are set forth in the attached Addendum.

15. A determination of vendor non-responsibility may be cause for termination of the contract.

16. Contractor must comply with the provisions of Mental Hygiene Law Section 16.33 and Executive Law Section 845-b, the regulations related to criminal history record checks adopted by OPWDD in connection with the fingerprinting of certain individuals and the policies and procedures of OPWDD in connection therewith. In particular, any individual employed by or affiliated as a volunteer with a provider of services as defined in Section 1.03(5) of the Mental Hygiene Law who has regular and substantial unsupervised or unrestricted physical contact with people receiving services (such contact hereinafter referred to as “consumer contact”) and who hereafter submits or who has submitted an application for employment or otherwise becomes or became affiliated with the Contractor on or after April 1, 2005 (such individual hereinafter referred to as “a subject party”) shall be required to consent and submit to a criminal history record check. Upon the completion thereof, the contractor shall deny or hold in abeyance employment or volunteer opportunities involving consumer contact to a subject party when directed to do so by OPWDD and in those instances the contractor shall notify the subject party that his or her criminal history record information is the basis for such action taken by the contractor.

17. The Procurement Lobbying Act is applicable to specified non-grant governmental procurements of annualized value greater than $15,000 which are initiated after January 1, 2006.

18. Federal False Claims Act (31 USC Sections 3729-3733) and the New York State False Claims Act (State Finance Law Article XIII, Sections 187-194) – contractor is bound by all of the related laws. The law requires that OPWDD provide its contractors with information about the federal False Claims Act, the New York State False Claims Act, and other federal and State laws that play a role in preventing and detecting fraud, waste and abuse in federal health care programs. This information must include the whistleblower protections that are in these laws. OPWDD must also provide its contractors with information about OPWDD's own policies and procedures for detecting and preventing waste, fraud and abuse. You can find detailed descriptions of these laws, their whistleblower protections and OPWDD's policies on the OPWDD website – (www.opwdd.ny.gov). At the home page, select Information for Providers on the left side of the page, then select False Claims Recoveries. You can also visit the New York State Medicaid Inspector General website at www.omig.state.ny.us to obtain information about these laws. A paper copy of the detailed descriptions of the laws and of OPWDD policies and procedures related to waste, fraud and abuse is available from the OPWDD Contract Management Unit, 3rd floor, 44 Holland Ave., Albany NY 12229-0001. As a contractor of OPWDD, you are required to participate in the reviews and audits described in OPWDD's policies, and to abide by these policies with respect to funding for OPWDD services. You are also required to make the information at the OPWDD website address listed above available to all your employees and to all of your contractors involved in performing work under your contract with OPWDD.

19. Both the United States Department of Health and Human Services and the Office of the Medicaid Inspector General (OMIG) can exclude persons and organizations from federal and State healthcare programs. If this contract is funded through the New York State Medicaid program, the following applies:

For contractors

The contractor represents that:

(1) The United States Secretary of Health and Human Services has not excluded the contractor from participation in a federal health care program (including the Medicaid program) under 42 U.S.C. §§1320a-7 or 1320a-7a, or excluded the contractor from eligibility to provide services under the Social Security Act on a reimbursable basis under 42 U.S.C. §1320c-5;

(2) The Secretary of Health and Human Services has not directed the New York State Department of Health or any other New York State government agency to exclude the contractor from participation in a federal health care program (including the Medicaid program) under 42 U.S.C. §§1320a-7(d) or 1320a-7a(a);

(3) The New York State Medicaid Inspector General has not excluded the contractor from participation in the New York Medicaid program under 18 NYCRR Part 515, and

(4) No federal or State agency has otherwise excluded the contractor from participation in the New York Medicaid program or excluded the contractor from eligibility to provide services under the Social Security Act or the New York Medicaid program on a reimbursable basis.

If, during the term of this contract, the contractor is excluded from participation in a federal health care program or the New York Medicaid program, or is excluded from eligibility to provide services under the Social Security Act or the New York Medicaid program on a reimbursable basis, under the authorities stated above, this contract shall be immediately terminated.

20. On February 12, 2007 the Diesel Emissions Reduction Act took effect as law. Pursuant to new §19-0323 of the N.Y. Environmental Conservation Law ("NYECL"), it is now a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra low sulfur diesel fuel ("ULSD"). The requirements of the law apply to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. As a contract vendor, the Law may be applicable to vehicles used by contract vendors "on behalf of" State agencies and State or regional public authorities. Therefore, the bidder/contractor hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19-0323, to be used under this contract will comply with the specifications and provisions of NYECL §19-0323, and any regulations promulgated pursuant thereto, which requires the use of BART and ULSD, unless specifically waived by NYSDEC. Qualification and application for a waiver under this Law will be the responsibility of the bidder/contractor.

21 Notices:

(1). 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, Office for People with Developmental Disabilities (OPWDD)
Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

[Contractor Name]
Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:
(2). 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.
(3). The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

22. Chapter 1 of the Laws of 2012 amends State Finance Law by adding new section 165-A known as the Iran Divestment Act of 2012. This Act became effective on April 12, 2012 and imposes limitations on vendors that do business with the Iranian energy sector. The Act prohibits, with certain exemptions, state contracts and subcontracts with “persons” engaged in investment activities in the energy sector of Iran. For commodities, services, construction, and printing, the Act requires that bids or offers for and renewals or assignments of, contracts include certification with respect to investment activities in Iran. According to the Act, a person engages in investment activities in Iran if the person provides goods or services of twenty million dollars ($20,000,000) or more in the energy sector of Iran or is a financial institution that extends twenty million dollars ($20,000,000) or more in credit for a minimum of 45 days to a person for purposes of providing goods or services in the energy sector of Iran. The Act requires that within 120 days after the effective date of the law (eff. April 12, 2012), the Office of General Services (OGS) develop a list of persons who engage in investment activities in Iran. Any person on the list is deemed non-responsive as defined in State Finance Law section 163. The list will be posted on the OGS website. No person on the list shall be utilized as a contractor or a subcontractor. Exemptions may be granted under certain conditions as denoted in Office of the State Comptroller (OSC) bulletin numbered G-252 issued on 3/2/2012 and available on the OSC website.

23. 14 NYCRR Sec. 624.6(t)(2) An agency shall not take any retaliatory action against an employee or agent who believes that he or she has reasonable cause to suspect that a person receiving services has been subjected to a reportable incident or notable occurrence, and the employee or agent makes a report to the VPCR and/or OPWDD in accordance with this section and/or if the employee or agent cooperates with the investigation of a report made to the VPCR or OPWDD. This extends to NY State contractors; associated language can be found at http://www.opwdd.ny.gov/regulations_guidance/opwdd_regulations/implemenation_of_the_PPSNA_and_reforms_to_incident-management-effective-12-25-13.

January, 2014

ADDENDUM TO APPENDIX A: SUPPLEMENT
Authority: Article 15-A of the Executive Law and 5 NYCRR parts 140-144)
Standard Clauses for All New York State Office for People with Developmental Disabilities (OPWDD) Contracts

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

I. General Provisions

A. The Office For People With Developmental Disabilities 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 Office For People With Developmental Disabilities (the "OPWDD"), to fully comply and cooperate with the OPWDD 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 procurement, the OPWDD hereby establishes an overall goal of **20%** for Minority and Women-Owned Business Enterprises ("MWBE") participation, **12%** for Minority-Owned Business Enterprises ("MBE") participation and **8%** 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: http://www.esd.ny.gov/mwbe.html.

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 OPWDD for liquidated or other appropriate damages, as set forth herein.

I. 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, grading, 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 OPWDD within seventy two (72) hours after the date of the notice by OPWDD to award the Contract to the Contractor.

3. If Contractor or Subcontractor does not have an existing EEO policy statement, OPWDD has provided the Contractor or Subcontractor a model statement (see Form 100 – 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 "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form 101 - 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. Form 102 - Workforce Employment Utilization Report ("Workforce Report")

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the OPWDD of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that

the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

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

IV. MWBE Utilization Plan

A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

B. **MWBE Utilization Plan (Form MWBE 103).**

1. Contractors are required to submit a Utilization Plan on **Form MWBE 103** with their bid or proposal. Complete the following step to prepare the Utilization Plan:

a. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;

b. insert a description of the contract scope of work which the Contractor intends to structure to increase the participation by NYS Certified minority- and women-owned enterprises on the State contract;

c. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

d. Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the NYS OPWDD MWBE Program Management Unit.

2. The NYS OPWDD MWBE Program Management Unit will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

a. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;

b. name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;

c. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Management Unit has determined can be reasonably structured by

the Contractor to increase the likelihood of participation in the Contract by MWBEs; and

d. other information which the MWBE Program Management Unit determines to be relevant to the MWBE Utilization Plan.

3. The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to NYS OPWDD MWBE Program Management Unit a written remedy in response to the notice of deficiency.

a. If the written remedy that is submitted is not timely or is found to be inadequate, the MWBE Program Management Unit shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by NYS OPWDD MWBE Program Management Unit.

b. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

4. NYS OPWDD MWBE Program Management Unit may disqualify a Contractor as being non-responsive under the following circumstances:

a. If a Contractor fails to submit a MWBE Utilization Plan;
b. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
c. If a Contractor fails to submit a request for waiver; or
d. If the MWBE Program Management Unit determines that the Contractor has failed to document Good Faith Efforts.

C. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

D. 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, OPWDD 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 104 – 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 OPWDD shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

C. If the OPWDD, 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 OPWDD 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

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form 105) to the OPWDD by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

A. Where OPWDD 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 OPWDD 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
   2. contractual MWBE goals; and
   3. 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 OPWDD, Contractor shall pay such liquidated damages to the OPWDD within sixty (60) days after they are assessed by the OPWDD 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 OPWDD.

Effective April 1, 2012

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

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

MWBE

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

(1) Active and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MWBE contractor associations.
(2) Request a list of State-certified MWBEs from OPWDD and solicit bids from them directly.
(3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will e made available in sufficient time for review by prospective MWBEs.
(4) Where feasible, divide the work into smaller portions to enhanced participations by MWBEs and encourage the formation of joint venture and other partnerships among MWBE contractors to enhance their participation.
(5) Document and maintain records of bid solicitation, including those to MWBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.
(6) Ensure that progress payments to MWBEs 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 MWBE 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, age, disability, or marital status.

(c) At the request of the contracting agency, this organization shall request that 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) This organization will include the provisions of sections (a) through (c) 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.

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

Minority Business Enterprise Liaison

_____is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (MWBE-EEO) program.

MWBE Contract Goals

_____% Minority Business Enterprise Participation

_____% Women's Business Enterprise Participation

EEO Contract Goals

_____% Minority Labor Force Participation

_____%Female Labor Force Participation

_____
(Authorized Representative)

Title: _____

Date: _____

FORM 100 (MWBE UNIT REVISED: 02/2012)
Effective April 1, 2012

STAFFING PLAN
Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	**Reporting Entity:**	**Report includes Contractor's/Subcontractor's:** □ Work force to be utilized on this contract □ Total work force
Offeror/Vendor's Name:		□ Offeror/ Vendor
Offeror/Vendor's Address:		□ Subcontractor **Subcontractor's name_____**

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M)	(F)	Black (M)	(F)	Hispanic (M)	(F)	Asian (M)	(F)	Native American (M)	(F)	Disabled (M)	(F)	Veteran (M)	(F)
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary /Apprentices																	
Totals																	

PREPARED BY (Signature):	**TELEPHONE NO.:** **EMAIL ADDRESS:**	**DATE:**
NAME AND TITLE OF PREPARER (Print or Type):	**Submit completed with bid or proposal MWBE 101 (Rev 02/12)** **Effective April 1, 2012**	

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (MWBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OMWBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

MWBE UTILIZATION PLAN

INSTRUCTIONS: **This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) under the contract. Attach additional sheets if necessary.**

Offeror/ Vendor's Name:
Address:
City, State, Zip Code:
Telephone No.:
Region/Location of Work:

Federal Identification No.:
Project/Contract No.:

MWBE Goals in the Contract: MBE % WBE %

1. Certified MWBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	**NYSDED CERTIFIED** ☐ **MBE** ☐ WBE			
B.	**NYS DED CERTIFIED** ☐ MBE ☐ WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (MWBE 104).

PREPARED BY (Signature):
DATE:

NAME AND TITLE OF PREPARER (Print or Type):
SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

MWBE 103 (Revised 2/12)
Effective April 1, 2012

TELEPHONE NO.:

EMAIL ADDRESS:

FOR MWBE USE ONLY

REVIEWED BY:

DATE:

UTILIZATION PLAN APPROVED: ☐ YES ☐ NO Date:
Contract No.: **Project No. (if applicable):**
Contract Award Date: **Estimated Date of Completion:**
Amount Obligated Under the Contract:
Description of Work:
NOTICE OF DEFICIENCY ISSUED: ☐ YES ☐ NO Date:_____

NOTICE OF ACCEPTANCE ISSUED: ☐ YES ☐ NO Date:_____

Appendix B

Minority and Women Owned Business Enterprises

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

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

MWBE

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

(7) Active and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to MWBE contractor associations.
(8) Request a list of State-certified MWBEs from OPWDD and solicit bids from them directly.
(9) Ensure that plans, specifications, request for proposals and other documents used to secure bids will e made available in sufficient time for review by prospective MWBEs.
(10) Where feasible, divide the work into smaller portions to enhanced participations by MWBEs and encourage the formation of joint venture and other partnerships among MWBE contractors to enhance their participation.
(11) Document and maintain records of bid solicitation, including those to MWBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting MWBE contract participation goals.
(12) Ensure that progress payments to MWBEs 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 MWBE 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, age, disability, or marital status.

(c) At the request of the contracting agency, this organization shall request that 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) This organization will include the provisions of sections (a) through (c) 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.

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

Minority Business Enterprise Liaison

_____is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (MWBE-EEO) program.

MWBE Contract Goals

_____% Minority Business Enterprise Participation

_____% Women's Business Enterprise Participation

EEO Contract Goals

_____% Minority Labor Force Participation

_____%Female Labor Force Participation

_____
(Authorized Representative)

Title: _____

Date: _____

FORM 100 (MWBE UNIT REVISED: 02/2012)
Effective April 1, 2012

STAFFING PLAN
Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	**Reporting Entity:**	**Report includes Contractor's/Subcontractor's:** □ Work force to be utilized on this contract □ Total work force
Offeror/ Vendor's Name:		□ Offeror
Offeror/ Vendor's Address:		□ Subcontractor **Subcontractor's name_____**

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification													
		Total Male (M)	Total Female (F)	White (M)	White (F)	Black (M)	Black (F)	Hispanic (M)	Hispanic (F)	Asian (M)	Asian (F)	Native American (M)	Native American (F)	Disabled (M)	Disabled (F)	Veteran (M)	Veteran (F)
Officials/ Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary /Apprentices																	
Totals																	

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

PREPARED BY (Signature):	**TELEPHONE NO.:** **EMAIL ADDRESS:**	**DATE:**
NAME AND TITLE OF PREPARER (Print or Type):	**Submit completed with bid or proposal MWBE 101 (Rev 02/12)** **Effective April 1, 2012**	

General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (MWBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

9. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
10. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
11. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
12. Enter the total work force by EEO job category.
13. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
14. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OMWBE Permissible contact(s) for the solicitation if you have any questions.
15. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
16. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

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- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

MWBE UTILIZATION PLAN

INSTRUCTIONS: **This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) under the contract. Attach additional sheets if necessary.**

Offeror/Vendor's Name:
Address:
City, State, Zip Code:
Telephone No.:
Region/Location of Work:

Federal Identification No.:
Project/Contract No.:

MWBE Goals in the Contract: MBE % WBE %

1. Certified MWBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	**NYSDED CERTIFIED** ☐ **MBE** ☐ WBE			
B.	**NYS DED CERTIFIED** ☐ MBE ☐ WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (MWBE 104).

PREPARED BY (Signature):
DATE:

NAME AND TITLE OF PREPARER (Print or Type):
SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

MWBE 103 (Revised 2/12)
Effective April 1, 2012

TELEPHONE NO.:

EMAIL ADDRESS:

FOR MWBE USE ONLY

REVIEWED BY:

DATE:

UTILIZATION PLAN APPROVED: ☐ YES ☐ NO Date:
Contract No.: **Project No. (if applicable):**
Contract Award Date: **Estimated Date of Completion:**
Amount Obligated Under the Contract:
Description of Work:
NOTICE OF DEFICIENCY ISSUED: ☐ YES ☐ NO Date:_____

NOTICE OF ACCEPTANCE ISSUED: ☐ YES ☐ NO Date:_____

Appendix C

Nondiscrimination in Employment in Northern Ireland

MacBride Fair Employment Principles

In accordance with Section 165 of the State Finance Law, the Bidder, by submission of this bid certifies that it or any individual or legal entity in which the Bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the Bidder, either: (answer yes or no to one or both of the following, as applicable)

(1) has business operations in Northern Ireland

Yes _____ No _____

If Yes,

(2) shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes _____ No _____

_____ _____

Signature Date

Appendix D

Non-Collusive Bidding Certification Required
By Section 139-D of the State Finance Law

By submission of this bid, Bidder and each person signing on behalf of Bidder Certifies, and in the case of joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

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

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], AND [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day of _____, _____ as the act and deed of said corporation or partnership.

IF BIDDER(S) IS (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

NAMES OF PARTNERS/PRINCIPALS	**LEGAL RESIDENCE**
_____	_____
	_____
_____	_____
	_____

IF BIDDER(S) IS (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

NAME	**LEGAL RESIDENCE**
President: _____	_____
	_____

Secretary: _____ _____

_____

Treasurer: _____ _____

_____

IDENTIFYING DATA

Potential Contractor _____

Street Address _____

City, State and Zip Code_____

Telephone _____ Title: _____

Fax _____

If applicable, Responsible Corporate Officer

_____ _____

Name Title

_____ _____

Signature Date

Joint or combined bids by companies or firms must be certified on behalf of each participant.

_____

Legal name of person, firm or corporation

By_____

Name

_____

Title

_____

Street Address

_____ _____

City, State, Zip Code

Appendix E

Bidder's Compliance with Communications During Restricted Period

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

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between the State agency and a Bidder during the procurement process. A 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 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, are identified in Section One of this Request for Proposal. If State agency employees, other than the designated contacts, are contacted by the Bidder, the State employees are required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the 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 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://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.asp

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

Bidder Name: _____

_____ (Officer Signature)

_____ (Date)

_____ (Officer Title)

_____ (Telephone)

_____ (E-mail Address)

Appendix F

Bidder's Responsibility Questionnaire

Procurement laws and guidelines require the award of New York State contracts to responsible contractors. Vendor responsibility generally means that a contractor has the integrity to justify the award of public dollars and the capacity to fully perform the requirements of the contract. It is the State's responsibility to evaluate the responsibility of a prospective contractor. A responsibility determination, wherein the State determines that it has reasonable assurances that a contractor is responsible, is an important part of the procurement process, promoting fairness in contracting and protecting a contracting State agency and the State of New York against failed contracts.

The following factors are considered in making a responsibility determination:

* legal authority to do business in New York State
* integrity
* capacity - both organizational and financial
* previous performance

OPWDD is required to conduct a review of a prospective contractor to provide reasonable assurances that the contractor is responsible. The Office of the State Comptroller (OSC) maintains the VendRep system, which allows business entities (vendors) to enter and maintain their Vendor Responsibility Questionnaire (VRQ) information in a secure, centralized database. It is recommended that all potential vendors prepare their VRQ on-line as follows: http://www.osc.state.ny.us/vendrep/vendor_index.htm. For direct VendRep user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672, or by e-mail at: helpdesk@osc.state.ny.us .

If a Bidder opts to use the paper copy, forms can be downloaded from the website:
http://www.osc.state.ny.us/vendrep/forms_vendor.htm

Appendix G

ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

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, Bidder/Bidders for this contract for commodities, services, and technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements for the contact. Such partnering may be as subcontractors, suppliers, protégés, or other supporting roles.

Bidder/Bidders need to be aware that all authorized users of their 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 services and technology. Furthermore, Bidder/Bidders 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 Bidder/Bidders 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.

Bidder/Bidders 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.

Appendix H
Bidder's Certification of Compliance with State Iran Divestment Act

Background

By submitting a bid/proposal 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 at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, 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 OPWDD receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OPWDD 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 OPWDD 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. OPWDD 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.

Bidder Certification:

The Bidder certifies that it is not listed as a non-responsive Bidder/Offerer pursuant to the New York State Divestment Act of 2012 nor that it will utilize on this Contract any subcontractor that is identified on the list.

_____
(Officer Signature)

_____
(Date)

_____
(Officer Title)

_____
(Telephone)

_____
(E-mail Address)

Appendix I

OPWDD HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS Agreement is made by and between New York State Office for People With Developmental Disabilities ("Covered Entity"), and _____ ("Business Associate").

WHEREAS, Business Associate provides certain services to Covered Entity through existing written contract_____ (the Contract) and, in connection with such services, creates, uses or discloses for or on behalf of Covered Entity certain individually identifiable protected health information relating to individuals served by the Covered Entity ("PHI") that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as amended, including Subpart D of the Health Information Technology for Economic and Clinical Health Act (HITECH) of Title XIII, Division A of the American Recovery and Reinvestment Act of 2009, and related regulations, 45 CFR Parts 160 and 164 (the HIPAA Privacy and Security Rules); and

WHEREAS, by reason of such activities, the parties believe that Business Associate is a "business associate" of Covered Entity, as such term is defined in 45 CFR 160.103; and

WHEREAS, Covered Entity and Business Associate wish to comply in all respects with the requirements of HIPAA and HITECH, including requirements applicable to the relationship between a covered entity and its business associates;

NOW, THEREFORE, the parties agree as follows:

1. Definitions:
    a. Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
    b. Specific definitions:
        i. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the specific Business Associate listed in the first paragraph of this Agreement.
        ii. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean OPWDD
        iii. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to:

i. Not use or further disclose Protected Health Information other than as Required by Law, or as otherwise permitted or as required by this Agreement.

ii. Use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity pursuant to this Agreement in accordance with 45 CFR 164 (the HIPAA Security Rule). Business

Associate agrees to fully comply with the responsibilities of Business Associates as set forth in sections 13401 and 13404 of the HITECH Act.

iii. 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.

iv. to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware. Further, Business Associate agrees to report to Covered entity any security incident, including a breach of Unsecured Protected Health Information as defined by the Security Rule, of which it becomes aware. In the event of such a breach:

1. Business Associate shall promptly notify Covered Entity of the breach when it is discovered, A breach is considered discovered on the first day on which Business Associate knows or should have known of such breach. Such notification shall identify the Individuals, and their contact information, whose Unsecured Protected Health Information has, or is reasonably believed to have been, the subject of the breach. Business Associate shall provide additional information concerning such breach to Covered Entity as requested.
2. Covered Entity or Business Associate, as determined by Covered Entity, shall promptly notify individuals about a breach of their Unsecured Protected Health Information as soon as possible but not later than 60 calendar days after discovery of the Breach, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. Notification shall be in a form and format prescribed by Covered Entity and shall meet the requirements of section 13402 of the HITECH Act
3. 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

v. to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

vi. to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

vii. to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

viii. to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

ix. to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

x. to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section (2)(i) of this

Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(b) Business Associate hereby acknowledges and agrees that Covered Entity has notified Business Associate that it is required to comply with the confidentiality, disclosure and re-disclosure requirements of 10 NYCRR part 63 and to the provisions of Mental Hygiene Law Section 33.13 and 33.16 to the extent such requirements may be applicable.
(c) Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule and the Security Rule to the same extent that Covered Entity is responsible for compliance with such Rules. Business Associate acknowledges that it is subject to civil and criminal penalties for violations of such provisions in the same manner as if Covered Entity violated such provisions.

3. Permitted Uses and Disclosures by Business Associate
(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information:

i. to perform functions, activities, or services for, or on behalf of Covered Entity pursuant to the Contract provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

ii. for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

iii. for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate or any instances of which it is aware in which the confidentiality of the information has been breached.

iv. to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B). Data aggregation includes the combining of protected information created or received by a business associate through its activities under this contract with other information gained from other sources.

v. to report violations of law to appropriate Federal and State authorities, consistent with New York State Mental Hygiene Law and 45 CFR 164.502(j)(1).

4. Obligations of Covered Entity
(a) Covered Entity shall notify Business Associate of any:

i. limitation(s) in the Notice of Privacy Practices Covered Entity produces in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
ii. changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's permitted or required uses or disclosures of Protected Health Information.
iii. restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

5. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity. Covered Entity may permit Business Associate to use or disclose Protected Health Information for data aggregation or management and administrative activities of business Associate, if the Agreement includes provisions for same.

6. Remedies in Event of Breach

Business Associate hereby recognizes that irreparable harm may result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections 2 or 3 above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of such Sections. Furthermore, in the event of breach of Sections 2 or 3 by Contractor, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

7. Consideration

Business Associate acknowledges that the covenants and assurances it has made in the Agreement shall be relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

8. Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the Effective Date of this agreement and shall not terminate until all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of the Covered Entity is destroyed or returned to the Covered Entity or, 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 section.

(b) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide Business Associate with an opportunity to cure the breach and then terminate this Agreement and any other agreement between Covered Entity and Business Associate if Business Associate does not cure the breach within time period specified by the Covered Entity

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. 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 Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protection 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.

9. Miscellaneous.

(a) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.

(b) Agreement. The Parties agree to take such action as necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191, and any other applicable law.

(c) Survival. The respective rights and obligations of Business Associate under Section 6 and 8 of this Agreement shall survive the termination of this Agreement, as shall the rights of access and inspection of Covered Entity.

(d) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

10. Material Breach. The parties acknowledge that in the event the Covered Entity learns of a pattern or activity or practice of the Business Associate that constitutes violation of a material term of this Agreement, then the parties promptly shall take reasonable steps to cure the violation. If such steps are, in the judgment of the Covered Entity, unsuccessful, ineffective or not feasible, then the Covered Entity may terminate this Agreement upon written notice to the Business Associate, if feasible, and if not feasible, shall report the violation to the Secretary of HHS. Written notice may be transacted by certified or registered mail return receipt requested, facsimile transmission, personal delivery, expedited delivery service or via e-mail.

11. Law Governing Conflicts. This Agreement shall be enforced and construed in accordance with the laws of the State of New York. Jurisdiction of any litigation with respect to this Agreement, shall be in New York, with venue in a court of competent jurisdiction in Albany County.

New York State Office for People with Developmental Disabilities

By _____
Title

_____
Signature

_____
Date signed

Business Associate

By _____
Title

_____
Signature

_____
Date

Section 10. ATTACHMENTS

Attachment 1	Notice of Intent to Submit Bid Form
Attachment 2	Business Experience Form
Attachment 3	Application Capabilities Form
Attachment 4	Check List of Submission Requirements
Attachment 5	Project Costs Form

Attachment 1
Notice of Intent to Submit Bid

Lisa Davis
New York State Office For People With Developmental Disabilities
Contract Management Unit
44 Holland Avenue, Third Floor
Albany, New York 12229-0001

RE: RFP for an Automated Electronic Health Record for the New York State Office For People with Developmental Disabilities

Dear Ms. Davis:

This letter of intent is to notify OPWDD of intent to submit a bid in response to the above RFP.

Our main point of contact for the purpose of this bid will be:

Name of Organization_____

Contact Name: _____

Mailing Address: _____

_____

Phone Number_____

Email Address: _____

Attachment 2
Bidder's Experience

A. BIDDER'S EXPERIENCE

Item #	Function	Bidder's Response
A1	Number of years in business providing an EHR solution	
A2	Release date of current software version	
A3	Number of Facility/Site/Agency Installations (Note: this is regardless of the specific modules installed)	
A4	Number of installations with clients similar in size to OPWDD.	
A5	Number of installations with individuals with developmental disabilities similar to those receiving services from OPWDD.	
A6	Number of years hosting Software-as- a-Service	
A7	Number of clients receiving hosted Software- as- a-Service	

B. BUSINESS LINE APPLICABILITY

Requirements matrix; the Bidder shall provide its indication as to whether its solution can fulfill the business needs expressed in the requirements using by checking if the feature is an existing feature (Existing Feature), if the feature is available through customization (Proposed Customization), or if the feature is not included in the Bidder's proposal and not available (Not included in Bidder's Proposal).

			Check One		
Item #	**General System Features Functionality Requirement**	**Required /Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
B1	Living at home services	Required			
B2	Family Care in certified private home services	Required			
B3	Supervised Community Residence services	Required			
B4	Individual Residential Alternative (IRA)	Required			
B5	Intermediate Care Facility (ICF)	Required			
B6	Campus based setting	Required			
B7	Outpatient clinics	Required			
B8	Day Habilitation/ Day Services	Required			

Attachment 3
Application Capabilities

Application Capabilities: Specific processing features. Bidders are required to respond and to identify specific processing features and capabilities. Attachment 3 is a companion to section 6.1.2 and will be scored as part of the evaluation process. This completed form provides information about the functionality and features within the proposed electronic health record system and it is critical that Bidder's ensure that their responses accurately reflect the features and functionality of the proposed solution. In the event that information in the oral presentation indicates that the proposed solution does not perform or have functionality as described in the proposal or on this form, the Bidder's technical score will be adjusted accordingly.

Features designated as "Required" are mandatory and are expected to be an existing feature within the solution or made available as a customization. Features designated as "Desired" are features or functions that OPWDD would like to have available in the solution but these features are not required.

A. END USER TECHNOLOGY FEATURES

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
	End User Access				
A1	System is available to end users 24 by 7.	Required			
A2	Provides a web-enabled application with graphic user interface that does not require a client server configuration on end user devices.	Required			
A3	Can be accessed remotely by authorized users.	Required			
A4	Terminates an electronic session after a predetermined time of inactivity.	Required			
A5	Provides off-line functionality (functions on a pc/device during internet outage with subsequent uploading of data).	Desired			
A6	Provides automated process for users to obtain forgotten user ID or password information.	Desired			
A7	Permits user ability to reset their password online.	Desired			
A8	Provides single sign-on for all modules that are authorized for an end user.	Desired			
A9	Permits authorized users (who are authorized for emergency situations) to access electronic health information during an emergency.	Required			
	Authorized User Administration				
AA1	Assigns a unique name and/or number for identifying and tracking user identity and establishes controls that permit only authorized users to access electronic health information.	Required			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
AA2	Verifies that a person or entity seeking access to electronic health information is the one claimed and is authorized to access such information.	Required			
AA3	System supports various levels of administrator-assigned user rights.	Required			
AA4	User access roles are customizable.	Required			
AA5	A user management process allows authorized users to generate, modify and delete user accounts.	Desired			
AA6	The system supports an automated approval process of user authorizations.	Desired			
AA7	A user management process allows for the reporting and printing of individuals granted access based upon specific roles.	Desired			
AA8	System automatically requires password changes at predetermined intervals.	Desired			
AA9	User access is linked to OPWDD's Microsoft active directory accounts to allow for single sign-on with other OPWDD applications and services.	Desired			
AA10	System allows for two factor authentication.	Required			
	Data Entry and Editing				
AB1	Provides word processing capabilities in text fields.	Required			
AB2	Includes spell check functionality.	Desired			
AB3	Data once entered into system populates all relevant modules.	Required			
AB4	Ability to bring old notes forward and modify.	Desired			
AB5	The system will detect missing required data in add/update response and flag incomplete responses.	Required			
AB6	Ability to correct errors while retaining information about correction.	Required			
AB7	Limit or prohibit copy and paste functionality.	Desired			
AB8	Ability to create and save draft documents.	Desired			
AB9	System allows for the scanning of documents that can be attached to a person's record.	Required			
AB10	System provides document management functionality that manages the creation, storage/retention, and control of documents.	Required			
AB11	System permits annotating, and "mark up" of scanned documents.	Desired			
AB12	System can remove a document from an individual's record if document erroneously attached to wrong record.	Required			
AB13	Has an OCR capability to allow querying scanned documents.	Desired			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
AB14	Provides speech recognition which converts oral language to written text form that can be saved, accessed and reviewed, edited, emailed, or transmitted with command and control features. *(1)* Ability to capture dictation on a mobile device on an on-line or off-line mode. *(2)* Has an option to dictate while navigating through an individual record. Has a dictation management system with intelligent routing and tracking of the status of each dictation job.	Desired			
	Workflows and Alerts				
AC1	Provides workflow processes.	Required			
AC2	Workflow processes can be customized.	Required			
AC3	Provide capabilities whereby the system electronically assists the completion of predefined work steps.	Required			
AC4	Ability to see all chart activity since employee last worked on the chart.	Desired			
AC5	Allows for multiple simultaneous user viewing of same individual's record.	Desired			
AC6	Workflow design includes an inbox.	Desired			
AC7	Provides for alerts and notifications with priority coding or features.	Required			
AC8	Customizable to-do lists by users.	Desired			
AC9	Scheduling system that schedules both client and staff time.	Desired			
	Reporting and Analytics				
AD1	Provides Dash Board functionality at multiple user levels.	Required			
AD2	User can electronically transmit an individual's record within the enterprise.	Required			
AD3	Ability to generate assessments, progress notes, service plans.	Required			
AD4	User can print the entire care coordination record for an individual.	Required			
AD5	Permits printing of forms in PDF.	Required			
AD6	Provides a robust list of standardized reports.	Required			
AD7	Provides the ability for ad hoc report creation.	Required			
AD8	Users are able to store report specifications in a central report repository.	Desired			
AD9	Users will be able to select data fields on which they want to report/query.	Required			
AD10	The system supports exporting of query results to: MS Word, MS Excel and Text.	Desired			
AD11	The system includes multiple pre-defined report types and formats that are easily selected by users.	Required			

Item #	System Features Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Proposed Customization	Check One: Not included in Bidder's Proposal
AD12	The system includes page-formatting features.	Desired			
AD13	The system supports a minimum of two (2) levels sorting in ascending and descending order.	Desired			
AD14	The system includes the capability to include header information, date and run time, and page numbers on reports.	Desired			
AD15	Users are able to direct reports to a user-selected printer.	Desired			
AD16	The system will provide print preview capability.	Desired			

B. GENERAL SYSTEM TECHNOLOGY FEATURES

Item #	System Features Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Proposed Customization	Check One: Not included in Bidder's Proposal
B1	Web pages meet New York State Accessibility Standards. (http://www.its.ny.gov/policy/NYS-P08-005.pdf	Desired			
B2	The Bidder requests an exemption to accessibility standards as authorized by above Accessibility Policy for application web pages. (Yes/No) Unless an exemption is requested, the Bidder's proposal must comply, even if requires customizations.				
B3	Regardless of whether a request for an exemption to State Accessibility Standards is being requested, application contains zoom technology to assist the visually impaired in reading web pages.	Desired			
B4	Screen layout and views can be customized based on user preferences	Desired			
B5	Provides direct secured e-mail capabilities within the system.	Desired			
B6	Provides direct secured e-mail capabilities outside the system.	Desired			
B7	Routine upgrades are through an established version control process.	Required			
B8	Provides backup and recovery routines for both programs and data.	Required			
B9	Has offsite disaster recovery location. (COLD)	Required			
B10	Has offsite disaster recovery location. (HOT)	Desired			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
TRAINING and SUPPORT					
BA1	Provides on-line tutorials for all modules.	Required			
BA2	On-line modules customized to address system customizations made for Bidder's proposed solution for OPWDD.	Required			
BA3	Onsite training using a "train the trainer" approach provided at a minimum of six sites across various regions throughout New York State.(see http://www.opwdd.ny.gov/opwdd_contacts/ddsoo)	Required			
BA4	Provides training webinars.	Required			
BA5	Users can be tracked as to training modules completed.	Required			
BA6	Users provided certification for modules completed.	Desired			
BA7	Listserv and/or user groups.	Desired			
BA8	Other training options (Please list).				
BA9	24-hour Help Desk support provided for technical problems. Solutions for technical support are communicated in a clear and understandable manner.	Required			
BA10	24-hour technical support – Web.	Desired			
BA11	Email technical support.	Required			
SYSTEM INTEROPERABILITY STANDARDS AND FUNCTIONS					
BB1	HL7 Primary Standards	Desired			
BB2	HL7 Foundation Standards	Desired			
BB3	HL7 Clinical and Administrative Domains	Desired			
BB4	HL7 EHR Profiles	Desired			
BB5	HL7 Rules and Reference Standards	Desired			
BB6	HL 7 Continuity of Care Documentation (CCD)	Required			
BB7	HL7 CDA (Clinical and Administrative Domains)	Desired			
BB8	ICD-9-CM diagnoses and coding available at the time of system implementation.	Required			
BB9	ICD-10 diagnoses and coding (see project scope for ICD-10 requirements).	Desired			
BB10	Logical Observation Identifiers Names and Codes (LOINC) for laboratory and clinical results	Desired			
BB11	SNOMED CT (Systematized Nomenclature of Medicine - Clinical Terms)	Desired			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
BB12	HCPCS/CPT codes	Required			
BB13	National Drug Codes (NDC)	Required			
BB14	RXNorm Medications Standards	Desired			
BB15	Blue Button	Desired			
BB16	Other Standards (Please list)				
BB17	Is currently federally certified as meeting Stage One meaningful use standards.	Desired			
BB18	Is currently federally certified as meeting Stage Two meaningful use standards.	Desired			
BB19	If not federally certified, Bidder will have federally required certifications by date of contract signing if Bidder is selected as OPWDD's contractor.	Required			
BB20	Capability to electronically exchange key clinical information (for example, **discharge summary, procedures**, problem list, medication list, medication allergies, diagnostic test results), among providers of care and authorized entities.	Required			
BB21	Ability to exchange an individual's medical data with other health providers via New York State's Health Information Exchange, the State Health Information Network for New York (SHIN-NY) (http://www.health.ny.gov/technology/technical_infrastructure.htm).	Required			
BB22	Offers e-Prescribing and medication management.	Required			
BB23	Provides FAX send and receipt capabilities (e.g. for referrals, discharge summaries, etc.).	Desired			
BB24	Supports industry accepted import/export standards (e.g., ODBC (Open Database Connectivity)).	Desired			
BB25	Provides interoperability to receive and send provider, enrollment and service data with OPWDD's Tracking and Billing System (TABS).	Required			
BB26	Can accept batch data loads from OPWDD and other authorized parties.	Required			
BB27	Can transmit and receive data to OPWDD using BizTalk or other technologies on a near real-time basis.	Desired			
BB28	Includes Wellness Monitoring Technologies.	Desired			
BB29	Includes Safety Monitoring Technologies.	Desired			
BB30	Includes Telehealth /Telemonitoring technologies	Desired			
BB31	Software functions as an integration engine.	Desired			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
BB32	Fully integrated system that includes Clinical, Case Management, Financial and Staff Scheduling.	Required			
BB33	Requires third-party software/ interfaces for any functionality (Yes/No).				
BB34	List third party software/interfaces required.				
SECURITY					
BC1	Complies with Federal HIPAA and Hi-Tech **privacy** standards as patient information is maintained within the proposed solution.	Required			
BC2	Complies with Federal HIPAA **security** standards as patient information is maintained within the proposed solution.	Required			
BC3	Complies with NY Cyber Security Policy http://www.dhses.ny.gov/ocs/	Required			
BC4	Complies with the Federal Risk and Authorization Management Program (FedRAMP) requirements as developed by the Federal Cloud Computing Initiative (FCCI) at the US General Services Administration (GSA) http://www.gsa.gov/portal/category/102371	Required			
BC5	Meets Federal Meaningful Use requirements for maintaining and generating audit logs.	Required			
BC6	Meets Federal Meaningful Use requirements for recording disclosures made for treatment, payment, and health care operations.	Required			
BC7	Meets Federal Meaningful Use requirement for encrypting and decrypting electronic health information.	Required			
BC8	Meets Federal Meaningful Use requirements for end-user devices.	Required			
BC9	Meets Federal Meaningful Use requirements enabling user created audit report for a specific time periods and to sort data entries in the audit log.	Required			
CONSENT TRACKING					
BD1	Tracks notice of legal rights and services.	Required			
BD2	Tracks statement of authority (i.e. guardianship, who is legally authorized to provide consent).	Required			
BD3	Tracks consents to use/release records, including date of the request for records and date the records were released.	Required			
BD4	Tracks consent of service plan.	Required			
BD5	Tracks consent to changes in service plan.	Required			
BD6	Tracks consent for medication.	Required			
BD7	Tracks consent for restrictive/intrusive interventions incorporated into a Behavioral Support Plan.	Required			

			Check One		
Item #	***System Features Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
BD8	Allows for users to customize additional consents.	Desired			
BD9	Provides for e-signature of consents.	Desired			
BD10	Issues alerts for missing consents.	Desired			
BD11	Prevents the release of data absent authorizing consent.	Desired			
HARDWARE/SOFTWARE REQUIREMENTS					
BE1	Identify Desktop/Laptop Specifications.				
BE2	Operating System – Windows (Yes/No answer).				
BE3	Operating System – Apple (Yes/No answer).				
BE4	Mobile OS – Android (Yes/No answer).				
BE5	Mobile OS – Blackberry (Yes/No answer).				
BE6	Mobile OS – Windows (Yes/No answer).				
BE7	Mobile OS – Apple (Yes/No answer).				
BE8	Identify Network Specifications.				
BE9	Identify Wireless Specifications.				
BE10	Identify Browser Requirements.				
BE11	Identify Internet / Bandwidth Specifications.				
BE12	Identify Applets/ miscellaneous software needed (e.g., Citrix).				
BE13	Reporting software requirements (e.g., Crystal Reports).				
BE14	Remote Access (Yes/No answer).				
BE15	Identify VPN Device Requirements.				
BE16	Identify Data Transfer Mechanisms.				

C. SCREENING AND REQUEST FOR SERVICES

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
C1	Maintains data provided by the referral source, including source of the individual referral.	Desired			
C2	Maintains pre-established admission criteria on the system.	Desired			
C3	Matches pre-established admission criteria with data stored on the resource allocation list to identify candidates for admission and admission date.	Desired			
C4	Permits variation in the data maintained and admission criteria.	Required			
C5	Creates notification letter, including admission date, for individual accepted for admission.	Desired			
C6	Maintains eligibility information including qualifying diagnosis and condition.	Required			
C7	Permits gathering and entry of significant additional	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	information into the system once an admission date is established.				
C8	Permits the ability to revise or otherwise update data maintained in the request for services and resource allocation application.	Required			
C9	Reports lists of resources allocated and candidates by status, e.g. awaiting additional information, accepted for admission, admitted, etc., on a "from–to" date basis.	Desired			
C10	Accepts electronically submitted data from external sources.	Required			
C11	Accepts and maintain scanned reports as part of the individual's record.	Required			
C12	Provides ongoing assessment and monitoring ensures that individual's health needs are met and that medical conditions are managed. The EHR must support the completion of various assessments. Assessments and monitoring are listed below (C12-1 through C12-41):				
C13	Maintains data pertaining to medical history and past significant medical needs.	Required			
C14	Maintains medical/ physical exam findings, current health status, medical needs and monitoring.	Required			
C15	Maintains a Plan of Nursing Services (PONS).	Required			
C16	Maintains Immunization Records.	Required			
C17	Maintains current medication regiment.	Required			
C18	Maintains medical treatments and response to treatment or intervention.	Required			
C19	Maintains data pertaining to Pulse Oximetry and Oxygen administration for specified individuals.	Desired			
C20	Houses information pertaining to the assessment and monitoring of osteoporosis.	Desired			
C21	Maintains current diagnoses including developmental disability, medical and mental health diagnoses.	Required			
C22	Tracks completion of cancer screening.	Desired			
C23	Ability to track completion of body checks for specified individuals.	Desired			
C24	Ability to track and monitor skin integrity for specified individuals.	Desired			
C25	Maintains data on seizure monitoring for identified individuals.	Desired			
C26	Supports decubiti/ wound care monitoring for specified individuals.	Desired			
C27	Houses the AIMS (Abnormal Involuntary Movement Scale).	Desired			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
C28	Supports diabetes monitoring that includes housing data pertaining to blood glucose and insulin administration.	Desired			
C29	Maintains charts to assess and monitor bodily functions such as daily bowel movement, menses, and food/ nutrition intake or provide for these charts to be created by the end user.	Desired			
C30	Ability to house data pertaining to falls assessments and monitoring.	Desired			
C31	Use of the Nutrition Care Process (NCP) designed by the Academy of Nutrition and Dietetics. This includes nutrition assessment, nutrition related diagnoses, nutrition intervention and prescription (plan of care), and nutrition monitoring and evaluation.	Desired			
C32	House data pertaining to dietary needs including caloric requirements and diet consistency.	Required			
C33	Maintains anthropometric measurements.	Desired			
C34	Assessments related to Medical Immobilization Plans (MIP's) and related orders.	Desired			
C35	Supports and maintains data for oral hygiene and health evaluation, diagnoses, treatment, response to treatment, and dental history.	Desired			
C36	Houses data from psychiatric assessments or reports including initial and regular psychiatric assessments which include a diagnostic impression, ongoing monitoring of mental health and psychiatric needs, and ongoing monitoring or medication management.	Required			
C37	Houses data from psychological reports or assessments such as diagnoses, results from IQ or cognitive assessments, findings from adaptive functioning evaluation, mood or symptom assessment, forensic evaluation reports, findings from assessments of capacity to provide informed consent, response to therapy/ counseling or skill training, data from risk assessments, Functional Behavior Assessment (FBA) reports, and the Behavior Support Plan (BSP) and response to intervention(s) in the BSP.	Required			
C38	Tracks activities of Daily Living which are typically monitored by direct support staff (e.g., hygiene and grooming, toileting, homemaking, dressing, eating and drinking, sleep hygiene, activities to maintain health, functional mobility, use of assistive technology, use of services, money management, and shopping).	Desired			
C39	Maintains assessment and monitoring data pertaining to sensorimotor development (e.g., ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand coordination, and extent to which prosthetic, orthotic, corrective or	Desired			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	mechanical supportive devices can improve the individual's functional capacity).				
C40	Houses an assessment for adaptive or supportive equipment (e.g. wheelchairs, bedrail assessments) and turning and positioning charts and wheelchair release charts.	Desired			
C41	Maintains a speech, language, and communication assessment, including the hearing assessment.	Desired			
C42	Maintains Physical Therapy (PT) and Occupational Therapy (OT) assessment and intervention data.	Desired			
C43	Tracks the use and monitoring of mechanical devices.	Desired			
C44	Houses information pertaining to a vision assessment and related treatment.	Desired			
C45	Maintains data pertaining to social development, such as interpersonal skills, use of social support, social participation, communication, recreation-leisure skills, community involvement and outings, and relationships with others.	Desired			
C46	Houses data pertaining to academic/ educational development, including functional learning skills.	Desired			
C47	Maintains data pertaining to independent living development such as meal preparation, budgeting and personal finances, survival skills, mobility skills (orientation to the neighborhood, town, city), laundry, housekeeping, shopping, bed making, care of clothing, and orientation skills (for individuals with visual impairments).	Desired			
C48	Maintains data pertaining to employment and vocational development, including present vocational skills.	Desired			
C49	Maintains data pertaining to affective development such as interests and skills involved with expressing emotions, making judgments, and making independent decisions.	Desired			
C50	Houses identifiable maladaptive or inappropriate behaviors of the individual based on systematic observation (including, but not limited to, the frequency and intensity of identified maladaptive or inappropriate behaviors).	Desired			
C51	Houses the drug regimen review.	Desired			
C52	Houses prior authorization documentation for medication related to third party payment and reimbursement.	Desired			
C53	Houses the assessment of ability to self-administer medications.	Desired			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
C54	Enables a user to electronically record, modify, and retrieve individual demographic data including preferred language, gender, race, ethnicity, and date of birth.	Required			
C55	Generates a packet of necessary health and clinical information that ensures preparation for appointments and supports communication between the agency and outside providers.	Desired			

D. INDIVIDUAL SERVICE PLAN

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
D1	Receives assessment data that is used to build the Individualized Service Plan (ISP).	Required			
D2	Provides template-based, configurable care planning tool.	Required			
D3	Documents all resources available to an individual.	Desired			
D4	Swiftly determines which programs and resources will be most beneficial to the individual utilizing structured and configurable initial, general, and specialty assessments.	Desired			
D5	Creates customized care plans that allow for the documentation of the problems, goals and interventions required.	Required			
D6	Allows users to quickly individualize care plans for member-specific conditions, while driving program consistency.	Required			
D7	Accesses evidence-based guidelines at the point of care to improve treatment and deliver more personalized information and services to members.	Desired			
D8	Contains measurable treatment goals.	Required			
D9	Contains the rationale for identified goals.	Required			
D10	Links a rating scale to goals so progress can be documented.	Desired			
D11	Designates a treatment or intervention for each goal.	Required			
D12	System has the ability to be customized to meet unique needs such as the needs of those whom English is not their primary language, those who have problems with alcohol and substance abuse, those with co-morbid psychiatric problems, those with a legal history or legal involvement, or those with visual/hearing impairment.	Desired			
D13	Means of documenting when a goal is achieved.	Required			

Item #	Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Included in Bidder's Proposal as Customization	Check One: Not included in Bidder's Proposal
D14	Incorporates outcome measures to capture whether the individual, or their circle of support, believes the services and support they receive contribute to their unique and personal goals, overall well-being, and desired outcomes.	Required			
D15	Schedules the review of individual progress.	Desired			
D16	Permits users to make timely changes to the service plan.	Required			
D17	Reminds or alerts clinical staff when updates are due.	Desired			
D18	Provides a means for documenting transition planning.	Required			
D19	Maintains data associated with internal OPWDD activities and from outside referral agencies.	Required			
D20	Allows variation of treatment planning by location.	Required			
D21	Maintains a schedule of an individual's treatment and rehabilitation activities.	Required			
D22	Reports the individual's daily activity schedule on a "from-to" date basis.	Required			
D23	Schedules activities and staff assignments for direct person involvement.	Desired			
D24	Reports the activity and staff assignment schedule on a "from-to" date basis.	Required			

E. SERVICE DELIVERY

Item #	Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Included in Bidder's Proposal as Customization	Check One: Not included in Bidder's Proposal
E1	Tracks data from various programs and services provided to the individual so they can be viewed in one place.	Required			
E2	Easily identifies high-risk, high-cost individuals for case management by leveraging internal and external patient data from multiple referral channels.	Desired			
E3	Tracks progress toward goals.	Required			
E4	Ensures ongoing adherence to care plans and correct deviations from treatment protocols.	Desired			
E5	Proactively identifies missed tasks and gaps in care with standard operating procedures to expedite appropriate interventions.	Required			
E6	Documentation includes structured notes that meet individual organization requirements which are available throughout the case management workflow.	Required			
E7	Tracks units of service for each individual receiving services including service date, service location, funding source, contact type, contact reason, type of service, persons present during the service unit, and comments.	Required			
E8	Maintains case notes on an individual's case and care	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	plan including all pertinent comments, updates, visits, etc. There is no limit on notes, and an archive is accessible that gives you access to all data collected in the notes.				
E9	Manages data from multiple sites (e.g. program location) and post records against each site of a plan. This would enable the user to analyze data for each program site or data in its entirety across multiple sites.	Desired			
E10	System maintains current and up to date information.	Required			
E11	Data is carried over from prior session or visit.	Required			
E12	Enables a user to electronically select, sort, access, retrieve, and generate lists of individuals according to, at a minimum, the data elements: (1)Problem list (2)Medication list (3)Immunizations (4)Demographics (5)Laboratory test results (6)Date and time (7)All allergies (e.g. food, environmental, medication, latex) (8)Dietary needs and anthropometric measurements (9)Communication preferences (10) Diagnosis (11) Provider- By job title (e.g. psychiatrist, psychologist, social worker) (12) Provider- By name (13) Service Type	Required			
E13	Allows the user to customize the individual demographic banner to display any number of practice management system fields to clinician.	Desired			
E14	Generates and displays an **individual summary** or "face sheet" that includes the person's demographics, communication needs, list of problems including challenging behavior, current prescribed medications, allergies, immunizations, encounter listings, individual's photo, and personal profile.	Desired			
E15	Enables a user to electronically record, store, retrieve, and modify, at a minimum, the following order types and justifications of need: (1) Medications; (2) Treatment; (3) Laboratory; (4) Radiology/imaging; (5) Safety precautions (e.g. 1:1 observation, mechanical restraint device); (6) Approved physical intervention(s); (7) Dietary needs including diet consistency, tube	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	feeding, or other nutrition intervention.				
E17	Ability to populate standard orders that can be customized according to the person's needs.	Required			
E18	Maintains up-to-date diagnoses: Utilizes the ICD-9-CM criteria and coding and maintains a log of both current and prior diagnoses with the ability to update diagnoses as necessary. Stores primary and secondary diagnoses.	Required			
E19	Utilizes DSM-V criteria and coding and maintains a log of both current and prior diagnoses with the ability to update diagnoses as necessary.	Desired			
E20	Maintains up-to-date problem list. Enable a user to electronically record, modify, and retrieve an individual's problem list for longitudinal care. Problems could be medical, nutritional/dietary, psychiatric, behavioral, or psychosocial in nature. User has the ability to add problems beyond the ICD-9/ICD-10 to be recognized by standard nomenclature (e.g. SNOMED CT, CPT (Current Procedural Terminology) developed by the American Medical Association, or MEDCIN).	Required			
E21	Houses and supports an assessment of medication needs, ability to self-administer or self-manage medication, and monitor the efficacy of the medication regimen.	Required			
E22	Electronic medication administration record (MAR). (i) Utilizes assistive technology that provides automated information to enable a user to electronically verify the following before administering medication(s): (A) Right individual. The individual to whom the medication is to be administered matches the medication to be administered. (B) Right medication. The medication to be administered matches the medication ordered for the individual. (C) Right dose. The dose of the medication to be administered matches the dose of the medication ordered for the individual. (D) Right route. The route of medication delivery matches the route specified in the medication order. (E) Right time. The time that the medication was ordered to be administered compared to the current time. (ii) Documentation. Electronically records the time and date and user identification when a medication is administered. (iii) Ability to print the MAR is available.	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	(iv) Offers on/off functionality. (v) Given the needs of OPWDD, this cannot be a "hard stop." This means the system must offer the ability to print the MAR and manually document the medication administration if the nurse or staff administering the medication does not have an available computer or laptop to directly input the medication administration. (vi) The system must offer nurses the ability to add mediation into the MAR in the event that the individual is seen by a community physician who doesn't have the ability to transfer the medication regimen to the EHR solution. (vii) Receives information from the CPOE or E-Scribe functionality.				
E23	Maintains active medication list: Enable a user to electronically record, modify, and retrieve an individual's active medication list as well as medication history for longitudinal care.	Required			
E24	Enables a user to electronically generate and transmit prescriptions and prescription-related information in accordance with NYS mandates effective 3-27-2015 by the Department of Health. The application must meet federal security requirements as included in the Drug Enforcement Administration Interim Final Rule. The application must be registered with the Department of Health, Bureau of Narcotic Enforcement "Electronic Prescribing" in accordance with NY State regulations.	Required			
E25	Prescription features: 1) System must be able to generate an electronically signed prescription that can be printed in a form that can be submitted to a pharmacy by the individual. 2) System must allow for electronic transmission of the prescription to the individual's pharmacy of choice using FAX and/or E-SCRIPT standard.	Required			
E26	Electronic prescribing system is available wirelessly so a physician can write the prescription using a PDA.	Desired			
E27	Drug-formulary checks. Enable a user to electronically check if drugs are in a formulary or preferred drug list. Ability to customize the formulary.	Desired			
E28	System can recommend alternative medications.	Desired			
E29	System can generate individual specific medication information sheets.	Desired			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
E30	Assess medical necessity for intervention and provide alert if the intervention is not medically indicated or if intervention is duplicated, however, offers an override feature so a physician can still prescribe even if an alert is generated.	Desired			
E31	Medication reconciliation. Enable a user to electronically compare two or more medication lists.	Desired			
E32	Drug-drug, drug-allergy interaction checks. (1) Notifications. Automatically and electronically generate and indicate in near real-time, notifications at the point of care for drug-drug and drug-allergy contraindications based on medication list, medication allergy list, and computerized provider order entry. 2) Adjustments. Provide certain users with the ability to adjust notifications provided for drug-drug and drug-allergy interaction checks.	Required			
E33	Maintains active allergy list: Enables a user to electronically record, modify, and retrieve an individual's active allergy list (including medication, food, environmental, latex, and/or other allergies) as well as allergy history for longitudinal care.	Required			
E34	Records and chart changes in the following: (A) Temperature; (B) Pulse; (C) Respiration; (D) Blood Pressure; (E) Height; (F) Weight; (G) Anthropometric measurements; (H) Calculate and display body mass index (BMI); (I) Plot and display growth charts for children 0–20 years, including BMI and anthropometric measurements.	Required			
E35	Incorporates laboratory test results: (1) Receive Results: Electronically receive clinical laboratory test results in a structured format and display such results in human readable format. (2) Display test report information: Electronically display all the information for a test report. (3) Incorporate results. Electronically attribute, associate, or link a laboratory test result to a laboratory order or patient or individual service record.	Desired			
E36	Reportable lab results: Electronically record, modify, retrieve, and submit reportable clinical lab results.	Required			
E37	User can review and sign results for any ordered tests and procedures and review and sign/approve drug	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	regimen.				
E38	User can generate test results informational letters or reports.	Desired			
E39	Smoking status. Enables a user to electronically record, modify, and retrieve the smoking status of a person. Smoking status types must include: current every day smoker; current some day's smoker; former smoker; never smoker; smoker, current status unknown; and unknown if ever smoked.	Required			
E40	Calculates and submit clinical quality measures.	Required			
E41	System can produce a controlled substance count sheet	Desired			
E42	Provides an alert for temperature checks for medication refrigeration.	Desired			
E43	Enable a user to electronically record whether an individual has an advance directive.	Required			
E44	Generate Health Maintenance Alerts: Ability for the system to have a default or automatic notification of health care/medical appointments, lab/diagnostic tests, abnormal laboratory values, immunizations, diet orders which could include food consistency or liquid consistency, choking risk, and changes in body weight.	Desired			
E45	General Alerts: Ability for staff to enter alerts that will be posted for a designated time period that can be communicated to providers using the EHR. Examples of alerts could include alerting providers that the individual experienced a recent loss, acute medical needs, alerts that there has been a change in services or in a plan such as a behavior support plan (BSP), the person was involved in a physical intervention, or positive changes in the person's life.	Required			
E46	Timely access: Enable an authorized and identified user(s) to provide individuals with online access to their clinical information, including, at a minimum, lab test results, problem list, medication list, and allergy list.	Required			
E47	Exchanges clinical information and individual summary record. (1) <u>Electronically receive and display</u>. Electronically receive and display an individual's summary record, from other providers and organizations including, at a minimum, diagnostic tests results, laboratory results, problem list, medication list, and allergy list. Ability to exchange this information within the agency for multidisciplinary review and to support task completion. (2) <u>Electronically transmit</u>. Enable a user to electronically transmit an individual's summary record, to other providers and organizations	Required			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	including, at a minimum, diagnostic tests results, laboratory results, problem list, medication list, and allergy list.				
E48	Transitions of care: receive, display, and incorporate transition of care/referral summaries and support medication reconciliation.	Required			
E49	Submission to immunization registries. Electronically record, modify, retrieve, and submit immunization information as required by the State of New York and New York City Department of Health.	Desired			
E50	Public health surveillance. Electronically record, modify, retrieve, and submit public health surveillance information.	Desired			
E51	Reporting to the public health central cancer registry. Electronically record and report cancer cases to a public health central registry, except where prohibited, and in accordance with applicable law and practice.	Desired			
E52	Provides individuals receiving services (and their authorized representatives) with an online means to view, download, and transmit data to a 3rd party.	Required			
E53	Enables a user to electronically send messages to, and receive messages from, an individual in a manner that ensures: ▪ Both the individual (or authorized representative) and EHR technology user are authenticated; and ▪ The message content is encrypted and integrity-protected in accordance with the standard for encryption and hashing algorithms.	Required			
E54	Enables a user to electronically record, change, and access immunization information.	Required			
E55	Enables a user to electronically record, change, access, and search electronic notes. User can review and sign notes from their own visits and calls.	Required			
E56	Dual Routing: Ability for multiple users to sign and review documentation (e.g. lab results forwarded to a team).	Required			
E57	Image results. Electronically indicates to a user the availability of an individual's images and narrative interpretations (relating to the radiographic or other diagnostic test(s)) and enable electronic access to such images and narrative interpretations.	Desired			
E58	Enables a user to electronically record, change, and access an individual's family health history.	Desired			
E59	Has web-based interviewing templates that can be incorporated into a note or report.	Desired			
E60	Has user-defined automatic routing of information	Desired			

			Check One		
Item #	***Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Included in Bidder's Proposal as Customization**	**Not included in Bidder's Proposal**
	(messages, lab results, other tests, etc.) with override capabilities.				
E61	Stores and maintains safety assessments, such as the ability to leave in the event of a fire, with clear identification of supports needed to ensure safety.	Required			
E62	Maintains data from various clinical assessments as outlined in this RFP. The EHR should maintain information pertaining to clinical and diagnostic assessments including data from psychological evaluations, psychiatric assessments, cognitive evaluations, physical and/or occupational therapy assessments, speech and language assessments, health assessments, or psychosocial evaluations. EHR should offer comparative standards for data elements such as body weight and BMI so the individual can be compared to normal ranges.	Required			
E63	Maintains specialized plans, particularly behavior support plans (BSP), which outline interventions used by various staff and providers to address problem or challenging behavior, as well as Medication Monitoring plans.	Required			
E64	Maintains logs such as meal logs/ food and nutrition intake record, behavior logs, sleep logs, etc. These logs are used based on the individuals needs and data is entered by all staff, particularly direct support staff. Ability to filter and aggregate data from the logs.	Desired			
E65	Maintains data related to the Functional Behavior Assessment (FBA).	Desired			
E66	Implement the Nutrition Care Process (NCP) designed by the Academy of Nutrition and Dietetics which include a Nutrition Assessment, Nutrition Diagnosis, Nutrition Intervention, and Nutrition Monitoring and Evaluation Plan. System should offer a tool to automatically calculate BMI and calorie requirements.	Desired			
E67	Interoperability between the EHR and RIA (the Restrictive Intervention Application) which tracks the use of PRN/STAT medication administration, use of time out, and use of restrictive physical interventions to avoid the need for duplicate entry of data. A form outlining all data elements in RIA can be found using the web link http://www.opwdd.ny.gov/node/2309 General information about RIA can be found at web link http://www.opwdd.ny.gov/opwdd_resources/incident_management/RIA	Desired			
E68	Maintain the Order/Plan for Medical Immobilization/	Desired			

Item #	Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Included in Bidder's Proposal as Customization	Not included in Bidder's Proposal
	Protective Stabilization (MIPS)/ Sedation available through the following web link: http://www.opwdd.ny.gov/opwdd_regulations_guidance/adm_memoranda/documents/adm2010-02mipsorderplan				

F. SELF DIRECTED CARE AND PORTAL

Item #	Functionality Requirement	Required /Desired Feature	Check One: Existing feature	Included in Bidder's Proposal as Customization	Not included in Bidder's Proposal
F1	Provides authorized users (individuals/guardians) with the current service plan.	Required			
F2	Provides authorized users (individuals/ guardians) with information on future services (e.g., appointment reminders) and a list of services delivered/received within the past six months.	Desired			
F3	Provides basic clinical summaries to an authorized user (individuals, or their designee), that include, at a minimum, diagnostic test results, problem list, medication list, and medication and other allergy list, including environmental, food, and latex allergies, and dietary needs (e.g. food consistency).	Required			
F4	Enables a user to electronically identify and provide individual-specific education resources according to, at a minimum, the data elements included in the individual's: diagnoses, problem list; medication list; and laboratory test results; as well as provide such resources to the individual.	Desired			
F5	System has an on-line solution that will allow authorized individuals, guardians, and designated circle of support to verify their medical record, access billing status, review test results, and communicate with service providers.	Desired			
F6	Utilizes technology to support health and wellness: *(1)* Scheduling assistant to increase potential for attending appointments. *(2)* Sends reminders to attend appointments. *(3)* Utilizes alerts. *(4)* Tracks data related to personal outcomes including satisfaction with services, the degree to which an individual or their circle of support believes a service contributes to the achievement of their personal goals and desires, and progress toward their self-identified outcomes.	Desired			

Item #	Functionality Requirement	Required /Desired Feature	Check One: Existing feature	Check One: Included in Bidder's Proposal as Customization	Check One: Not included in Bidder's Proposal
	(5) Ability to alert provider if their needs or status changes. *(6)* Reminders to take medication or to fill prescriptions. *(7)* Track completion of activities.				
F7	Enable an Individual, their guardian, or other authorized user, the ability to request records which can be retrieved and viewed in an electronic human readable format or image.	Desired			
F8	Provide an immediate alert, to a designated OPWDD employee, when a request for records has been submitted.	Desired			

G. SERVICE TRACKING, SERVICE UTILIZATION, AND PARTICIPATION IN SERVICES FOR MONITORING AND OVERSIGHT

Item #	Admission (at actual time of an individual's admission) Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Included in Bidder's Proposal as Customization	Check One: Not included in Bidder's Proposal
G1	Ability to download medication history from Regional Health Information Organizations (RHIO's) to identify duplication of medications and potential interactions.	Required			
G2	Tracks individuals use of specified medications	Required			
G3	Ability to search and report on prescribed medications in case of a drug recall, which requires maintaining a lot number.	Required			
G4	Provides cost analysis of prescribed medications in comparison to formulary and generics.	Desired			
G5	Ability to filter data by person receiving services and immunizations received.	Required			
G6	Ability to draft reports of activities and services the person participated in daily, monthly, etc.	Required			
G7	Ability to track an individual's participation and progress in a service or activity.	Required			
G8	Ability to filter data to track service utilization or refusal to participate.	Required			
G9	Ability to filter data by provider or agency to assess services offered.	Required			
G10	Ability to filter data by person providing the services and the services offered.	Required			
G11	Ability to filter data by physician to see orders, treatments offered, and services.	Required			

Item #	Admission (at actual time of an individual's admission) Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Included in Bidder's Proposal as Customization	Not included in Bidder's Proposal
G12	Ability to filter data by service to identify agencies that offer a particular service.	Desired			

H. QUALITY IMPROVEMENT ACTIVITIES (ongoing)

Item #	Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Proposed Customization	Not included in Bidder's Proposal
H1	Maintains a standards based data collection structure to facilitate data manipulation and standardized reports ensuring compliance with State and Federal laws and regulations.	Required			
H2	Provides support to help ensure that treatment is delivered in a cost-effective and beneficial manner in the following areas: • Data collection and maintenance • Supervisory oversight • Resource utilization • Utilization review occurs within 30 days of admission. (see http://www.opwdd.ny.gov/node/870 and http://www.opwdd.ny.gov/opwdd_regulations_guidance/adm_memoranda/adm2009-05_clarifying_memo) • Comparisons, longitudinal studies and trend analysis • Benchmarking capability • Outcomes • Satisfaction with services which is completed by individual/guardians, or other authorized representative, referral source, and referral target • Management reporting • Records management	Required			
H3	Ability to filter data by health care precautions and events such as people on precaution plans due to seizures, choking/aspirations, falls, bowel precautions, impaction, behavioral issues including pica, restraints, or self-injury.	Desired			
H4	Ability to filter data using demographic fields, such as date of birth, by services delivered.	Desired			
H5	Comparative standards to compare an individual's laboratory results or scores to normal ranges.	Desired			
H6	Ability to filter data using diagnosis and diagnostic ICD codes.	Desired			

Financial Tracking and Billing (Optional Deliverable)

The financial tracking and billing functionality or modules are considered an optional deliverable as OPWDD may, at its sole discretion, determine whether to include this functionality as part of the contract award. Bidders, however, are required to submit a proposal for billing functionality. **Bidders should include the separate cost of their billing module, where indicated on Attachment 5, when completing the Project Cost form**.

I. FINANCIAL ASSESSMENT

			Check One		
Item #	***Financial Assessment Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
I1	Maintains data gathered during a financial assessment interview as to potential sources of payment.	Desired			
I2	Prompts when a financial assessment is not completed within 7 days of admission.	Desired			
I3	Maintains a record to critical future dates for Medicaid eligibility to permit recertification of Medicaid eligibility.	Desired			

J. TREATMENT DATA INTERFACE

			Check One		
Item #	***Treatment Data Interface Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
J1	Directly accesses an individual's identification and demographic information needed for billing purposes which is maintained as part of the individual's management information.	Desired			
J2	Provides "individual days" to be billed based on the actual service days that an individual received services.	Desired			
J3	Provides system controls such that all days for a billing period are billed or otherwise accounted for.	Desired			

K. ACCOUNTS RECEIVABLE

			Check One		
Item #	***Accounts Receivable Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
K1	Maintains an open item account for each individual.	Desired			
K2	Ability to provide near real-time billing updates and notification (e.g. changes to insurance, situational data elements and special billing features).	Desired			
K3	**Create the following accounts receivable reports:** Accounts receivable ledger Aged accounts receivable report Uncollectible and bad debt write-off report Payment posting report	Desired			

Item #	Accounts Receivable Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Proposed Customization	Check One: Not included in Bidder's Proposal
	Automated tasks to remind state employees of missing charges.				

L. FINANCIAL BILLING CAPABILITY

Item #	Billing Capability Functionality Requirement	Required/ Desired Feature	Check One: Existing feature	Check One: Proposed Customization	Check One: Not included in Bidder's Proposal
L1	Generates, in a HIPAA acceptable format, electronic bills centrally based on individual days and other account information maintained in an automated billing system.	Desired			
L2	Generates, in a format acceptable to the payor, hardcopy bills to payors (including health insurance and other third parties, private payors) that will not accept electronic format.	Desired			
L3	Allows for correction of billing data rejected by a payor upon initial submission, and the subsequent resubmission of the bill for full or adjusted payment.	Desired			
L4	Maintains complete account receivable ledgers, reflecting payments made and balances outstanding as of the end of the billing period.	Desired			
L5	Maintains an accounts receivable "aging" feature that displays account balances outstanding for 60 days, 90 days, 120 days and more than 120 days.	Desired			
L6	Enables the write-off of uncollectible accounts and bad debts, as appropriate, and produce individual and summary reports on screen and in hard copy.	Desired			
	Third Party Billing Requirements:				
L7	Produces full-cost bills for submission to primary and secondary third party payors, including health insurance and managed care providers.	Desired			
L8	Ensures that the billing to secondary insurers is not sent before being settled with the primary insurer and indicating that the bill should indicate the primary insurer has paid maximum benefit for its coverage.	Desired			
L9	Generates third party bills that display the full cost on the bill and the full cost and anticipated payment amounts on the accounts receivable record. The system should automatically write off the unpaid balance upon receipt of the correct anticipated payment amount. The system should hold open any accounts with discrepancies until such discrepancies are resolved.	Desired			
	Private Party Billing Requirements:				
L10	Generates both full cost and partial-rate bills to private parties.	Desired			

			Check One		
Item #	***Billing Capability Functionality Requirement***	**Required/ Desired Feature**	**Existing feature**	**Proposed Customization**	**Not included in Bidder's Proposal**
L11	Carry forward unpaid balances until paid or written off maintaining open item detail, such that the system must produce new bills each month for all unpaid private party accounts, in the amount of the unpaid balances.	Desired			
L12	Generates a report that lists uncollectible amounts and bad debt write-offs and the reason for each such write-off.	Desired			
L13	Enables crediting private party payors with third party payments received, with the credited amount displayed on the bill and the net amount reflected on the accounts receivable record.	Desired			
L14	Enables crediting all third party and private party payments received to the Individual's Medicaid account, with the credited amount displayed on the bill and the net amount billed reflected on the accounts receivable record.	Desired			

Attachment 4

CHECKLIST OF SUBMISSION REQUIREMENTS

[ ] Cover Letter

[ ] Representative of Bidder for this proposal (name, title, name of company, address, telephone/fax numbers, and e-mail address)

[ ] Signed by an official authorized to bind Bidder to all provisions

[ ] Three specific work references including contact name, business address and current telephone number

[ ] Attachments to Cover Letter:

[ ] Contractor Certification Tax Form ST-220-TD and Contractor Certification to Covered Agency Form, ST-220-CA
[ ] Appendix B – Minority and Women Owned Forms 100, 101 and 103
[ ] Appendix C – MacBride Fair Employment Principles
[ ] Appendix D – Affidavit of Non-Collusion
[ ] Appendix E – Compliance with Communications during Restricted Period
[ ] Appendix F – Bidder's Responsibility Questionnaire
[ ] Appendix G - Encouraging New York Business Statement
[ ] Appendix H – Compliance with Iran Divestment Act
[ ] Certification indicating that the proposed solution is currently certified as meeting stage one and stage two federal meaningful use standards OR documentation clearly indicating and describing the process used to ensure that the proposed solution will be certified as meeting stage one and stage two meaningful use standards by the contract signing date.

[ ] Technical Proposal

[ ] One original and seven complete copies of Technical Proposal
[ ] Two copies of Technical Proposal on separate Thumb Drives
[ ] Each set includes Bidder's Experience Form (Attachment 2)
[ ] Each set includes Application Capabilities (Attachment 3)
[ ] Each set identified on cover with Bidder's name, name of RFP and phrase: "Technical Proposal"
[ ] All copies of a technical proposal packaged together, separate from cost proposal, and sealed.
[ ] Outside of package identified with name of RFP and phrase: "Technical Proposal"

[ ] Cost Proposal

[ ] One original and seven complete copies of the Cost Proposal.
[ ] Each set identified on cover with Bidder's name, name of RFP and phrase "Cost Proposal"
[ ] Each set includes Project Cost (Attachment 5)
[ ] All copies of Cost Proposal packaged together, separate from technical proposal, and sealed
[ ] Outside of package identified with name of RFP and phrase "Cost Proposal"

Attachment 5

Project Costs

It is anticipated that OPWDD will implement the system on a limited basis as an initial pilot, with a phased-in implementation at the remaining service sites upon successful adoption of the pilot. In calculating software-as-a service cost, Bidders should assume that 10 percent of users will be accessing the system four months after contract signing, 25 percent of users will access the system seven months after contract signing and 100 percent of users will access the system by September 2, 2016.

The successful Bidder will be responsible for software installation, customization, hosting, maintenance and OPWDD staff training in use of the application. The Bidder must include all Bidder-related expenses in the bid, including travel and lodging as necessary (e.g., meetings in Albany with OPWDD project staff and/or meetings at state operated programs or settings). Travel is to reflect and comply with NY State travel guidelines.

Sections A and B are mandatory deliverable costs. Section C is for future change order consultant rates. Sections D and E are optional deliverable costs. Section F is for a summary of costs in Sections A-E, and the total of Sections A-E.

A. MANDATORY DELIVERABLES 1 - 3

This cost is to include ALL costs needed to bring OPWDD's EHR system through full, statewide implementation. It should NOT include hosting and maintenance costs AFTER full statewide implementation (see section B.)

	Cost for Proposed Scope of Project
1. System modifications and acceptance testing.	$
2. Pilot testing.	$
3. Full successful rollout and statewide implementation; all features are accessible and operating as intended and the train the trainer model has been utilized so the system can be utilized.	$
Total cost for mandatory deliverables 1-3.	$

B. MANDATORY DELIVERABLE 4 – SYSTEM OPERATION AND MAINTENANCE (MONTHLY MAINTENANCE COSTS/ HOSTING OR LICENSING COSTS)

Costs in this section refer to all routine and recurring costs **post full statewide implementation**.

	Monthly Cost-remainder of contract period (from 9/2/2016 thru 1/31/17) post full statewide implementation	Monthly Cost-Contract Year 3 post full statewide implementation	Monthly Cost-Contract Year 4 post full statewide implementation	Monthly Cost-Contract Year 5 Post full statewide implementation
Total monthly cost to OPWDD for operation of the EHR system: **POST FULL STATEWIDE IMPLEMENTATION**				
Total Mandatory Deliverable 4 - Post Full Statewide Implementation Maintenance/Hosting/ Licensing Costs **(MONTHLY COST TIMES NUMBER OF MONTHS PER EACH COLUMN HEADING FOR ALL REMAINING YEARS OR PORTION OF YEAR THROUGH THE END OF THE FIVE YEAR CONTRACT PERIOD)**				**$**

C. FUTURE CHANGE ORDERS

As New York State implements health care and managed care reforms there may be future customizations required that are not currently known. Bidders are requested to identify consulting rates for future product customizations. Costs should be broken down into an hourly fee for differing job descriptions of consultant staff. Hours per job category are only estimates. Actual hours per category and total amount spent may vary depending on need. These are estimated hours to provide a basis for scoring. Total Cost in each column of second table = hourly rate from first table, below, X estimated hours/year for each job category.

Job Category	Estimated Hours per year	Hourly Rate for years 1 and 2	Hourly Rate for year 3	Hourly Rate for year 4	Hourly Rate for year 5
Business Analyst	1,000				
Programmer	4,000				
Database Administrator	1,000				
Technical Architect	1,000				
Quality Control Specialist	2,000				
Project Management	500				
Trainer- Person to provide training using a train the trainer approach.	500				
Technical Specialist	500				

Job Category	Estimated Hours per year	TOTAL COST YEARS 1 AND 2 (TOTAL)	TOTAL COST YEAR 3	TOTAL COST YEAR 4	TOTAL COST YEAR 5
Business Analyst	1,000				
Programmer	4,000				
Database Administrator	1,000				
Technical Architect	1,000				
Quality Control Specialist	2,000				
Project Management	500				
Trainer- Person to provide training using a train the trainer approach.	500				
Technical Specialist	500				
"TOTAL COST COLUMN TOTALS"					
TOTAL FUTURE CHANGE ORDERS (TOTAL OF ALL "TOTAL COST COLUMN TOTALS")					

D. OPTIONAL DELIVERABLE – FINANCIAL TRACKING AND BILLING

Financial tracking and billing functionality is an optional deliverable; however, the cost will be scored and included in the total point score of the whole proposal. As this cost will be scored, it will be reflected in the contract and "locked in" in the event this option is exercised. If the financial tracking and billing option becomes a deliverable in any year after the first two years of the contract, the cost proposed will be adjusted based on the CPI-U, U.S., City Average for all items with a base period of the immediate prior year to the contract date for this optional deliverable, measured September to September.

If the financial tracking and billing component is included in the EHR mandatory deliverables please insert 0, below, for full implementation costs if no other implementation costs apply.

FULL IMPLEMENTATION COST	$
MONTHLY MAINTENANCE/HOSTING/LICENSING COSTS – ***ONE YEAR ONLY***	$
TOTAL OPTIONAL DELIVERABLE: FINANCIAL TRACKING AND BILLING	$

E. OPTIONAL DELIVERABLE – STATEWIDE TRAINING

Statewide training, training beyond the required train-the-trainer approach, is an optional deliverable; however, the cost will be scored and included in the total point score of the whole cost proposal. The cost should reflect a contract year 1 and/or 2 implementation. This cost will be scored and included in the contract and "locked in" in the event this option is exercised. Travel costs are to be included in the cost. Travel is to reflect NY State travel guidelines.

TOTAL OPTIONAL DELIVERABLE – STATEWIDE TRAINING	$

F. TOTAL COST PROPOSAL

TOTAL MANDATORY DELIVERABLES 1-3 (A)	**$**
TOTAL MANDATORY DELIVERABLES 4 (B)	**$**
TOTAL FUTURE CHANGE ORDERS (C)	**$**
TOTAL OPTIONAL DELIVERABLE: FINANCIAL TRACKING AND BILLING (D)	**$**
TOTAL OPTIONAL DELIVERABLE: STATEWIDE TRAINING (E)	**$**
TOTAL COST PROPOSAL (A+B+C+D+E) (F)	**$**

Attachment 6

Date:	
RFP Name:	

Bidder's Information

Bidder's Legal Company Name:	
Company Contact Person:	
Company Street Address:	
Company City, State, Zip Code:	
Company Phone:	
Company Fax:	

Reference 1

Reference Company Name:	
Type of Business:	
Primary Contact Person's Name:	
Title:	
Mailing Address:	
Phone:	
E-Mail:	
Project Name:	
Project Description:	

Reference 2

Reference Company Name:	
Type of Business:	
Primary Contact Person's Name:	
Title:	
Mailing Address:	
Phone:	
E-Mail:	
Project Name:	
Project Description:	

Reference 3

Reference Company Name:	
Type of Business:	
Primary Contact Person's Name:	
Title:	
Mailing Address:	
Phone:	
E-Mail:	
Project Name:	
Project Description:	