

NEW YORK STATE DEPARTMENT OF HEALTH

A Request for Proposals for

**Independent Evaluation
of the New York State
Comprehensive Tobacco Use Prevention
and Control Program**

New York State
Department of Health
Bureau of Chronic Disease Epidemiology and Surveillance
Erastus Corning II Tower
The Governor Nelson A. Rockefeller
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Release Date: March 21, 2007
Letter of Intent Due: April 4, 2007
Questions Due: April 11, 2007
Responses to Questions Posted: April 25, 2007
Final Proposals Due: June 13, 2007
Bid Opening: June 15, 2007

FAU Control #: 0611070727

DESIGNATED CONTACTS:

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contacts to whom all communications attempting to influence this procurement must be made to either:

Patricia Bubniak NYS Department of Health Empire State Plaza Corning Tower – Room 710 Albany, NY 12237-0676	OR	Deborah Grabau NYS Department of Health Empire State Plaza Corning Tower – Room 710 Albany, NY 12237-0676
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Permissible Subject Matter Contacts:

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health also identifies the following allowable contacts for communications related to the following subjects:

Submission of written proposals or bids:

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Submission of Written Questions:

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For further information regarding these statutory provisions, see the Lobbying Statute summary in Section E, 10 of this solicitation.

A. INTRODUCTION

The Health Care Reform Act of 2000 (HCRA 2000) created the Tobacco Use Prevention and Control Program within the Department of Health “to improve the health, quality of life, and economic well-being of all New York citizens (Public Health Law Section 1399-ii).

Section 1399 jj (HCRA 2000, Public Health Law Section 1399-jj) further specifies that “the Department shall conduct an independent evaluation of the statewide tobacco use prevention and control program under Section-1399 ii of this article. The purpose of this evaluation is to direct the most efficient allocation of state resources devoted to tobacco education and cessation to accomplish the maximum prevention and reduction of tobacco use among minors and adults. Such evaluation shall be provided to the governor, the majority leader of the senate and the speaker of the assembly on or before September first, two thousand one, and annually on or before such date thereafter. The comprehensive evaluation design shall be guided by the following:

- Sound evaluation principles including, to the extent feasible, elements of controlled experimental methods;
- An evaluation of the comparative effectiveness of individual program designs which shall be used in funding decisions and program modifications; and
- An evaluation of other programs identified by state agencies.”

In order to comply with state law, independent evaluation services were competitively procured and contracted for the five year period beginning January 2003. This request for proposals (RFP) seeks evaluation services to develop a new five year evaluation plan that will update the original procurement and revise and advance the evaluation work consistent with the evolution of the Tobacco Use Prevention and Control Program (TCP) and the tobacco control environment in New York State. The new evaluation plan must incorporate methods for transitioning, without loss of evaluation capacity, current projects deemed critical to the ongoing evaluation of the TCP and plans for the development of new projects designed to fill existing gaps in the evaluation plan.

B. BACKGROUND

Preventing and reducing tobacco use are the most important public health actions that can be taken to improve the health of New Yorkers. Tobacco addiction is the leading preventable cause of morbidity and mortality in New York and in the United States. Cigarette use, alone, results in an estimated 440,000 deaths each year in the U.S., and 25,000 deaths in New York State. The list of illnesses caused by tobacco use is long and contains many of the most common causes of death. These include heart disease, stroke, many forms of cancer, other lung and vascular diseases.

Nonsmokers who breathe the smoke from other peoples’ cigarettes also suffer adverse health consequences related to their exposure to tobacco smoke. According to the U.S.

Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), researchers have identified more than 4,000 chemicals in tobacco smoke, including at least 43 that cause cancer in humans and animals. The US Environmental Protection Agency estimates that environmental tobacco smoke, also called secondhand smoke, causes approximately 62,000 deaths each year among non-smokers in the United States, including 3,000 deaths each year from lung cancer. An estimated 300,000 children across the nation develop lower respiratory tract infections each year as a result of exposure to secondhand smoke, with approximately 15,000 of these children hospitalized each year due to their infections. Exposure to secondhand smoke is a primary cause of asthma and acute asthmatic events among children. Tobacco smoke also has a direct impact on the health of the developing fetus. Women who smoke during pregnancy have a higher incidence of delivering low birth weight babies, a leading cause of infant death.

The New York State Tobacco Control Program currently operates with a total of \$87.355 million in funding from two sources: state funds (\$85.485 million) and the Centers for Disease Control and Prevention (\$1.87 million). The program was built upon a foundation of community action established during the National Cancer Institute-funded Project ASSIST (1991-1999) and is based on the coordinated, comprehensive, statewide approach to tobacco control promoted and funded by the CDC beginning in 1999. The program seeks to prevent initiation of tobacco use, reduce current use of tobacco products through promotion of cessation, reduce the social acceptability of tobacco use, and eliminate exposure to secondhand smoke by implementing a three-pronged strategy:

- 1) **Community mobilization** to change the community environment that supports tobacco use, change community attitudes about tobacco, and de-normalize tobacco use;
- 2) **Media and counter-marketing** to increase awareness of the dangers of secondhand smoke, motivate tobacco users to stop, expose tobacco industry propaganda, and de-glamorize tobacco use; and
- 3) **Cessation** systems, services, and support to motivate individual tobacco users to attempt to stop smoking and to increase the likelihood of cessation success.

The Tobacco Control Program is additionally supported by an in-house surveillance and evaluation team that concentrates on partner-level evaluation needs and the surveillance needs of the program and the Department. A training grant and other administrative program personnel help build and maintain an effective tobacco control infrastructure.

The Program's activities follow recommendations from the National Cancer Institute's *Strategies to Control Tobacco Use in the United States: A blueprint for public health action in the 1990s*; CDC's *Best Practices for Comprehensive Tobacco Control*

Programs; the Surgeon General's report on Reducing Tobacco Use: A Report of the Surgeon General; and the Task Force on Community Preventive Services Guide to Community Preventive Services: Tobacco Use Prevention and Control.

Community Mobilization Action Areas

- Community Partnerships for Tobacco Control
- Reality Check Youth Action Programs
- Tobacco Free School Policy Programs
- Enforcement of youth access restrictions

Community Partnerships for Tobacco Control. Current efforts to change community environments and attitudes and de-normalize tobacco use include funding 29 community partnerships covering all 62 New York state counties. Partnerships engage local stakeholders, educate community leaders and the public, and mobilize the community to strengthen tobacco-related policies to restrict tobacco company presence in the community, the use and availability of tobacco products in the community, and limit opportunities for exposure to secondhand smoke. Community partnerships work with local businesses, employers, community leaders, work places, health care institutions, providers, schools and community groups to address tobacco company advertising, sponsorship and promotion and to implement effective tobacco-free policies in the outdoor environment, change public opinion about tobacco and tobacco use, and promote access to cessation services for those who desire assistance to stop smoking. Community partnerships have been successful in promoting initiatives to strengthen clean indoor air laws, product placement laws, tobacco advertising restrictions, and youth access laws and penalties. Partnerships have implemented multi-media campaigns, media and community events and other activities to inform, educate, engage and empower the general population in order to decrease the social acceptability of tobacco use.

Reality Check Youth Action Programs. Partnerships with youth organizations throughout the state, including county health departments and community-based organizations, seek to change community norms regarding tobacco use through civic action. These programs engage middle and high school aged youth from all economic and cultural backgrounds in activities aimed at de-glamorizing and de-normalizing tobacco use in their communities, and exposing the manipulative and deceptive marketing practices of the tobacco industry. Branded under the name Reality Check, program initiatives have included community education linked to social action; media advocacy, media and community events, and advocacy with decision makers to obtain pro-tobacco control policies and resolutions.

Tobacco Free School Policy Programs. Tobacco Free School Policy Partners provide resources and support to schools around the state seeking to develop, implement, and enforce effective tobacco-free school policies. Schools play a key role in creating attitude and behavioral change among students, families and members of the community. By creating an environment that supports and promotes tobacco-free

values and behaviors, schools can be leaders in the fight for tobacco-free lifestyles for children and adults. Funding is currently provided to 30 School Policy Partners across the state.

Enforcement of youth access restrictions. Supported by the NYSDOH Center for Environmental Health, local activities to enforce the Adolescent Tobacco Use Prevention Act (ATUPA) and the Clean Indoor Air Act (CIAA) further change community attitudes about tobacco use as a normative behavior. Educating retailers about the law and citing those who violate it put the whole community on notice that youth smoking is something to be prevented. These activities can help focus community attention on the issue of youth access to tobacco and provide a call to action to community members. When enforcement reaches a high level of compliance, it may contribute to reduced youth access to tobacco products. Enforcement of the CIAA plays an important role in protecting nonsmokers from the health hazards associated with secondhand smoke exposure and further denormalizing tobacco use and promoting cessation.

Media and Counter-Marketing Action Areas

The tobacco education media campaign includes television, radio, billboard and print advertising, with the goals of educating New Yorkers about the health risks of tobacco use and the dangers of secondhand smoke, motivating tobacco users to stop, and promoting use of the New York State Smokers' Quitline. The media campaign includes television, radio, billboard and print advertising and is based on ads and materials available to New York State from the CDC Media Campaign Resource Center.

Counter-marketing efforts seek to expose the promotional strategies employed by the tobacco industry, de-glamorize tobacco use, and build and sustain anti-industry community sentiment. The counter-marketing efforts support local activities as part of a statewide initiative, reinforce and enhance partner actions and messages at the local level, and provide support for partner community education efforts.

Cessation Support and Services Action Areas

- Smokers' Quitline
- Tobacco Cessation Centers
- Medicaid coverage of pharmacotherapies for cessation

Program efforts to motivate individual tobacco users to try to stop and to support tobacco users in their cessation efforts include:

- Funding the New York State Smokers' Quitline, which provides cessation information and referral services to people who call the toll-free number 1-866-NY-QUITS (1-866-697-8487). The Quitline receives approximately 100,000 calls per year and has documented high quit rates among the subset of callers who speak with an intervention specialist.
- Funding for 19 Cessation Centers that work with health care institutions,

organizations and providers to implement systems to screen all patients for tobacco use and prompt providers to offer brief advice to quit and assistance with quitting to those who use tobacco.

- Coverage of over-the-counter and prescription cessation therapies for Medicaid-enrolled New Yorkers. These covered services play an important role in addressing access to cessation services in a population with a high rate of tobacco use.

Programmatic Organizational Structure: Field Operations

The New York Tobacco Control Program's field operation is organized into four (4) geographic regions and each region is divided into two (2) areas (see Attachment 1).

Western Region

- Rochester Area
- Buffalo Area

Central Region

- Northern Central Area
- Southern Central Area

Capital Region

- Northern Capital Area
- Southern Capital Area

Metropolitan Region

- Lower Hudson Valley Area
- New York City Area

Each area is staffed by a local Area Manager who provides oversight and contract management to funded community partners in the area. Modality Leads provide guidance and technical assistance to these partners to enhance effective program implementation. Working with the Area Managers and Modality Leads, community partners align goals; share best practices; develop strategic plans; develop and implement public relations activities; identify training and technical assistance needs; communicate statewide policy and program initiatives; and communicate problems and issues facing the field. Communication and networking are accomplished through Area, Regional, Modality, and Statewide meetings. Training is provided through specially developed workshops.

C. DETAILED SPECIFICATIONS OF THE SCOPE OF WORK OF THE RESULTING CONTRACT

Bidders may review the original evaluation planning document developed by the current contractor, RTI, International and the three Independent Evaluation Reports available online at:

<http://www.nyhealth.gov/funding/>

The current contractor was funded at \$2.6 million per year for years 1 – 4 and \$6.4 million for year 5. Activities and projects conducted in years 1 – 4 include all those listed as “Current Evaluation Projects” in Section D.3. Projects for Year 5 include those listed in Section D.3 plus those listed as “Additional Year 5 Projects” in Section D.4. Funding in any one year may vary depending on the projects being conducted.

1. WHO MAY BID

All public sector non-profit and for-profit organizations are eligible to bid. Bidders must have experience evaluating large-scale public health programs, preferably tobacco control programs, and developing, implementing and interpreting studies to measure the effectiveness of public health programs. Relevant experience includes expertise in quantitative and qualitative research methods, development, implementation, analysis and interpretation of cross-sectional, ethnographic and cohort studies, developing logic models and identifying program performance measures, and performing independent evaluations of public health interventions.

Bidders with current DOH tobacco-related contracts or otherwise having a working or advisory relationship with DOH must demonstrate that an acceptable mechanism has been developed to assure that there is no conflict of interest in undertaking the evaluation. Eligible bidders are those entities that have NO affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent organization or can demonstrate an acceptable mechanism to assure that there is no conflict of interest in undertaking the evaluation. **All proposals must include a statement verifying the bidder’s “no tobacco” status** (See “Corporate Acknowledgement” Section D.1.j.viii below). Subcontractors will be considered, and subcontractors must meet the same requirements as the principal bidder and must be approved by DOH.

If any other country, nation, province, state or political subdivision is known to discriminate against a New York State business enterprise competing for procurement contracts in that jurisdiction, the Commissioner of Economic Development may place them on the list of “discriminatory jurisdictions”. The State Finance Law (Section 165.6.d.) prohibits NYS agencies from awarding any

procurement to any bidder whose principal place of business is located in a discriminatory jurisdiction. NOTE: The current list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia, and Wyoming.

D. PROPOSAL REQUIREMENTS

1. Technical Proposal Requirements

Your written response to this Request for Proposals must include all of the following:

- a. A description of the bidder's organizational capacity and staffing qualifications, including experience providing large-scale public health evaluation services, working with state agencies, including health departments, and experience with tobacco control evaluation and planning. Organizational capacity must match the scale and scope of this project. Staffing qualifications should indicate experience at all levels of this project including project development, data collection, data analysis, interpretation and synthesis of results, and report development for professional and public audiences. This section should show how your organization will successfully function and meet the requirements of this project (15 points);
- b. A plan for providing adequate staffing and maintaining adequate levels of management oversight of the various projects in place including a flow chart describing how the bidder will conduct internal management of this large-scale project. Management oversight must be adequate to ensure the integrity of evaluation projects throughout the course of the contract period (5 points);
- c. The bidder's overall approach to continuing current surveillance and evaluation projects (see list of "Current Evaluation Projects" in Section D.3 and "Additional Year 5 Projects" in Section D.4.) The bidder's response should reflect and be grounded in sound evaluation and scientific principles. The bidder's response should address each of the projects currently in place, and should address response rate issues regarding the Adult Tobacco Survey noted in "Current Evaluation Projects" Section D.3 below. (10 points);
- d. A plan and timeline for regular review and communication of evaluation information and presentation of information to program staff, stakeholders and the public to enhance program performance. Communication should be in the form of frequent briefings, conference calls, face to face meetings, presentations and publications. (5 points);

e. A plan and timeline for delivery of evaluation information to the Department and TCP staff for subsequent dissemination to key program stakeholders, funded partners, Advisory Board members (quarterly meetings), the State Legislature and Governor, the advocacy community and the general public. The plan should include the development of topical reports and the annual Independent Evaluation Report; the latter is due to the Department according to the schedule listed below (See Section C.3 – Annual Independent Evaluation report) such that a final version can be delivered to the legislature on September 1st of each year. Additional capacity to produce ad hoc reports as needed should be considered. (5 points);

f. The bidder should provide:

- a clear assessment of the current evaluation approach, its comprehensiveness, existence of gaps in projects, and dissemination of information
- recommendations for revising the current evaluation approach, including adding or deleting specific studies, revising or modifying specific approaches and projects, and appropriate methodologies for doing so
- A description of the research methodologies to be implemented to fill evaluation gaps grounded in sound evaluation and scientific principles (15 points);

g. An itemized description of each project deliverable proposed in year 1 of the contract, along with a description of the process to revise deliverables and timelines based on input from TCP staff or changes to the program (20 points).

h. A plan for incorporating information from other available data sources into the overall program evaluation, including, for example, data from the Behavioral Risk Factor Surveillance System, the Youth Tobacco Survey, Current Population Survey, Medicaid expenditures, tax receipts, etc. (Pass/Fail);

i. If the successful bidder is a vendor other than the current contractor, a transition plan is required. The transition plan, submitted as part of the proposal, will describe how the successful bidder will assume responsibility for ongoing evaluation projects implemented by the current contractor so that there is no loss of data collection and no compromise to the overall evaluation effort. **Note that any development work, computer systems, software or other products produced by the original vendor as part of the first independent evaluation contract, will be turned over to the new vendor.** The bidder's plan to transition current evaluation projects, without loss of evaluation information, from the current contractor to the successful

bidder will be scored Pass/Fail;

j. Corporate Acknowledgment

The corporate acknowledgment must be attached in the form of the standard business letter and signed by an individual authorized to legally bind the bidder. The letter will include statements:

- i. indicating that the bidder is a corporation or other legal entity;
- ii. identifying the individuals that were involved in the preparation of the proposal;
- iii. accepting without qualification, all terms and conditions as stated in the proposal. The DOH will not accept requests to revise the mandatory terms and conditions of this request past the deadline for questions, which is April 25, 2007. The department is under no obligation to accept changes suggested by the bidder;
- iv. specifying that the bidder has sole and complete responsibility for the production and completion of all deliverables;
- v. certifying that no personnel currently employed by or under contract to the department or any other State agency participated, either directly or indirectly, in any activities relating to the preparation of the bidder's proposal;
- vi. certifying that the individuals signing this proposal are the people in the bidder's organization authorized to make decisions as to the prices quoted in the cost proposal;
- vii. identifying the use of any subcontractor(s) being proposed and appending a transmittal letter, signed by an individual authorized to legally bind the subcontractor, and stating and detailing the following:
 - the general scope of work to be performed by the subcontractor;
 - written confirmation that the subcontractor agrees to comply with all commitments agreed to by the original contractor in performing the contracted work as well as agreement with the project and the costs;
 - the subcontractor's commitment to perform work indicated in the time period specified, and an affirmation that they have no affiliation with any tobacco company or its affiliates.
- viii. certifying that the bidder does not have any affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries or its parent or can demonstrate an acceptable mechanism to assure that there is no conflict of interest in undertaking the evaluation.

2. Cost proposal requirements

The department seeks a cost-effective bid. Bid price must reflect all costs, including those associated with personnel, travel, materials and services, and miscellaneous expenses. For purposes of this RFP, costs should be separately determined for each of the evaluation projects listed in “Current Evaluation Projects” section D.3 below. Personnel, materials and services costs related to each project should be included in the costs for each of the evaluation projects. Administrative costs and costs for travel and miscellaneous expenses unrelated to a specific project are listed separately from project costs.

Actual reimbursement will be based on a fixed price per deliverable, based on the bidder’s bid price per deliverable. At the Department’s discretion, the fixed price per deliverable may be adjusted to account for modifications in scope of work. Summarize all Year One costs in Attachments 7, 8 and 9. Identify all Primary Contractors for any evaluation projects where contractors are anticipated. Note that we are asking only for Year One costs at this time since it is likely that evaluation projects will be modified in Years Two through Five. Escalation of costs for Years Two through Five will be allowed and will be based on the current National Consumer Price Index.

Each bidder must include satisfactory evidence that it has sufficient financial capacity to perform the type, magnitude and quality of services sought through this RFP. This may include information such as audited annual financial statements, reports by a third party service (e.g., Dunn & Bradstreet), etc. This information also must be included for all subcontractors that will be performing components of this project. Each bidder must include audited financial statements for the last 3 years of operations.

If there is no best value bid that falls within the department’s budget, the department reserves the option to return to all bidders and secure a best and final offer. To remain within budget, the department reserves the right to adjust the scope of work.

Bidders must submit one original, signed proposal and six copies. The Technical and Cost components must be packed in separate, sealed envelopes and marked legibly. These can be packed into a third envelope and sealed/marked accordingly with proper bidder name and address. Proposal packages should be clearly labeled with the name and number of the RFP as listed on the cover of this document. No proposals will be accepted via fax or e-mail. It is the bidder’s responsibility to see that proposals are delivered to the proper address prior to the date and time

specified. For the purpose of developing your Technical and Cost Proposals, a description of each of the current evaluation projects is described below.

3. Current Evaluation Projects

a. Adult Tobacco Survey

This comprehensive surveillance tool collects data on a broad range of tobacco related issues including tobacco use, cessation, purchasing, secondhand smoke exposure, knowledge and attitudes, health related issues and pro- and anti-tobacco media exposure. Information from this survey will enable the program to follow trends on a quarterly basis and can be adapted to quickly changing needs of program (e.g., Clean Indoor Air Act, media).

The ATS was initially developed by CDC and then adapted to the needs of New York by the program in partnership with the independent evaluator. The target population for the ATS is adults aged 18 and older living in residential households in New York. The purpose of the ATS is to monitor progress toward program goals by measuring tobacco use behaviors, attitudes, and related influences on tobacco use. In addition, the survey monitors awareness and use of NYTCP activities and services.

The ATS is a random-digit-dial (RDD) telephone survey designed to produce statewide representative samples of New York adults aged 18 and older. In order to provide timely surveillance of program activities and targeted outcomes, the ATS is collected on a quarterly basis and includes approximately 2,000 New York adults in each quarterly survey.

The sample follows a stratified dual-frame design. The two frames were defined as (1) an RDD frame and (2) a residential listed frame. This kind of design provided a representative sample while increasing the “hit rate” of current residential units to improve data collection efficiency. The average time required to conduct the most recent version of the survey is 21.7 minutes. Smokers require an average 29.1 minutes and non-smokers 20.3 minutes to complete the survey.

Bidders should state expected response rates, any special strategy (ies) to increase or maintain response rates and provide documentation regarding surveys the bidder has conducted.

b. Adult Cohort Survey

This longitudinal survey follows a sample of approximately one thousand adult smokers and recent quitters identified from the cross-sectional ATS. The Adult Cohort Survey focuses on exposure to TCP interventions and

cessation services, cessation attempts and history, and knowledge, attitudes, and beliefs related to smoking, tobacco control, and cessation. The purpose of this survey is to better understand the relationship between TCP interventions and individual efforts to stop using tobacco over time. In this way, it is hoped that programmatic efforts can be informed by successful quit attempts.

c. Youth Cohort Survey

This longitudinal telephone survey of approximately 1500 youth ages 13 to 16 who are current smokers or are considered to be “open to smoking” is designed to better understand youth initiation of smoking, the transition from experimental smoking to habitual smoking in vulnerable youth, and the characteristics of youth who do not become habitual smokers. It is also designed to examine the relationship between TCP interventions, smoking initiation and cessation and tobacco-related knowledge, behaviors, and attitudes over time.

d. Retail Advertising Tobacco Study (RATS)

The Retail Advertising Tobacco Study (RATS) assesses tobacco advertising and promotions in retail stores licensed to sell tobacco in New York. The RATS describes and monitors the amount, type and placement of pro-tobacco advertising and promotions including price and discount information in the retail environment. These data are used to support and evaluate statewide initiatives to reduce retail advertising of tobacco products.

A protocol was developed for measuring community and retailer characteristics, levels of store interior and exterior tobacco advertising, prevalence of ads within 3 feet of the floor or within 12 inches of candy and toys, number of store-owned functional items (such as clocks or shopping baskets), and prevalence of promotions (multipack discount, gifts with purchase, cents-off). In addition, we also measured violations of the Master Settlement Agreement (MSA) and New York Youth Access Laws: stores with exterior signage that exceeds 14 square feet, brand name merchandise and free giveaways, self-service displays of tobacco products in unlocked containers located in areas accessible to the public, and compliance with the signage provisions of the Adolescent Tobacco Use Prevention Act (ATUPA).

e. Health Care Provider and Provider Organization Survey

This survey provides information to evaluate the impact of the TCP’s 19 Cessation Centers in their efforts to increase provider and provider organization support of tobacco control through greater use of US DHHS *Clinical Guideline for Treating Tobacco Use and Dependence*. The

Guideline calls for implementation of tobacco use screening and provider reminder systems and provision of treatments including pharmacotherapies and behavioral counseling for patients who use tobacco.

The health care provider organization survey effort includes surveys of 1) hospitals and 2) group medical practices and 3) providers within these organizations and practices. These surveys provide information about adherence to the clinical practice guideline and tobacco cessation services offered. The three studies have served as a baseline against which progress toward related programmatic goals and objectives are measured. For the baseline data collection, 96 hospital surveys, 72 medical practice surveys, and 996 provider surveys were completed.

f. Substance Abuse Facility Survey

The Substance Abuse Facility Survey (SAFS) assessed the current state of treatment for tobacco dependence by substance abuse treatment facilities and attitudes, beliefs, and concerns regarding tobacco control policies, especially smoke-free campuses. The study included approximately 300 substance abuse treatment facilities in the state. To obtain both an administrative and a clinical perspective, two participants from each facility were asked to complete a mailed questionnaire, the program director and the clinical/medical director (or head nurse).

g. Community Activity Tracking

The Community Activity Tracking (CAT) system is a web-based partner reporting tool designed for contract management, process monitoring, and community partner evaluation. Contractors enter their annual work plans online and report their TCP activities monthly. The system generates reports of activities for use by contractors, TCP contract managers, and the independent evaluator.

CAT was launched in December 2004 and permits Community Partnerships, Youth Action Partners, Cessation Centers, and School Policy Partners to systematically record their approved annual work plans and monthly progress reports online. CAT is the primary reporting tool between local programs and the Department. It is designed to improve accountability by ensuring that partners live up to the expectations of their proposed and approved annual work plan. As such, CAT is an important tool in the ongoing monitoring of TCP local partners, and the smooth transition of this tool must be addressed by the bidder. A copy of the current CAT instruction manual will provide the bidder with a sense of the scope of the system. A copy of the manual is available at the website:

<http://www.nyhealth.gov/funding/>

h. Community Partner Evaluation Study

This study is designed to evaluate the effectiveness of community partners at the local level. It combines elements of the Community Activity Tracking System (CAT), Adult Tobacco Survey, interviews with funded partners, observations of partner meetings and events, and other area level evaluation activity.

i. News Media Tracking

This study tracks tobacco related news stories as reported in New York State daily, weekly and monthly newspapers including articles that mention TCP partners by name. News media tracking data can show the extent of news media coverage and how that coverage may help or hinder achieving TCP objectives. The focus and slant of articles provide an indicator of how TCP interventions are perceived in the community at large. Articles are identified using a three-tiered approach of key words related to tobacco, legislative terms and other tobacco-related terms.

j. Four Annual Topical Reports

Each year of the contract, four topical reports will be prepared and submitted for approval to the Department. The contractor will work with the Department to determine the nature, scope, and audience of the reports.

k. Annual Independent Evaluation Report

In addition to these evaluation projects, an annual Independent Evaluation Report (IER), developed by the Independent Evaluator, must be submitted by the Department to the Governor and New York State Legislature by September 1st of each year. In order to meet the September 1st deadline, the following schedule of deliverables must be followed by the successful bidder:

Evaluation Report Detailed Outline due Third Week of April of each year
Evaluation Report Draft 1 due Third Week of June of each year
Evaluation Report Draft 2 due August 1 of each year

These reports should be a comprehensive but readable assessment of the TCP's progress toward preventing and reducing tobacco use based on the evaluation systems established by the vendor and other information available to the vendor (e.g., national data sets such as the National Health Interview Survey and the Current Population Survey). The report should address the components of the program and provide a synthesis of all relevant information including those outside the scope of this contract, such

as the Youth Tobacco Survey, Current Population Survey, taxation data, etc. The first three reports are available on the New York State Department of Health's website at:

<http://www.nyhealth.gov/funding/>

4. Additional Year 5 Projects

a. Tobacco Free School Policy Program Evaluation

A series of studies will examine the impact of the Tobacco Free School Policy Programs focusing on intermediate outcomes by analyzing data gathered through the Community Activity Tracking System, school staff telephone interviews, surveys, and site visits. Baseline and follow-up data will evaluate the impact these programs are having on promoting strong and effective school policy in the approximate 300 to 350 schools with which they are working.

b. Media Tracking Survey

The tobacco marketing and countermarketing Media Tracking Survey monitors smokers' exposure to and use of cigarette promotions and the impact of promotions on smoking behaviors, as well as smokers' exposure to and impact of Department countermarketing messages. In addition to a comprehensive set of questions on current and past smoking and cessation behavior, the survey will assess exposure to and use of retail point of purchase promotions such as buy-one-get-one-free, and price reductions; use of coupons; attendance at cigarette company sponsored events; participation in online communities; participation in merchandise rewards programs such as Camel Cash; and brand switching behaviors related to promotions. This survey will be conducted with approximately 3,000 smokers through an online sampling mechanism.

c. Young Adult Tobacco Survey

This survey of approximately 2,500 young adults 18-24 years old helps the program better understand young adult tobacco use and corresponding influences. Sampling methods may incorporate online sampling, brief cell phone calls, and incentives to improve response rates.

d. National Comparison Sample for the Adult Tobacco Survey

To help interpret the New York ATS data and the possible association between activities of the NY TCP changes in tobacco-related outcomes, a national telephone survey, using a survey instrument based on the New York and national ATS, will be conducted with approximately 4,000 participants.

e. Youth Tobacco Survey

The Department has conducted a Youth Tobacco Survey (YTS) biennially since 2000 to track youth tobacco use, tobacco related behaviors, exposure to marketing, and other important youth-related indicators. Sampling for this survey allowed estimates for New York City, the remainder of the State, and New York State as a whole. For 2008, the Department is planning to conduct an expanded YTS that will produce tobacco-related estimates for each of the eight Administrative Areas of the NY TCP (See Attachment 1 for map of areas) as well as the original regions, New York City, remainder of state, and state as a whole. We are planning to survey three classrooms in each of 225 middle schools and 225 high schools.

Preparation for this project will be started by the current independent evaluation contract in April 2007 with school sample selection, questionnaire development, and recruitment of schools through the end of 2007. Data collection, analysis, and report development will be incorporated into the contract with the successful bidder under this RFP. Survey administration to be conducted in the spring 2008 semester.

5. Method of Award

Vendor Selection

At the discretion of the Department of Health, all bids may be rejected. The evaluation of the bids will include, but not be limited to the following considerations:

a. The specificity and completeness of your response will determine how well your proposal scores. Points will be taken away for failure to be concise and speak to the point directly. The State will award funding to the bidder whose proposal receives the best overall combined score for both the technical proposal (75 points) and cost proposal (25 points). See table below for breakdown of scoring.

b. At the discretion of the Department of Health, an interview may be conducted with the highest scoring bidder based on combined technical and cost proposal scores. The interview will be scored on a pass/fail basis. Should the bidder fail the interview, the Department may interview the second highest bidder and so on. The award will be given to the highest scoring bidder that passes the interview, should the Department choose to conduct such an interview.

Method of Scoring

	<u>Points</u>
A. Technical (75 points total) – See Proposal Requirements Above for Detailed Descriptions of Technical Proposal Items	
1a. Organizational Capacity and Staffing Qualifications	15
1b. Staffing and Management Oversight Plan	5
1c. Overall approach to current and additional surveillance and evaluation projects	10
1d. Plan for review and communication with program and stakeholders	5
1e. Plan for disseminating evaluation information	5
1f. Assessment of current evaluation approach, recommended revisions, description of methodologies to be implemented	15
1g. Itemized description of Year One (1) Project Deliverables	20
1h. Plan for incorporating other data sources into evaluation plan	Pass/Fail
1i. Transition plan (Required only if not the current vendor)	Pass/Fail
1j. Corporate Acknowledgement	Pass/Fail
B. Cost (25 points total)	25
The bidder with the lowest total cost will receive the maximum score, and other bidders will receive a proportional score relative to the lowest bid.	
C. Optional Interview highest scoring bidder (Pass/Fail)	Pass/Fail
Total Score	100

E. ADMINISTRATIVE

1. Issuing Agency

This Request for Proposal (RFP) is a solicitation issued by the NYS Department of Health. The Department is responsible for the requirements specified herein and for the evaluation of all proposals.

2. Letter of Intent to Bid

All potential bidders are encouraged to send a Letter of Intent to Bid by April 4, 2007 to Patricia Bubniak or Deborah Grabau at the address listed below. The Letter of Intent should include:

- a. The name of the head of the organization;
- b. The name of the principal investigator for the project;
- c. Complete mailing address;
- d. Telephone number and fax number, and
- e. E-mail address.

3. Bidder's Conference

There will be no bidder's conference for this RFP. Questions and answers will be handled in the manner described below (See Section E.4).

4. Inquiries

Any and all questions concerning this solicitation must be written and received no later than close of business on April 11, 2007, and directed to:

Patricia Bubniak
NYS Department of Health
Empire State Plaza
Corning Tower – Room 710
Albany, NY 12237-0676
pab05@health.state.ny.us

OR

Deborah Grabau
NYS Department of Health
Empire State Plaza
Corning Tower – Room 710
Albany, NY 12237-0676
dll08@health.state.ny.us

Questions and answers, as well as any RFP updates and/or modifications, will be posted on the Department of Health's website at <http://www.nyhealth.gov/funding/> by April 25, 2007. Bidders wishing to receive these documents via mail must send a request, in writing, to the Department at the address above.

3. Submission of Proposals

Interested vendors should submit one (1) original and six (6) signed copies of their Bid Proposal not later than 5:00 PM on June 13, 2007. The bids will be opened in Room 710, Corning Tower, Empire State Plaza, Albany, NY on or about June 15, 2007.

Responses should be clearly marked "Independent Evaluation of the New York State Comprehensive Tobacco Use Prevention and Control Program" and directed to:

Patricia Bubniak	Deborah Grabau
NYS Department of Health	NYS Department of Health
Empire State Plaza	Empire State Plaza
Corning Tower – Room 710	Corning Tower – Room 710
Albany, NY 12237-0676	Albany, NY 12237-0676

OR

It is the bidders' responsibility to see that bids are delivered to Room 710 in the Corning Tower prior to the date and time of the bid opening. Late bids due to delay by the carrier or not received in the Department's mail room in time for transmission to room 710 will not be considered.

- ❑ The Bid Form must be filled out in its entirety.
- ❑ The responsible corporate officer for contract negotiation must be listed. This document must be signed by the responsible corporate officer.
- ❑ All evidence and documentation requested under Section C. DETAILED SPECIFICATIONS OF THE SCOPE OF WORK OF THE RESULTING CONTRACT must be provided at the time the proposal is submitted.

4. THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO

- a. Reject any or all proposals received in response to this RFP.
- b. Waive or modify minor irregularities in proposals received after prior notification to the bidder.
- c. Adjust or correct cost or cost figures with the concurrence of bidder if errors exist and can be documented to the satisfaction of DOH and the State Comptroller.
- d. Negotiate with vendors responding to this RFP within the requirements to serve the best interests of the State.

- e. Eliminate mandatory requirements unmet by all offerers.
- f. If the Department of Health is unsuccessful in negotiating a contract with the selected vendor within an acceptable time frame as determined by the Department, the Department of Health may begin contract negotiations with the next qualified vendor(s) in order to serve and realize the best interests of the State.

5. Payment

If awarded a contract, the contractor shall submit invoices to the State's designated payment office:

Lynn Heffernan, Fiscal Unit
NYS Department of Health
Division of Chronic Disease Prevention and Adult Health
Empire State Plaza,
Corning Tower – Room 515
Albany, NY 12237-0675

Payment of such invoices by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law. Payment will be made based on the timely submission of deliverables. Ten percent of each payment will be withheld pending acceptance of the final deliverables and products. Organizations will not be eligible for advances under this contract.

6. Term of Contract

This agreement shall be effective upon approval of the NYS office of the State Comptroller.

It is expected that the contract resulting from this RFP will have the following time period: 1/13/2008 to 1/12/2013.

This agreement may be canceled at any time by the Department of Health giving to the contractor not less than thirty (30) days written notice that on or after a date therein specified this agreement shall be deemed terminated and canceled.

7. Debriefing

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

8. Vendor Responsibility Questionnaire

New York State Procurement Law requires that state agencies award contracts only to responsible vendors.

Attachment 4 contains the "Vendor Responsibility Questionnaire" that all bidders must complete and submit with their proposal.

In addition to the questionnaire, bidders are required to provide the following with their proposal:

- Proof of financial stability in the form of audited financial statements, Dunn & Bradstreet Reports, etc.
- Department of State Registration.
- Certificate of Incorporation, together with any and all amendments thereto; Partnership Agreement; or other relevant business organizational documents, as applicable.
- N.Y.S. Dept of Taxation and Finance's Contractor Certification
- Form ST-220TD and ST-220CA.

9. State Consultant Services Reporting

Chapter 10 of the Laws of 2006 amended certain sections of State Finance Law and Civil Service Law to require disclosure of information regarding contracts for consulting services in New York State.

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

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

Both of these forms are included as attachments 5 and 6 of this document.

10. Lobbying Statute

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, provides, among other things, the following as pertains to development of procurement contracts with governmental entities:

- a. makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b. requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c. requires governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d. authorizes the Temporary State Commission on Lobbying to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e. directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f. requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment;
- g. expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts;
- h. modifies the governance of the Temporary State Commission on lobbying;
- i. provides that opinions of the Commission shall be binding only on the person to whom such opinion is rendered;
- j. increases the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- k. establishes the Advisory Council on Procurement Lobbying.

Generally speaking, two related aspects of procurements were amended: (i) activities by the business and lobbying community seeking procurement contracts (through amendments to the Legislative Law) and (ii) activities involving governmental agencies establishing procurement contracts (through amendments to the State Finance Law).

Additionally, a new section 1-t was added to the Legislative Law establishing an Advisory Council on Procurement Lobbying (Advisory Council). This Advisory Council is authorized to establish the following model guidelines regarding the restrictions on contacts during the procurement process for use by governmental entities (see Legislative Law §1-t (e) and State Finance Law §139-j). In an effort to facilitate compliance by governmental entities, the Advisory Council has prepared model forms and language that can be used to meet the obligations imposed by State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers. Sections 139-j and 139-k are collectively referred to as “new State Finance Law.”

It should be noted that while this Advisory Council is charged with the responsibility of providing advice to the New York Temporary State Commission on Lobbying (Lobbying Commission) regarding procurement lobbying, the Lobbying Commission retains full responsibility for the interpretation, administration and enforcement of the Lobbying Act established by Article 1-A of the Legislative Law (see Legislative Law §1-t (c) and §1-d). Accordingly, questions regarding the registration and operation of the Lobbying Act should be directed to the Lobbying Commission.

F. APPENDICES

The following will be incorporated as appendices into any contract resulting from this Request for Proposal. This Request for Proposal will, itself, be referenced as an appendix of the contract.

- APPENDIX A - Standard Clauses for All New York State Contracts
- APPENDIX B - Request for Proposal
- APPENDIX C - Proposal
The bidder's proposal (if selected for award), including the Bid Form and all proposal requirements.
- APPENDIX D - General Specifications

□ APPENDIX E

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

- Workers' Compensation, for which one of the following is incorporated into this contract as **Appendix E-1**:
 - **WC/DB-100**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **WC/DB-101**, Affidavit That An Out-Of-State Or Foreign Employer Working In New York State Does Not Require Specific New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage; OR
 - **C-105.2** – Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
 - **SI-12** – Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** – Certificate of Participation in Workers' Compensation Group Self-Insurance.
- Disability Benefits coverage, for which one of the following is incorporated into this contract as **Appendix E-2**:
 - **WC/DB-100**, Affidavit For New York Entities And Any Out-Of-State Entities With No Employees, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR
 - **WC/DB-101**, Affidavit That An Out-Of-State Or Foreign Employer Working In New York State Does Not Require Specific New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage; OR
 - **DB-120.1** – Certificate of Disability Benefits Insurance OR the **DB-820/829** Certificate/Cancellation of Insurance; OR

- **DB-155** – Certificate of Disability Benefits Self-Insurance
- Appendix H - Health Insurance Portability and Accountability Act (HIPAA) (if applicable)

G. ATTACHMENTS

1. Tobacco Control Program Area Structure Map
2. N.Y.S Taxation and Finance Contractor Certification Form ST-220TD
3. N.Y.S Taxation and Finance Contractor Certification Form ST-220CA
4. N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire
(for procurements greater than or equal to \$100,000)
5. State Consultant Services Form A, Contractor's Planned Employment From
Contract Start Date through End of Contract Term
6. State Consultant Services Form B, Contractor's Annual Employment Report
7. List of evaluation projects and proposed costs per project.
8. Other administrative costs.
9. Total Year One Costs

NEW YORK STATE

DEPARTMENT OF HEALTH

BID FORM

PROCUREMENT TITLE: _____ FAU # _____

Bidder Name:

Bidder Address:

Bidder Fed ID No:

A. _____ bids a total price of \$ _____
(Name of Offerer/Bidder)

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

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

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

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

No Yes

If yes, please answer the next questions:

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

No Yes

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

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

1d. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No Yes

1e. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

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

D. Offerer/Bidder agrees to provide the following documentation either *with their submitted bid/proposal or upon award* as indicated below:

With Bid	Upon Award	
<input type="checkbox"/>	<input type="checkbox"/>	1. A completed N.Y.S Taxation and Finance Contractor Certification Form ST-220.
<input type="checkbox"/>	<input type="checkbox"/>	2. A completed N.Y.S. Office of the State Comptroller Vendor Responsibility Questionnaire (for procurements greater than or equal to \$100,000)
<input type="checkbox"/>	<input type="checkbox"/>	3. A completed State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term

(Officer Signature)

(Date)

(Officer Title)

(Telephone)

(e-mail Address)

**NEW YORK STATE
DEPARTMENT OF HEALTH**

NO-BID FORM

PROCUREMENT TITLE: _____ FAU # _____

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

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

- Please retain our firm on your mailing list.

(Firm Name)

(Officer Signature) (Date)

(Officer Title) (Telephone)

(e-mail Address)

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

APPENDIX D

GENERAL SPECIFICATIONS

- A. By signing the "Bid Form" each bidder attests to its express authority to sign on behalf of this company or other entity and acknowledges and accepts that:
- All specifications, general and specific appendices, including Appendix-A, the Standard Clauses for all New York State contracts, and all schedules and forms contained herein will become part of any contract entered, resulting from the Request for Proposal. Anything which is not expressly set forth in the specification, appendices and forms and resultant contract, but which is reasonable to be implied, shall be furnished and provided in the same manner as if specifically expressed.
- B. The work shall be commenced and shall be actually undertaken within such time as the Department of Health may direct by notice, whether by mail, telegram, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time or times, as the case may be, as the Department may prescribe.
- C. The Department reserves the right to stop the work covered by this proposal and the contract at any time that the Department deems the successful bidder to be unable or incapable of performing the work to the satisfaction of the Department and in the event of such cessation of work, the Department shall have the right to arrange for the completion of the work in such manner as the Department may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety be liable to the State of New York for any excess cost on account thereof.
- D. Each bidder is under an affirmative duty to be informed by personal examination of the specifications and location of the proposed work and by such other means as it may select, of character, quality, and extent of work to be performed and the conditions under which the contract is to be executed.
- E. The Department of Health will make no allowances or concession to a bidder for any alleged misunderstanding or deception because of quantity, quality, character, location or other conditions.
- F. The bid price is to cover the cost of furnishing all of the said services, materials, equipment, and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.
- G. The successful bidder will be required to complete the entire work or any part

thereof as the case may be, to the satisfaction of the Department of Health in strict accordance with the specifications and pursuant to a contract therefore.

- H. Contractor will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
- I. Non-Collusive Bidding
By submission of this proposal, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - a. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
 - b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;
 - c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

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

A bid shall not be considered for award nor shall any award be made where (a), (b) and (c) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (a), (b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made

or its designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has published price lists, rates, or tariffs covering items being procured, has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price being bid, does not constitute, without more, a disclosure within the meaning of the above quoted certification.

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

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

conducts its business practices.

2. If this RFP results in procurement of software over \$20,000, or of other technology over \$50,000, or where the department determines that the potential exists for coordinating purchases among State agencies and/or the purchase may be of interest to one or more other State agencies, PRIOR TO AWARD SELECTION, this RFP and all responses thereto are subject to review by the New York State Office for Technology.
3. Any contract entered into pursuant to an award of this RFP shall contain a provision which extends the terms and conditions of such contract to any other State agency in New York. Incorporation of this RFP into the resulting contract also incorporates this provision in the contract.
4. The responses to this RFP must include a solution to effectively handle the turn of the century issues related to the change from the year 1999 to 2000.

N. YEAR 2000 WARRANTY

1. Definitions

For purposes of this warranty, the following definitions shall apply:

- a. Product shall include, without limitation: any piece or component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components or subroutines therein which perform any date/time data recognition function, calculation, comparing or sequencing. Where services are being furnished, e.g. consulting, systems integration, code or data conversion or data entry, the term Product shall include resulting deliverables.
- b. Vendor's Product shall include all Product delivered under this Agreement by Vendor other than Third Party Product.
- c. Third Party Product shall include products manufactured or developed by a corporate entity independent from Vendor and provided by Vendor on a non-exclusive licensing or other distribution Agreement with the third party manufacturer. Third Party Product does not include product where Vendor is: a) corporate subsidiary or affiliate of the third party manufacturer/developer; and/or b) the exclusive re-seller or distributor of product manufactured or developed by said corporate entity.

2. Warranty Disclosure

At the time of bid, Product order or Product quote, Vendor is required to disclose the following information in writing to Authorized User:

- a. For Vendor Product and for Products (including, but not limited to, Vendor and/or Third Party Products and/or Authorized User's Installed Product) which have been specified to perform as a system: Compliance or non-compliance of the Products individually or as a system with the Warranty Statement set forth below; and
- b. For Third Party Product Not Specified as Part of a System: Third Party Manufacturer's statement of compliance or non-compliance of any Third Party Product being delivered with Third Party Manufacturer/Developer's Year 2000 warranty. If such Third Party Product is represented by Third Party Manufacturer/Developer as compliant with Third Party Manufacturer/Developer's Year 2000 Warranty, Vendor shall pass through said third party warranty from the third party manufacturer to the Authorized User but shall not be liable for the testing or verification of Third Party's compliance statement.

An absence or failure to furnish the required written warranty disclosure shall be deemed a statement of compliance of the product(s) or system(s) in question with the year 2000 warranty statement set forth below.

3. Warranty Statement

Year 2000 warranty compliance shall be defined in accordance with the following warranty statement:

Vendor warrants that Product(s) furnished pursuant to this Agreement 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) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. Where a purchase requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

In the event of any breach of this warranty, Vendor shall restore the Product to the same level of performance as warranted herein, or repair or replace the Product with conforming Product so as to minimize interruption to Authorized User's ongoing business processes, time being of the essence, at Vendor's sole cost and expense. This warranty does not extend to correction of Authorized User's errors in data entry or data conversion.

This warranty shall survive beyond termination or expiration of the Agreement.

Nothing in this warranty shall be construed to limit any rights or remedies otherwise available under this Agreement.

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

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

- T. **Provisions Upon Default**

1. In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor
2. If, in the judgment of the Department of Health, the Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. In such case the Contractor shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the Contractor up to the date of the termination of this agreement, which such compensation shall not exceed the total cost incurred for the work which the Contractor was engaged in at the time of such termination, subject to audit by the State Comptroller.

U. Termination Provision

Upon termination of this agreement, the following shall occur:

1. Contractor shall make available to the State for examination all data, records and reports relating to this Contract; and
2. Except as otherwise provided in the Contract, the liability of the State for payments to the Contractor and the liability of the Contractor for services hereunder shall cease.

V. Conflicts

If, in the opinion of the Department of Health, (1) the specifications conflict, or (2) if the specifications are not clear as to (a) the method of performing any part of the work, or as to (b) the types of materials or equipment necessary, or as to (c) the work required to be done in every such situation, the Contractor shall be deemed to have based his bid upon performing the work and furnishing materials or equipment in the most inexpensive and efficient manner. If such conflicts and/or ambiguities arise, the Department of Health will furnish the Contractor supplementary information showing the manner in which the work is to be performed and the type or types of material or equipment that shall be used.

W. MINORITY AND WOMEN OWNED BUSINESS POLICY STATEMENT

The New York State Department of Health recognizes the need to take affirmative action to ensure that Minority and Women Owned Business Enterprises are given the opportunity to participate in the performance of the Department of Health's

contracting program. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy.

It is the intention of the New York State Department of Health to fully execute the mandate of Executive Law, Article 15-A and provide Minority and Women Owned Business Enterprises with equal opportunity to bid on contracts awarded by this agency in accordance with the State Finance Law.

To implement this affirmative action policy statement, the contractor agrees to file with the Department of Health within 10 days of notice of award, a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Department. The form of the staffing plan shall be supplied by the Department.

After an award of this contract, the contractor agrees to submit to the Department a work force utilization report, in a form and manner required by the Department, of the work force actually utilized on this contract, broken down by specified ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Department.

X. Contract Insurance Requirements

1. The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be changed or canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are:
 - a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

- b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.
 - i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract.
 - ii. Protective Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.
 - iii. Automobile Liability Insurance issued to and covering the liability of the People of the State of New York with respect to all operations under this proposal and the contract, by the successful bidder or by its subcontractors, including omissions and supervisory acts of the State.

Y. Certification Regarding Debarment and Suspension

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

Pursuant to the above-cited regulations, the New York State Department of Health (as a participant in a primary covered transaction) may not knowingly do business with a person who is debarred, suspended, proposed for debarment, or subject to other government-wide exclusion (including any exclusion from Medicare and State health care program participation on or after August 25, 1995), and the Department of Health must require its prospective contractors, as prospective lower tier participants, to provide the certification in Appendix B to Part 76 of Title 45 CFR, as set forth below:

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

Instructions for Certification

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered and erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered Transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered

into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions.
 - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.
 - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred,

suspended, proposed for debarment, declared ineligible, or voluntarily exclude from participation in this transaction by any Federal department agency.

- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Z. Confidentiality Clauses

1. Any materials, articles, papers, etc., developed by the CONTRACTOR under or in the course of performing this AGREEMENT shall contain the following, or similar acknowledgment: "Funded by the New York State Department of Health". Any such materials must be reviewed and approved by the STATE for conformity with the policies and guidelines for the New York State Department of Health prior to dissemination and/or publication. It is agreed that such review will be conducted in an expeditious manner. Should the review result in any unresolved disagreements regarding content, the CONTRACTOR shall be free to publish in scholarly journals along with a disclaimer that the views within the Article or the policies reflected are not necessarily those of the New York State Department of Health. The Department reserves the right to disallow funding for any educational materials not approved through its review process.
2. Any publishable or otherwise reproducible material developed under or in the course of performing this AGREEMENT, dealing with any aspect of performance under this AGREEMENT, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the STATE, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the STATE or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the STATE. The STATE shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes.
3. No report, document or other data produced in whole or in part with the funds provided under this AGREEMENT may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this

AGREEMENT.

4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. Upon completion or termination of this AGREEMENT the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents.
5. The CONTRACTOR, its officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this AGREEMENT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.
6. All subcontracts shall contain provisions specifying:
 - a. that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT, and
 - b. that the subcontractor specifically agrees to be bound by the confidentiality provisions set forth in the AGREEMENT between the STATE and the CONTRACTOR.

AA. Provision Related to Consultant Disclosure Legislation

1. CONTRACTOR shall submit a "State Consultant Services Form B, Contractor's Annual Employment Report" no later than May 15th following the end of each state fiscal year included in this contract term. This report must be submitted to:
 - a. The NYS Department of Health, at the STATE's designated payment office address included in this AGREEMENT; and
 - b. The NYS Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany NY 12236 ATTN: Consultant Reporting - or via fax at (518) 474-8030 or (518) 473-8808; and
 - c. The NYS Department of Civil Service, Alfred E. Smith Office Building, Albany NY 12239, ATTN: Consultant Reporting.

BB. Provisions Related to New York State Procurement Lobbying Law

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