



**Office of Temporary
and Disability Assistance**

REQUEST FOR PROPOSALS

CAPITAL DISTRICT CONSULTATIVE EXAMINATION

CONTRACT MEDICAL PROVIDER

ISSUED: SEPTEMBER 14, 2016

DEADLINE FOR SUBMISSION OF PROPOSALS: NOVEMBER 2, 2016 3:00PM EST

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1.0 CALENDAR OF EVENTS

RFP CAPITAL DISTRICT CONSULTATIVE EXAMINATION CONTRACT MEDICAL PROVIDER	
<u>EVENT</u>	<u>DATE</u>
Issuance of Request for Proposals	September 14, 2016
Optional Offerors' Conference (telephonic)	October 4, 2016 1:00pm - 3:00pm
Deadline for Submission of Written Questions	October 12, 2016 3:00 p.m. EST
Responses to Written Questions Posted	on or about October 19, 2016
Deadline for Submission of Proposals	November 2, 2016 3:00 p.m. EST
Interviews, if determined to be necessary (not earlier than the week of)	November 21, 2016
<u>Anticipated</u> Notification of Award	February 15, 2017
<u>Anticipated</u> Approval of Contract(not earlier than)	June 15, 2017
<u>Anticipated</u> Commencement of Work	7/1/2017 or upon OSC approval if later than 7/1/2017

2.0 General Description of Services and Definitions

2.1. Services

The purpose of this Request for Proposals (“RFP”) issued by the Office of Temporary and Disability Assistance (“OTDA”) of the State of New York (“State”) is to solicit proposals from qualified vendors for the establishment of one contract medical provider to establish a site in the Capital District (with a satellite office in Clinton county) for the purpose of performing the State’s mandatory medical examinations and ancillary testing of claimants applying for or currently receiving, Social Security Disability or Supplemental Security Income benefits. The Capital District includes the cities of Albany, Schenectady, and Troy and the immediate geographic area, meeting the standards set forth in **Attachment 1** (Statement of Work).

The Services are detailed in **Attachment 1** (Statement of Work).

2.2. Definitions

The following terms used in the RFP are defined below:

“Administrative Proposal” means the administrative portion of a Proposal.

“Agreement” or “Contract” means the agreement between OTDA and the Contractor as approved by the OSC, which shall include the RFP (including any/all amendments, clarifications to and the questions and answers), and the successful Offeror’s Proposal.

“CE” means Consultative Examination.

“Contract Approval Date” means the date upon which OSC’s Bureau of Contracts approves the Contract.

“Contractor” means the Offeror who is awarded a Contract to perform Services.

“Deadline for Submission of Proposals” means the date and time upon which Proposals are required to be submitted to OTDA as set forth in the Calendar of Events in RFP **SECTION 1.0**.

“Financial Proposal” means the financial portion of a Proposal.

“Mandatory Services” means those services identified in **Appendix B**. An Offeror must bid on all Mandatory Services. All services identified in **Appendix B** must be provided in a single primary location.

“Non-Responsibility Determination” means a finding that an Offeror knowingly and willfully violated the requirements about permissible contacts (see RFP **SECTION 4.1** Procurement Integrity/Restrictions on Communication). Such a finding can result in a rejection of a contract award and, in the event of two (2) findings within a four (4) year period; the Offeror would become debarred from obtaining New York State contracts.

“Offeror” means any individual or other legal entity (including but not limited to sole proprietor, partnership, Limited Liability Company, firm or corporation) which submits a Bid in response to a Bid Solicitation. In the case of negotiated Contracts, “Offeror” shall be referred to as the “Contractor.”

“Optional Services” means those services identified in **Appendix C**. An Offeror must bid on all “Optional Services,” and OTDA has the option to utilize these services during the course of the Contract Term. Optional Services may be subcontracted and may be provide offsite from the facility providing all mandatory services.

“OSC” means the Office of the State Comptroller of the State of New York.

“OTDA” means the New York State Office of Temporary and Disability Assistance.

“Personally Identifiable Information (PII)” means any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

“Procurement Period” a/k/a “The Restricted Period” means the period from the intent to solicit offers/bids through final award and approval of the procurement contract by the Office of the State Comptroller.

“Proposal” means the Administrative, Financial and Technical Proposal submitted in response to the RFP.

“Reportable PII Loss” means any information in paper or electronic format containing PII collected and maintained as part of SSA’s business processes which the Agency has reason to believe has left its custody, or has been disclosed to an unauthorized individual or entity, in circumstances that are likely to lead to its misuse.

“RFP” means Request for Proposal, this document including all attachments hereto.

“Services” means the services to be performed pursuant to the RFP and the resulting Contract.

“SSA” means the Social Security Administration.

“Subcontractor” means any individual or other legal entity, (including but not limited to sole proprietor, partnership, Limited Liability Company, firm or corporation) that has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

“Technical Proposal” means the technical portion of a Proposal.

“Vendor” means any organization or person who sells.

2.3. Important Information

This RFP outlines the terms and conditions, and all applicable information required for submission of a Proposal. Offerors should pay strict attention to the Deadline for Submission of Proposals (**SECTION 1.0** Calendar of Events) to prevent disqualification. To ensure compliance with these requirements and to prevent possible disqualification, Offerors should follow the format and instructions contained in this RFP.

The Offeror is required to review **Appendix A**, Standard Clauses for NYS Contracts. **Appendix A** contains important information related to the Contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the Contract entered into between OTDA and the successful Offeror. By submitting a response to the RFP, the Offeror agrees to comply with all the provisions of **Appendix A**.

The Offeror is also required to review, **Attachment E**, the Draft Contract Agreement as the Offeror must be willing to enter into an Agreement substantially in accordance with the terms of **Attachment E** should the Offeror be selected for contract award.

Minimum Requirements

Offerors must meet the following Minimum Requirements:

Offerors must clearly demonstrate in their Technical Proposal a minimum of five (5) years experience performing the annual volume and types of services per site bid as specified in this RFP. Past experience may include, but is not limited to, DDD exams, employment exams, independent medical exams and direct patient care.

Proposals from organizations without the mandatory minimum experience, integrity and adequate financial resources will be rejected. A qualified Offeror must be a single, fully responsible prime contractor and must identify any intended subcontractors and describe in detail their specified roles in the Technical Proposal. The functions that may be subcontracted are administrative services, transcription services, laboratory services, radiology interpretation services, and the Optional Services listed in **Appendix C**. Utilization of subcontractor(s) must be approved by OTDA. For the purposes of this procurement and the resultant contracts, a subcontractor is considered to be any individual or legal entity, as defined in the Glossary of Terms that performs a portion of the prime Contractor’s obligation under the terms of a written agreement with the prime contractor. Any entity that exclusively provides only goods, supplies and/or materials shall be considered exempt from this definition.

Offerors and their staff must be in full compliance with federal, state and local operating requirements, as appropriate, for providing a facility and services as specified by this RFP. Contractors providing medical consultative examination services must comply with those articles, which regulate the admission to and practice of the professions, including medicine. All such entities must be in compliance with the requirements of Education Law §6527 and in compliance with Article 15 of the New York State Business Corporation Law, or other corporate organization for physicians as authorized by law. All directors and officers of a corporation providing medical examinations (except those entities delineated in §6527) must be physicians. OTDA reserves the right to disqualify from consideration any organization that it believes is not capable of performing the services as specified in this RFP.

Failure to meet these Minimum Requirements and any other specification or requirement in the RFP deemed “material” by OTDA will result in a non-responsive Proposal which will be disqualified.

2.4. Term of the Agreement

This Agreement shall be for a period commencing on July 1, 2017 (or upon approval by OSC if after July 1, 2017) and continue through December 31, 2021(The “Contract Term” or “Term”).

3.0 Scope of Work

Offerors must be able to perform all of the work included in **Attachment 1** (Statement of Work) throughout the Contract Term.

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

4.0 PROPOSAL ADMINISTRATIVE INFORMATION

NOTE: Procurement documents may, from time to time, be amended or addenda issued by OTDA. It is the Offeror’s responsibility to become aware of any such amendments and/or addenda prior to submission of a Proposal. All amendments and/or addenda to procurement documents will be posted to the OTDA website at <http://otda.ny.gov/contracts/procurement-bid.asp>. Only the OTDA website will contain all amendments and/or addenda to the procurement documents, including the Responses to Written Questions. Offerors should review the OTDA website prior to submission of a Proposal to ensure that they have all information required to submit a complete and responsive Proposal.

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

4.1. Procurement Integrity/Restrictions on Communication

Restrictions on communications between OTDA and an Offeror during the procurement process.

OTDA is required to record all “Contacts” made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting government agencies about procurements. Offerors are restricted from making oral, written or electronic contacts with OTDA employees under circumstances where a reasonable person would infer that the communication was intended to influence the government procurement, e.g., an attempt to persuade the agency to award a bid to a particular Offeror (a Contact), other than to the Point of Contact (POC) as designated below until OSC approves the award. Statutory exceptions to Offeror contact with other than the designated POC set forth in State Finance Law §139-j (3) (a) are listed below:

- Submission of a written Proposal in response to this RFP;
- Participation in any conference including the oral presentations described herein;
- Official Questions and Answers;
- Complaints filed by an Offeror to OTDA’s Counsel’s Office stating that the designated POC has failed to respond in a timely manner (any such complaints should be addressed to: Krista Rock, General Counsel, 40 North Pearl Street, 16C, Albany, New York 12243);
- Negotiations following tentative award;
- Debriefings with Offerors that were not award recipients; and
- Filing of an appeal or protest.

OTDA employees other than the designated POC who are contacted by an Offeror are required to obtain and record certain information when contacted that will be referred to the POC for inclusion in the procurement record. Impermissible contacts that are knowingly or willfully made could result in a finding of non-responsibility against the Offeror. Such a finding can result in a rejection of a contract award and, in the event of two (2) findings within a four (4) year period the Offeror would become debarred from

obtaining New York State contracts. Further information about these requirements can be found at the following link:

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

The Procurement Lobbying Act also requires that every procurement over \$15,000 include a certification by the Offeror that all information provided to the agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past four (4) years based on (i) impermissible contacts or other violations of State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.

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

The Point of Contact for this Procurement is:

Mr. Lawrence Rockefeller
Division of Disability Determinations
New York State Office of Temporary & Disability Assistance
One Commerce Plaza, 10th Floor
99 Washington Avenue
Albany, New York 12210
Telephone #: 518-626-3042
Fax #: 518-626-3012
Email: Lawrence.Rockefeller@ssa.gov

Other permissible Point of Contact for the Offeror:

Laurie Eckert
Bureau of Contract Management
Telephone #: 518-408-3784
Email: Laurie.Eckert@otda.ny.gov

John Binseel
Bureau of Contract Management
Telephone #: 518-474-7091
Email: John.Binseel@otda.ny.gov

Melinda Kuiken
Division of Disability Determinations
Telephone #: 518-626-3042
Fax #: 518-626-3012
Email: Melinda.Kuiken@ssa.gov

Michael Barber
Minority and Woman Owned Business Unit
Telephone #: 518-473-5683
Email: Michael.Barber@otda.ny.gov

From the initial notice date of this RFP until the resultant Contract is approved by OSC, all Offeror Contacts related to this procurement with State staff must be received by the OTDA POC. OTDA reserves the right to change or amend this POC listing at any time, upon notice.

Prospective Offerors may not approach State personnel with offers of employment during the procurement period. Any Offeror who is aware of an OTDA employee who is considering employment with the Offeror should advise the POC forthwith.

Any contact by prospective Offerors or their agents regarding the delivery location or directions for delivery or mailing a Proposal must be addressed by email to: Laurie.Eckert@otda.ny.gov or by telephone at (518) 408-3784.

News releases by Offerors or any of their agents pertaining to this RFP or the program associated therewith shall not be made without prior OTDA approval.

4.2. Offeror's Conference

OTDA will convene an Offeror's Conference in Albany, New York, at the time and date specified in **SECTION 1**, (Calendar of Events). Parties interested in attending the Offeror's Conference must submit their request to attend by email to Laurie.Eckert@otda.ny.gov no later than 5:00 p.m. ET, at least two (2) calendar days prior to the date of the Offerors' Conference as specified in **SECTION 1**, (Calendar of Events). The email should include the following information:

- Name of Organization; and
- Contact Information of up to two participating representatives (names, titles, addresses, phone numbers, and email addresses).

One calendar day prior, the agenda for the Offeror's conference will be distributed along with a time, location, and teleconferencing information. Attendance to the Offeror's Conference is OPTIONAL.

4.3. Questions

There will be an opportunity available for submission of written questions and requests for clarification with regard to this RFP. All questions and requests for clarification of this RFP should cite the particular RFP Section and paragraph number where applicable and must be submitted via email (preferred) to Laurie.Eckert@otda.ny.gov, or by hard copy mail to the Office of Temporary and Disability Assistance, 40 North Pearl Street, Floor 12D, Albany, NY 12243 – Attention Laurie Eckert, no later than the Deadline for Submission of Written Questions as specified in **SECTION 1.0** (Calendar of Events). Questions received after the deadline may not be answered.

NOTE: It is the Offeror's responsibility to ensure that hard copy mail or email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in **SECTION 1.0** (Calendar of Events).

The comprehensive list of questions and responses will be posted to the OTDA website, <http://otda.ny.gov/contracts/procurement-bid.asp> on the date specified in **SECTION 1.0** (Calendar of Events). This listing will not include the identities of the vendors submitting the questions; those vendors will remain anonymous to the extent allowed by law.

4.4. Right to Modify RFP

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

Prior to the Deadline for Submission of Proposals, any such clarifications or modifications as deemed necessary by OTDA will be posted to the OTDA website and subsequent email notification will be provided to all potential Offerors who have requested notification. OTDA reserves the right to cancel this RFP, in whole or in part, and to reject any and all Proposals.

If an Offeror discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, then it shall immediately notify OTDA of such error in writing and request clarification or modification thereto.

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

its correction.

4.5. Encouraging Use of New York State Businesses in Contract Performance

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

The Contractor will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Offerors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

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

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

To demonstrate their commitment to the use of New York State Businesses, Offerors are required to submit the Subcontractor and Supplier Identification form with their Proposal.

Equal opportunity and affirmative action shall be provided to all protected class persons. Groups of people identified by law that are specifically protected encompass minorities, women, handicapped veterans, persons with disabilities, and others by virtue of the law or court decisions interpreting the law. In the case of Vietnam era veterans, equal opportunity and affirmative action is provided for in executive Order No. 6, issued February 18, 1983, and most recently continued by Executive Order No. 2, issued January 1, 2011.

Contractor must utilize small business labor surplus areas where this can be done consistent with the efficient performance of the contract.

4.6. Minority & Woman-Owned Business Enterprise Requirements

Contractor requirements and procedures for business participation opportunities for New York State certified minority and women-owned business enterprises and equal employment opportunities for minority group members and women.

A. NEW YORK STATE LAW

1. Pursuant to New York State Executive Law Article 15-A and 5 NYCRR 140-145, OTDA recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-Owned Business Enterprises and the employment of minority group members and women in the performance of OTDA contracts.
2. In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of

participation of Minority and Women-Owned Business Enterprises in state procurement contracting versus the number of Minority and Women-Owned Business Enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified Minority and Women-Owned Business Enterprise program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OTDA establishes goals for maximum feasible participation of New York State certified Minority and Women-Owned Business Enterprises (“M/WBE”) and the employment of minority group members and women in the performance of New York State contracts.

B. Business Participation Opportunities for M/WBEs

1. For purposes of this solicitation, OTDA hereby establishes an overall goal of 30% for M/WBE participation, 15% for New York State certified Minority Business Enterprise (“MBE”) participation and 15% for New York State certified Women Business Enterprise (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the subject contract (“Contract”) must document its good faith efforts to provide meaningful participation by M/WBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that OTDA may withhold payment pending receipt of the required M/WBE documentation. The directory of M/WBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how OTDA will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.
2. In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the M/WBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and OTDA may withhold payment from the Contractor as liquidated damages.
3. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to M/WBEs had the Contractor achieved the contractual M/WBE goals; and (2) all sums actually paid to M/WBEs for work performed or materials supplied under the Contract.
4. By submitting a bid or proposal, an Offeror on the Contract agrees to demonstrate its good faith efforts to achieve its goals for the utilization of M/WBEs by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting their contract manager. Please note that the NYSCS is a one stop solution for all of the M/WBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder’s M/WBE requirements please see the attached M/WBE guidance, “Your M/WBE Utilization and Reporting Responsibilities under Article 15-A.”
5. Additionally, an Offeror will be required to submit the following documents and information as evidence of compliance with the foregoing:
 - a) An M/WBE Utilization Plan with their bid or proposal. Any modifications or changes to the M/WBE Utilization Plan after the Contract award and during the Term of the Contract must be reported on a revised M/WBE Utilization Plan and submitted to OTDA. OTDA will review the submitted M/WBE Utilization Plan and advise the Offeror of OTDA acceptance or issue a notice of deficiency within thirty (30) calendar days of receipt.
 - b) If a notice of deficiency is issued, the Offeror will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OTDA a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OTDA to be inadequate, OTDA shall notify the Offeror and direct the Offeror to submit, within five (5) business days, a request for a partial or total waiver of M/WBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

c) OTDA may disqualify an Offeror as being non-responsive under the following circumstances:

- i. If an Offeror fails to submit an M/WBE Utilization Plan;
- ii. If an Offeror fails to submit a written remedy to a notice of deficiency;
- iii. If an Offeror fails to submit a request for waiver; or
- iv. If OTDA determines, in its sole discretion, that the Offeror has failed to document good faith efforts.

d) The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its M/WBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the Term of the Contract to OTDA, but must be made no later than prior to the submission of a request for final payment on the Contract.

e) The Contractor will be required to submit a Contractor's quarterly M/WBE Contractor Compliance & Payment Report to OTDA, by the 10th day following each end of quarter over the Term of the Contract documenting the progress made toward achievement of the M/WBE goals of the Contract.

C. Equal Employment Opportunity Requirements

1. By submission of a bid or proposal in response to this solicitation, the Offeror agrees with all of the terms and conditions of **Appendix A** – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. A contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.
2. The Offeror will be required to submit a Minority and Women-Owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form OTDA 4970, to OTDA with its bid or proposal.
3. To ensure compliance with this Section, the Offeror will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan (Form OTDA 4934 - Staffing Plan) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit an Equal Employment Opportunity Workforce Employment Utilization Compliance Report identifying the workforce actually utilized on the Contract, if known, through the New York State Contract System; provided, however, that an Offeror may arrange to provide such report via a non-electronic method by contacting their contract manager.
4. Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and any subcontractors, if applicable, will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
5. Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of

funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

Please refer to **Appendix Z**, attached and incorporated by reference herein, for the specific EEO/M/WBE requirements and associated forms required by this procurement. These forms are to be submitted without change to goals specified in the RFP or contract, unless otherwise authorized by OTDA. Copies of the required OTDA Forms are identified in this Appendix and available on OTDA's Internet site at <http://otda.ny.gov/contracts/M/WBE/forms.asp>.

4.7. Service Disabled Veteran-Owned Business Enterprises (SDVOB) in State Contracting

OTDA is in full accord with the aims and efforts of the State of New York to promote Service-Disabled Veteran-Owned Businesses (SDVOBs), as enacted in 2014 by Article 17-B of the Executive Law. This Law acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, Offerors to this RFP are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the resulting contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

Offerors are strongly encouraged, to the maximum extent practical and consistent with legal requirements of the State Finance Law, the Executive Law and any implementing regulations, to use responsible and responsive NYS certified SDVOBs in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Prospective awardees to this RFP are subject to the provisions of Executive Law Article 17-B and the regulations (9 NYCRR Part 252) issued thereunder. Offerors are reminded that they must continue to utilize small, minority and women-owned businesses (M/WBEs), consistent with current State law (Executive Law Article 15-A). For the purpose of this RFP, OTDA hereby establishes an overall goal of 0% for Service-Disabled Veteran-Owned Business Enterprises (SDVOB) participation (based on the current availability of qualified SDVOB's).

Offerors will complete the Use of Service-Disabled Veteran Owned-Business Enterprises in Contract Performance **Appendix Y** (Form OTDA 4200), to demonstrate their proposed utilization of NYS certified SDVOBs as part of their bid/proposal.

The successful Offeror/Contractor will report on actual participation by each SDVOB during the term of the contract to the OTDA on a quarterly basis according to policies and procedures to be set by the OTDA.

NOTE: Information about SDVOB certification and set asides for SDVOB participation in public procurement can be found at: <http://www.ogs.ny.gov/Core/SDVOBA.asp>, which provides certification information and guidance for State agencies in making determinations and administering set asides for procurements from SDVOBs.

4.8. Diversity Practices

Overview

Pursuant to Section 313-a of the Executive Law and Section 142.3 of Title 5 of the New York Codes, Rules, and Regulations, all agencies and authorities must evaluate the diversity practices of Offerors to best value procurements expected to exceed \$250,000, whenever practical, feasible, and appropriate. Evaluating the diversity practices of Offerors as part of the procurement process provides contractors with an incentive to develop mutually beneficial relationships with NYS-certified M/WBEs outside of the context of state contracting. These relationships help to build the capacity of M/WBEs, and enhance their ability to perform ever increasing roles in state contracting.

Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises (“M/WBEs”) in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with M/WBEs.

Diversity practices are intended to be applied on procurements in which procurement personnel exercise their subjective judgment in selecting one or more successful contractors on the basis of best value, not on procurements that are awarded based upon lowest price.

General Instructions

- a. OTDA has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Offerors to this RFP is practical, feasible, and appropriate. Accordingly, Offerors shall be required to complete and include as part of their Technical Proposal, as described in [Section 5.2] herein, the OTDA Capital District CE RFP Diversity Practices Questionnaire **Appendix X**.
- b. Diversity Practices will be evaluated based upon the questionnaire developed by the New York State Division of Minority and Women’s Business Development. This Questionnaire consists of eight (8) questions for Offerors to answer. Some questions request supporting documentation to support certain answers. Scoring Information for Diversity Practices can be found in **Appendix U** (Technical Evaluation Forms).

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

Tax Law § 5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance (“DTF”) that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected Offeror must file a properly completed Form ST-220-CA (with OTDA as the Contracting Agency within 48 hours of notification of selection for award) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance’s website, available through this link: www.tax.ny.gov/pdf/publications/sales/pub223.pdf. Forms are available through these links:

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

NOTE: Although these forms are not required as part of the bid submissions, OTDA encourages Offerors to include them with their bid submissions to expedite contract execution if the Offeror is awarded the Contract.

4.10. Vendor Responsibility Questionnaire

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

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep.

4.11. State Finance Law Consultant Disclosure Provisions

Pursuant to New York State Finance Law Section 163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract, such report to include for each employment category within the contract: (i) the number of employees employed to provide services under the contract, (ii) the number of hours they work, and (iii) their total compensation under the contract. Consulting services are defined as: analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

The Contractor selected as a result of this procurement will be required to submit **Form A** prior to contract approval and **Form B** on an annual basis. OTDA has provided the appropriate forms in **Appendix E** to this procurement.

NOTE: Although these forms are not required as part of the bid submissions, OTDA encourages Offerors to include them with their bid submissions to expedite contract execution if the Offeror is awarded the contract.

4.12. Insurance Requirements

Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the Term of the Contract, policies of insurance as set forth in **Appendix W** (New York State Insurance Requirements), written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York ("admitted" carriers) with an A.M. Best Company rating of "A-" or better or as acceptable to OTDA.

4.13. OTDA's Reservation of Rights as to All Proposals

OTDA reserves all rights with respect to Proposals, including, but not limited to:

- a.** Reject any and all proposals received in response to this RFP or choose to make no award.
- b.** Waive any immaterial deviation or defect in a Proposal. A waiver of immaterial deviation or defect shall in no way modify the RFP documents or excuse the Offeror from full compliance with the RFP requirements.
- c.** Reject any proposal that contains false or misleading statements, or that provides references that do not support an attribute, condition, or qualification claimed by the Offeror.
- d.** Rescind a contract award if a signed contract does not result from good faith negotiations with OTDA within a reasonable period of time as determined by OTDA.
- e.** Correct any arithmetical errors in any proposal and, in the event that the fees or costs in two or more Proposals are not comparable, to make appropriate adjustments to render the fees and costs comparable.

- f. Require an Offeror clarify its proposal to assure a full understanding of the Proposal and to request revisions to all Proposals from vendors susceptible of award of the Contract. Any request for clarification or revision is solely at the discretion of OTDA.
- g. Proceed to the next highest-scoring Offeror in the event that the Offeror who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.
- h. Use of any and all ideas presented in any response to this RFP unless those are covered by legal patent or proprietary rights. Selection or rejection of any proposal does not affect this right. OTDA shall also have unlimited rights to disclose or duplicate, for any purpose whatsoever, all information or other work product developed, derived, documented or furnished by the Offeror under any contract resulting from this RFP.
- i. Require that any or each Offeror provide an oral presentation of its proposal.
- j. In the event of contract award, all computer programs and other documentation produced as part of the contract will become the exclusive property of OTDA. OTDA reserves a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to do so, such software, modifications and documentation.
- k. Accept all or part of a selected Offeror's proposal.
- l. Change any scheduled dates, including start dates, stated herein upon notice to the Offerors.
- m. Request best and final Financial Proposals from Offeror who submits a technically acceptable proposal.
- n. Eliminate any requirements unmet by **ALL** Offerors upon notice to all parties submitting proposals.

4.14. **Freedom of Information Law**

All Proposals shall become the property of OTDA and may be disclosed or used by OTDA to the extent permitted by law. OTDA may disclose a Proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All Proposals will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. **Any portion of the proposal that an Offeror believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the proposal.** Information relating to Contractor price submissions, including commercial, book or list pricing, applicable discounts or final bid price and like information, shall not be entitled to confidentiality protection whether or not submitted or designated as proprietary to Contractor. If OTDA agrees with the proprietary claim, the designated portion of the proposal will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material will be deemed a waiver of any right to confidential handling of such material. OTDA's determination of whether the Offeror's claim of proprietary status of the designated information should be granted will be predicated in large measure upon the Offeror's written statement of the necessity for the exemption. Offerors are advised to submit their written statements of the necessity for the claimed proprietary information exceptions at the time of the submission of their Proposals.

4.15. **State Ethics Law Provision**

By submitting a proposal to this RFP the person signing the proposal certifies, for and on behalf of the Offeror, that:

- a. He/she has read and understands the provisions applicable to post-employment restrictions affecting former State officers and employees, available using the link¹ below:
 - 1. Public Officers Law § 73(8)(a)(i), (the two-year bar); and
 - 2. Public Officers Law § 73(8)(a)(ii), (the lifetime bar);

¹ http://www.jcope.ny.gov/about/laws_regulations.html

- b. Submission of this proposal does not violate either provision;
- c. He/she is familiar with the Offeror's employees, and its agents;
- d. No violation shall occur by entering into a contract or in performance of the contractual services;
- e. This certification is material to the Proposal; and
- f. He/she understands that OTDA intends to rely on this certification.

The Offeror shall fully disclose to OTDA, within its Proposal and on a continuing basis, any circumstances that could affect its ability to comply with the cited laws. Offerors shall address any questions concerning these provisions to:

The New York State Joint Commission on Public Ethics
540 Broadway
Albany, NY 12207
Telephone #: (518) 408-3976

4.16. Debriefings

Consistent with New York State Finance Law §163(9)(c), a debriefing may be requested by the unsuccessful Offeror within fifteen (15) calendar days of release by the state agency of a notice in writing or electronically that the Offeror's offer is unsuccessful.

- (i) Such notice shall be provided to all unsuccessful Offerors by OTDA for the specific procurement.
- (ii) OTDA, upon a request made within fifteen (15) calendar days of release of the written or electronic notice from the unsuccessful Offeror for a debriefing, shall schedule the debriefing to occur within a reasonable time of such request. Debriefings shall be conducted by OTDA with the unsuccessful Offeror in-person. The parties, however, may mutually agree to utilize other means such as, but not limited to, by telephone, video-conferencing or other types of electronic communications. OTDA's personnel participating in the debriefing discussion shall have been involved with and knowledgeable about the procurement and the evaluation and selection of the successful Offeror or Offerors.
- (iii) Such debriefing shall include, but need not be limited to:
 - (A)** the reasons that the proposal, bid or offer submitted by the unsuccessful offerer was not selected for award;
 - (B)** the qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids or offers;
 - (C)** the application of the selection criteria to the unsuccessful Offeror's proposal; and

When the debriefing is held after the final award, the debriefing shall also include the reasons for the selection of the winning proposal bid or offer.

The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful Offeror concerning potential ways that their future proposals, bids or offers could be more responsive.

4.17. Protests

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

a) Formal Written Protests

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

- I. A Formal Protest must be submitted in writing to OTDA to the Director of OTDA Bureau of Contract Management (BCM), 40 North Pearl Street, Floor 12D, Albany, NY 12243.
- II. A Formal Protest must include a statement of all legal and/or factual grounds for disagreement with an OTDA specification or purchasing decision; a description of all remedies or relief requested; and copies of all applicable supporting documentation.

b) Deadline for Submission of Formal Protests

- I. OTDA must receive Formal Protests concerning errors, omissions or prejudice including patently obvious errors in the bid specifications or documents at least ten (10) calendar days before the Deadline for Solicitation for Bids, listed **SECTION 1** (Calendar of Events).
- II. OTDA must receive Formal Protests concerning a pending contract award within seven (7) calendar days after the protesting party ("Protester") knows or should have known of the facts which form the basis of the protest.

c) Review and Final Determination of Protests

- I. Formal Protests will be resolved through written correspondence. However, the Protester may request a meeting to discuss a Formal Protest or OTDA may initiate a meeting on its own motion, at which time the participants may present their concerns. OTDA may elect to decline such a meeting.
- II. Where further formal resolution is required, the Director of BCM shall designate an OTDA employee ("Designee") to undertake and determine the initial resolution or settlement of any protest.
- III. The Designee will conduct a review of the records involved in the Formal Protest, and provide a memorandum to the Director of BCM summarizing the facts as determined by the Designee, an analysis of the substance of the Formal Protest, and a preliminary recommendation. The Director of BCM shall: (a) evaluate the Designee's findings and recommendations, the procurement record, and (b) review the materials presented by the Protestor and/or any materials required of or submitted by other Offerors, (c) if necessary, consult with agency counsel, and (d) prepare a response to the Formal Protest ("Protest Decision").

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

e) Appeals

Upon receipt of OTDA's Protest Decision, a Protester has ten (10) business days to file an appeal of the determination with the OSC Bureau of Contracts. The appeal must be in writing, and be filed with Charlotte Davis, Director, Bureau of Contracts at the following address: New York State Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, NY 12236. The Protester's appeal must contain an affirmation in writing that a copy of the appeal has been served on OTDA, the successful Offeror (except where the contracting agency upholds the protest and the successful Offeror is the appealing party) and any other party that participated in the protest. In its appeal, the interested party shall set forth the basis on which it challenges the contracting agency's determination. The OSC Bureau of Contracts will conduct its determination of the appeal in accordance with its established policy.

f) Reservation of Rights and Responsibilities of OTDA

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

g) Procurement Activity Prior to Final Protest Activity

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

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

h) Record Retention of Bid Protests

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

4.18. Background Investigations

OTDA requires that background investigations be conducted on Contractor staff and Subcontractor staff, including independent contractors such as physicians and other clinicians that perform a service under the Agreement. Accordingly with submission of its Proposal, the Offeror must certify that it has conducted a background investigation, or will conduct a background investigation prior to services being provided to OTDA, of such staff members who provide Services under the Agreement resulting from this RFP. At a minimum, background investigations shall include a review/evaluation of the following: Social Security Number search and verification of U.S. citizenship or legal immigration status (if appropriate); criminal history check/court records (Federal, State and local for the past five years); work experience/history (for the past five years); and pertinent education/professional credentials. Based on that background

investigation, OTDA has the right to review the results of the successful Offeror's background investigation and its supporting documentation upon request. OTDA reserves the right to conduct its own background investigation of the successful Offerors staff.

The successful Offeror must undertake a background investigation of any new/replacement staff during the term of the Agreement resulting from this RFP.

The successful Offeror will need to certify that staff provided to perform Services possesses the necessary integrity and professional capacity to meet OTDA's reasonable expectations. Subsequent to the commencement of Services, whenever the successful Offeror becomes aware, or reasonably should have become aware, that any staff member(s) providing Services to OTDA no longer possesses the necessary integrity or professional capacity, the successful Offeror shall immediately discontinue the use of such staff and notify OTDA.

OTDA has final approval of any staff furnished to provide Services and may refuse to approve any staff member(s) based on its review of the staff member's responsibility to perform the required Services. OTDA reserves the right to bar anyone from access to OTDA's premises and/or access to OTDA's information resources. The successful Offeror will be required to maintain records related to the background investigations performed for the term of the Agreement resulting from this RFP.

For the purposes of this Section, "staff" includes employees, owners, officers, directors, or agents of the Contractor and any of the Contractor's subcontractor's staff and any independent contractors such as physicians and practitioners.

4.19. Prohibition on Use of Federal Funds for Lobbying

The Contracts resulting from this procurement will be funded, in whole or in part, with Federal funds. Pursuant to § 1352, Title 31 U.S. Code, no Federal appropriated funds may be expended by the recipient of a Federal grant or a subtier contractor or subgrantee to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

Any person who receives a contract exceeding \$100,000 at any tier under a Federal grant will be required to file a certification that no Federal appropriated funds have been or will be expended in violation of the above prohibition. If any funds other than Federal appropriated funds have been or will be expended by the contractor to pay any person for influencing any Federal officer, employee or member of Congress described above in connection with such Federal grant, the contractor will be required to make a written disclosure on a specified disclosure form.

For further detail, refer to the Federal statute and interim final regulations (45 CFR, Part 93, February 26, 1990).

4.20. Other Agency Use

Any contract entered into pursuant to an award resulting from this RFP shall contain a provision that grants the option to extend the terms and conditions of such contract to any other State agency in New York State as well as the local social service districts in New York State providing human services such as income maintenance, job training, employment, social services, or health-related services.

4.21. Records and Record Retention

1. During normal business hours during the term of the Contract and for six (6) years thereafter, the Contractor shall provide all duly authorized representatives of OTDA, OSC, and the US Social Security Administration full access to such additional records as have relationship to the subject matter herein, permitting representatives to inspect and copy such records in the home office or

field offices of the Contractor. Such access includes both announced and unannounced inspections, on-site audits and regular reports from Contractor, provided, however, that such inspections, copying and auditing may be done for the exclusive purpose of assuring the State and Federal agencies involved that the Contractor is properly fulfilling its undertaking according to the terms of the Contract and to assure that reports furnished in compliance with the provisions of the Contract are true and correct. Such access shall be extended upon the understanding that all information so obtained will be accorded confidential treatment to the extent that such confidentiality is provided under applicable law. In the event of litigation, such records shall be retained for a period of not less than six (6) years following the termination of such litigation. Such records may be maintained on microfilm, microfiche, or in computer format acceptable to OTDA.

2. Contractor must maintain all data related to CE requests in a secure and confidential manner, regardless of format, through all stages of CE request handling, including: retrieval of CE requests from OTDA, managing of requests throughout all stages of processing (including retrieving, scheduling, examination, report preparation, report signature and storing), delivery of all required processing data (including request receipt confirmation, appointment and contact information, appointment kept status, etc.), and delivery of completed CE reports. All stages of the Contractor's CE request handling, and steps to secure related data throughout the entire process, must be clearly articulated by the Contractor and approved by OTDA.
3. Upon termination of this Agreement the Contractor shall immediately return to OTDA all such Confidential Information (including all copies) in its possession.
4. The Contractor will ensure that the provisions of this section are incorporated within all sub-contracts, and acknowledges the responsibility for ensuring that these provisions are fully complied with by all subcontractors.
5. Contractor shall make every reasonable effort to safeguard equipment, files or documents containing personally identifiable information (PII) in relation to CE requests processed on behalf of OTDA. Contractor must ensure that computers, laptops and other electronic devices/media used in processing CE requests are encrypted and password protected. Encryption and password standards must be preapproved by OTDA.
6. Contractor and its subcontractors are responsible for safeguarding Personally Identifiable Information (PII) and must report any loss within one hour of discovery to the appropriate Division of Disability Determinations (DDD) and OTDA officials. The Contractor is subject to SSA confidentiality of information requirements while accessing information from SSA systems and should be authorized to only access those functions necessary to perform the services required in this RFP. The access should be restricted to the minimum necessary. The Contractor shall gather the following information to report the loss of PII: Contact information, description of loss (including time and location), what safeguards were used, which components (division or areas) were involved, whether external organizations were contacted, and whether other reports have been filed (e.g. law enforcement).
7. Neither the Contractor nor any of the Contractor's employees or subcontractors involved in processing reports shall disclose to any third party any information that identifies the claimant, physician, or facility without documented written permission of OTDA. Such unauthorized disclosures will subject the Contractor to the penalties of the Federal Privacy Act. The Contractor must also certify compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Records ready for disposal must be destroyed by burning, pulping, shredding, macerating, or other suitable similar means that ensures the information in the record is definitively destroyed. Definitively destroying the records means the material cannot be reassembled and used in an inappropriate manner in violation of law and regulation. Electronic records must be definitively destroyed in a similar manner that prevents reconstruction as well.

5.0 PROPOSAL CONTENT

The following includes the required format and information to be provided by each Offeror. Offerors responding to this RFP must satisfy all requirements stated in this RFP. All Offerors are required to

submit complete Administrative, Technical, and Cost Proposals. A Proposal that is incomplete in any material respect will be rejected.

Offerors must submit Proposals in separate Administrative, Technical, and Financial Proposal packages formatted with tabs as shown in **Attachment B**, Proposal Documents. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Offerors are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Additional information, if submitted, should be in a separate package.

Evaluations of the Administrative, Technical, and Financial Proposals received in response to this RFP will be conducted separately. Offerors are therefore cautioned not to include any Financial Proposal information in the Administrative or Technical Proposal documents.

NOTE: OTDA will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Financial Proposals. Such costs should not be included in the Proposal. Additionally, no cost will be incurred by OTDA for the Contractor's participation in any pre-contract award activity.

5.1. Administrative Proposal

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

Please provide the forms in the same order in which they are requested. Your proposal must contain sufficient information to assure OTDA of its accuracy. Please submit the following forms included in **RFP**.

A. M/WBE Requirements

Offerors are required to comply with Minority and Woman-owned Business Enterprises (M/WBE) participation requirements as stated in **SECTION 4.5** of this RFP. As part of your proposal, **submit the following documents (forms required are provided with Appendix Z)**, as appropriate.

- 1. A copy of the Offeror's EEO Policy Statement as described in Clause 12 of Appendix A – Standard Clauses for NYS Contracts;**
- 2. Form OTDA-4934 (Offeror's EEO Staffing);**
- 3. M/WBE Participation Forms:**
 - **Form OTDA-4976 (M/WBE Goal Requirements – Certification of Good Faith Efforts);**
 - **Form OTDA-4937 (Offeror's M/WBE Subcontractor Utilization Plan); and**
 - **OTDA-4938 (Offeror's M/WBE Subcontractor's/Suppliers Notice of Intent to Participate.**
 - Offerors may apply for a partial or total waiver of M/WBE participation requirements by submitting **Form OTDA-4969 (M/WBE Subcontractor Request for Waiver)** contained in **Appendix Z (M/WBE Forms)** of this RFP, and including all required documentation. Waivers will be granted by OTDA only where it appears that the Offeror cannot, after a good faith effort, comply with the M/WBE participation requirements set forth under this procurement.

B. SDVOB Requirements

Offerors are required to comply with Article 17-B of the Executive Law as enacted in 2014 regarding Service-Disabled Veteran-Owned Businesses (SDVOBs).

As part of your proposal, submit the following document (form required is provided in **Appendix Y**-“SDVOB Participation”).

1. Form OTDA-4200 (Service-Disabled Veteran Owned-Business Enterprises in Contract Performance.

C. Diversity Plan Requirements

OTDA has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Offerors to this RFP is practical, feasible, and appropriate. As part of your proposal, submit the “Diversity Practices Questionnaire” (provided in **Appendix X**) with your Technical Proposal.

D. Offeror’s Certification/Acknowledgements

- MacBride Fair Employment Principles
- Iran Divestment Certification
- Non-Collusive Bidding
- Offeror’s ID Form
- NYS Vendor Responsibility Non-Construction For-Profit Questionnaire
<http://www.osc.state.ny.us/vendrep/index.htm>
- Procurement Lobbying Act Refer to
<http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html> for clarification of the Procurement Lobbying Law
- Procurement Lobbying Act Offeror’s Certification of Affirmation of Understanding and Agreement pursuant to SFL §139-j and k
- Offeror Disclosure of Non-Responsibility Determinations
- Certification Regarding Drug-Free Workplace Requirements
- Security, Nondisclosure, Confidentiality and Press Release Agreement
- ST-220-TD Contractors Certification (Submit directly to NYS Tax and Finance Department)
- Subcontractor/Supplier Identification Form

E. Freedom of Information Law – Proposal Redactions

Offeror’s must clearly and specifically identify any portion of the proposal that an Offeror believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. While not required, Offerors are advised to submit their written statements of the necessity for the claimed proprietary information exceptions at the time of submission of their proposals.

F. Additional Forms (Optional Administrative Proposal Submissions)

While the following information is not required until notification of selection of award, Offerors are encouraged to submit these forms with their Administrative Proposal (See **Appendix E**).

1. ST-220 CA, Sales and Compensating Use Tax Certification
2. Workers’ Compensation Documentation
3. Disability Documentation
4. All Insurance Forms listed in Appendix W
5. OTDA Consultant Disclosure Reporting – Form A

5.2. Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Offeror to perform the Services referenced in this RFP. The Technical Proposal should demonstrate the qualifications of the Offeror and of the staff to be assigned to provide the Services included in this RFP.

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

Cost information must NOT be included in the Technical Proposal.

Technical Proposal Format

A. Title Page

Submit a Title Page providing the RFP subject and number (RFP number is the year, "2016"); the Offeror's name and address, the name, address, telephone number, and email address of the Offeror's contact person; and the date of the Proposal.

B. Table of Contents

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

Specific attention is directed to the list of requirements provided in **Attachment B**. Each Technical Proposal must contain an index that cites each tab number in the Technical Proposal where the requested information can be found using the tab numbers found in **Attachment B** for the corresponding RFP Section. The Technical Proposal should provide satisfactory evidence of the Offeror's ability to meet, and expressly respond to information requested in this RFP.

C. Offeror's Certified Statements – Attachment A

Submit **Attachment A, Offeror's Certified Statements**, which includes information regarding the Offeror. **Attachment A** must be signed by an individual authorized to bind the Offeror contractually. Please indicate the title or position that the signer holds with the Offeror. OTDA reserves the right to reject a proposal that contains an incomplete or unsigned **Attachment A**. Each Offeror must certify your firm's willingness to sign and fulfill a contract containing the terms and conditions specified in this RFP. Also include a positive statement assuring that the offer will remain open and not subject to change for a minimum of two hundred seventy (270) days.

Failure to include Attachment A will result in your proposal being considered non-responsive.

D. Management Summary

This section will include a general background and organization of the company, a summary of services to be provided, and the content of the technical proposal. Specific requirements include:

- Corporate or Business Name
- Administrative Address
- Facility Name
- Facility Address
- Federal Tax I.D.
- Names, addresses, titles and other business or professional affiliations of all persons having an interest in the facility or affiliated companies (officers, partners, shareholders) and the percentage of that interest. (The Business Affiliations Form in **Appendix F** should be used for this information).
- All Offerors are required to disclose any work the offering entity (including affiliates and subsidiaries) has had in the last five years from the date of this proposal or any work the

offering entity (including affiliates and subsidiaries) have presently applied to have with other governmental agencies and private organizations (both profit and not-for-profit). (The form in **Appendix G** should be used for this information).

- Submit copies of all applicable licenses and certifications, i.e., Article 28, certificates of incorporation, applications for change of status, pending applications for any such licenses, etc.
- Table of Organization identifying all key organizational components AND key managers by name.
- Emergency back-up agreements with certified hospital or indicate use of 911 services
- Subcontractor agreements related to the performance of work required by this RFP.
- Description of any impending, current or recent litigation, administrative proceedings before any federal or state regulatory agency or sanctions your firm has been involved in which might have an impact on this contract.
- Description of affiliations with other organizations that provide required services.

E. Examination Facility

This section will describe the primary examination facility being offered and how the facility requirements will be met as specified in this RFP. Specific requirements include:

- Appearance: Describe in detail the appearance of the proposed examination facility. For example, rooms painted or wallpapered, floor carpeted or tile, etc. A site visit to the Offeror's facility may be required
- Location: Address and location of the facility in relation to public transportation and a full description of how claimants will get to the facility using all modes of transportation. Include availability and quantity of claimant parking at the location site.
- Facility Capacity: Provide floor plans identifying:
 - total facility square footage
 - specifically identify the purpose of each room including examination rooms
 - specific room dimensions including waiting room dimensions and seating capacity
 - identify equipment locations including hand-washing facilities
 - excess space capacity
- Complete description of how proposed site meets each facility requirement specified in **Attachment 1- Statement of Work, Section H. Facility Requirements.**
- Copies of lease commitments specifying:
 - commitment for duration of the contract period
 - number of extensions and the term of the extensions
 - access hours, (must be uninterrupted)
 - weekend hours
- If the Offeror is proposing a facility which requires any site renovations, a comprehensive renovation schedule must be included which documents the Offeror's ability to conclude required work by contract start-up.

Ancillary Equipment

This section will specify the equipment being proposed for the completion of ancillary testing. For each functional test specified in **Appendix B and C**, Offeror must list manufacturer, model, age of equipment, calibration/service requirements, and maintenance and infection control/sterilization procedures. (The form in **Appendix H** should be used for this information.)

Ancillary Testing

The Offeror must have arrangements with a laboratory accepting **Appendix N - DDD Fee Schedule** rates to process all blood specimens **OR** Offeror must have arrangements with a laboratory to process all blood specimens at the Offeror's expense. Attach to **Appendix H**, a letter of commitment identifying the laboratory you will use, stating whether the laboratory has agreed to accept DDD Fee Schedule rates or whether you as the contractor will cover the laboratory expenses. Federal fiscal year 2014 and 2015 pathology services are used to project

the estimated annual pathology or laboratory volumes for these contracts. The estimated annual volume of pathology services for this contract. The estimated annual volume of pathology services for the Capital District is 11 - procedures totaling \$136.40.

F. Staffing

This section will describe the medical and administrative staff proposed to perform the work specified in this RFP. Specific information must include:

- Identification of Chief Medical Officer.
- List of all medical and non-medical staff (and any backup staff that may be used) to include name, title, specialty, function, languages spoken, hours worked on services for the contract, and status of employment (currently employed by Contractor, pending recruitment, etc.). (The form in Appendix I should be used for this information.)
- Copy of current license/registration for each medical staff person.
- Completion of a 4095 Consultant Enrollment Form for all medical staff (**Appendix V** page 1 only). This form must be completed as an original by the physician only, and must be completed and signed by the physician in blue ink. If an error is made in completing the required forms, a single line is to be drawn through the error. The correction is to be initialed by the physician. **DO NOT** use white-out or other methods of covering mistakes. All forms must be completed, signed and dated by the physician within three (3) months of the proposal due date. In addition, the 4095 must be notarized to verify the physician's signature. Completion of a 4095 Consultant Enrollment Form for all medical staff of the successful Offeror is again required within two months of contract start-up, if there has been more than a 60 day lapse in service, or when there are changes in medical staff, including location where services are provided. The Offeror must not make any changes, additions, or deletions to a medical provider's 4095 form. (See **Appendix V** for the DDD 4095 form and **Appendix O** for the Conditions Governing Referrals for Consultative Examinations.)

Physician Background Questionnaire

Each Offeror must complete the NYSOTDA Physician Background Questionnaire, **Appendix L**, for any physician who is an independent contractor and submit it as part of your technical proposal.

OTDA acknowledges that volumes increase and decrease and may in fact differ at contract start-up from the volumes represented in this RFP. However, Offerors must certify that the staff and hours committed on Appendix I will be provided at contract start-up.

G. Service Plan

This section must describe how your firm plans to meet the service requirements specified in this RFP.

- A. Service plan specific requirements include:
- Plan for receipt of electronic CE orders;
 - Plan for electronic delivery of completed CE reports to OTDA;
 - Backup plan for delivery of CE reports in the event of system failure;
 - Appointment scheduling process;
 - Proposed appointment schedule, days/hours of operation. The form in **Appendix J** should be used for this information;
 - Claimant reception, history taking process;
 - MD report dictation, transcription, and report signing processes;
 - Plan for MD's to receive clarification calls from OTDA staff;
 - Quality assurance plan for CE reports;
 - Where records will be stored;

- How additional MD staff will be recruited if needed;
 - Back-up plan for coverage during MD vacation periods;
 - Workplan for conducting training in performing CEs and preparing CE reports;
 - Plan for handling increases of a minimum of 50% in referral volumes - staffing and facility;
 - Plan for your firm to be 100% operational at the time of contract start-up;
- B. Time Standards: Detailed plan of how processing time standards will be met as outlined in the RFP **Attachment 1** - Statement of Work;
- C. Optional Services – **Appendix K** must be completed and submitted with your technical proposal. Identify whether the exams or tests listed as Optional Services will be performed onsite (do not include cost data here). Attach to **Appendix K** a letter(s) of commitment from the facility(s) that will be performing Optional Services offsite.

H. Qualifications

Include the following:

- Statement of qualifications of your firm to provide required services. A complete description of similar consultative examination services provided to other companies must be included (specificity is required).
- Name and background of proposed contract liaison staff.
- Three references for which your firm is currently offering similar services. Include the name of the organization that services are provided for, the contact person with email address and phone number, the period of service performance and description of the work performed including volume or number of exams or evaluations within a 12-month period. Any business either currently being performed or previously performed with any governmental source also must be specified.
- Identify any major service changes your firm is pursuing (site relocation, expansion/contraction, impending contracts, etc.).

Sample Reports and Tests - The Offeror is required to submit a sample of a complete report for each of the following specialties and tests, in the prescribed format, to determine its understanding of the report requirements specified in this RFP. ***All social security numbers and personal information should be redacted. Fake names and SSN's should NOT be used.***

CLEARLY LABEL EACH REPORT BY SPECIALTY AND TEST.

- Internal Medicine
- Orthopedic
- Psychiatric
- Neurological
- Psychological
- Pediatric
- Ophthalmology
- Otolaryngology
- Speech and Language
- Resting EKG Tracings
- Treadmill Exercise Test EKG Tracings
- Spirometric Tracings Before and After Bronchodilators

NOTE: Submit a sample of completed report(s) in the prescribed format found in Appendix Q for these examinations.

I. Agency/Department References

Each Offeror must complete the New York State Agency/Department References Form, **Appendix M** and submit it as part of your technical proposal. If it does not apply to your organization, type "Not Applicable" on **Appendix M** and submit it as part of your technical proposal.

J. Contractor/Subcontractor Background Questionnaire

Each Offeror must complete the NYS-OTDA Contractor/Subcontractor Background Questionnaire, **Appendix L**, and submit it as part of your technical proposal. **Appendix L** must also be completed by any proposed subcontractors.

K. Diversity Plan Requirements

As part of your proposal submit the following document (form required is provided in **Appendix X** "Diversity Practices Questionnaire.")

1. OTDA's Capital District CE RFP Diversity Practice Questionnaire

NOTE: ALL INFORMATION REQUIRED IN THE TECHNICAL PROPOSAL IS MANDATORY.

5.3. Financial Proposal

Submit a completed and signed **Appendix B and Appendix C – Financial Proposal**. The Financial Proposal shall comply with the mandatory format and content requirements as detailed in this document and in **Appendix B and Appendix C**. Failure to comply with the mandatory format and content requirements may result in disqualification.

A. Mandatory Services

Each Offeror must include a unit price for each procedure for each of the time periods as specified in **Appendix B**. The Offeror must be able to offer each of these services.

B. Optional Services

Optional Services listed in **Appendix C** should include a unit price for each procedure. The unit price must be specified for each of the time periods.

This is a four and one-half (4.5) year contract. Proposal must have pricing for all four and one-half (4.5) years at time of submission. All prices for Mandatory and Optional Services are fixed for the first three (3) years of the contract term. Offeror may increase prices for both Mandatory and Optional Services in years four (4) and five (5) (last six months of the contract). Proposed rates for each year of the four and one-half year contract period cannot exceed the DDD's fee schedule rates in effect at the time the RFP is issued. DDD's fee schedule is included in **Appendix N**.

C. Support Documentation

Each Offeror must submit additional cost data to support its offer. The supporting cost data must be completed in **Appendix D** and include cost data for Personnel, Rental of Facility, Equipment, Profit, and other overhead.

D. Financial Status

Each Offeror must demonstrate that it has sufficient working capital to front-end the funding needed to support projected contract expenses for a minimum of three (3) months. Proof of financial status and stability of your firm will be required. Offerors must demonstrate their financial

stability and viability by submitting a current Dun and Bradstreet Comprehensive Report or a current Dun and Bradstreet Risk Management Report that has been prepared using Offeror information and not that of a parent corporation or other affiliated entity.

6.0 PROPOSAL SUBMISSION

To be considered eligible, the Offeror must submit a complete response to this RFP in conformance with the format and content requirements set forth herein. A Proposal that does not provide all the information requested may be subject to rejection. The Proposal must contain sufficient information to assure the State of its accuracy. No information beyond that specifically requested is required and Offerors are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications.

6.1 Proposal Delivery

All proposals must be submitted in hard copy and on compact disc/thumb drive and received by the date and time indicated for Deadline for Submission of Proposals as specified in **SECTION 1.0** (Calendar of Events). OTDA reserves the right to reject any proposals received after that date.

Administrative, Technical, and Financial Proposals must be clearly labeled and submitted, by U.S. Mail, by courier/delivery service (e.g., FedEx, UPS, etc.) or by hand as noted below, in separately sealed packages to:

**Office of Temporary Disability Assistance
(RFP Capital District CE Contract Medical Provider)
Attention: Laurie Eckert
Bureau of Contract Management
12th Floor, Section D
40 North Pearl Street
Albany, NY 12243**

Due to security procedures at 40 North Pearl Street, proposals that will be hand-delivered must be taken to the Security Desk during OTDA's normal hours, which are Monday through Friday, from 8:00 a.m. to 5:00 p.m. EST, excluding New York State holidays. **NOTE:** Offerors should request a receipt containing the time and date received and the initials of the receiver for all hand-deliveries and ask that this information also be written on the package(s).

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

An Offeror may withdraw a Proposal at any time prior to the Deadline for Submission of Proposals by written notification to OTDA as set forth in **SECTION 4.1**, Procurement Integrity/Restrictions on Communications, of this RFP. An authorized agent of the Offeror must sign the notice of withdrawal. The Proposal may thereafter be resubmitted, but not after the Deadline for Submission of Proposals specified in **SECTION 1.0**, Calendar of Events. Modification offered in any other manner, oral or written, will not be considered.

6.2 Submission of Administrative, Technical, and Financial Proposals

Each Offeror must submit **SEPARATE** Administrative, Technical, and Financial Proposals, as follows:

A. For the ADMINISTRATIVE Proposal:

Submit THREE original and FOUR paper copies; the original of the Administrative Proposal must be clearly marked "ORIGINAL" on the covering page.

B. For the TECHNICAL Proposal:

Submit THREE original and FOUR paper copies; the originals of the Technical Proposal must be clearly marked “ORIGINAL” on the covering page and include original 4095 Consultant Enrollment Forms, **Appendix V** page 1 only.

C. For the Financial Proposal:

Submit THREE original and FOUR paper copies; the original of the Financial Proposal must be clearly marked “ORIGINAL” on the covering page.

D. For EACH of the Administrative, Technical, and Financial Proposals:

Submit TWO copies of EACH of the Administrative, Technical, and Financial Proposals on SEPARATE CDs/thumb drives; an acceptable format is Adobe PDF. The CD copies of EACH of the Administrative, Technical, and Financial Proposals should be representative copies of the original documents, including signatures, and must be in one file on each CD/thumb drive. In the event there is a discrepancy between the information in the paper copy of the proposal and the electronic copy of the proposal, the paper copy of the proposal controls.

Submit each of the complete Administrative, Technical, and Financial Proposals in its own separate sealed package, all of which may be submitted within one complete package.

Clearly mark the outside envelope of your sealed Proposals, the original, each copy, and CD as “**RFP Capital District CE Contract Medical Provider – (Technical) (Administrative) or (Financial) Proposal submitted by (Offeror’s name).**”

7.0 EVALUATION PROCESS/CRITERIA

7.1. General Information

OTDA will evaluate each Proposal based on the “Best Value” concept, pursuant to the criteria set forth in Appendix U. This means that the Proposal that best “optimizes quality, cost, and efficiency among responsive and responsible Offerors” shall be selected for award (State Finance Law, Article 11, §163[1][j]).

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

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal (which includes scoring of the Diversity Questionnaire) will be weighted **70%** of a Proposal’s total score and the Financial Proposal will be weighted **30%** of a Proposal’s total score. **[70% Technical, 30% Financial]**

Offerors may be requested by OTDA to clarify the contents of their proposals. Other than to provide such information as may be requested by OTDA, no Offeror will be allowed to alter its proposal or add information, except as provided in **SECTION 4.13.F** above, after the Deadline for Submission of Proposals.

7.2. Submission Review

OTDA will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in **SECTION 5.0** (Proposal Content) and **SECTION 6.0** (Proposal Submission), and include the proper documentation, including all documentation required for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in

meeting the submission requirements or have omitted material documents, in the sole opinion of OTDA, may be rejected.

7.3. Technical Evaluation

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of program staff of OTDA will review and evaluate all proposals. Initially, each Proposal will undergo a preliminary technical evaluation to verify whether the Minimum and Mandatory Requirements and “material” RFP requirements are met. Assuming such requirements are met, Technical Evaluation Committee members will independently score each Technical Proposal. The individual Committee Member scores will be averaged to calculate the Technical Score for each responsive Proposal.

The Technical Evaluation is **70% (up to 70 points)** of the final score.

7.4. Financial Evaluation

The Financial Evaluation Committee will evaluate the Financial Proposal documents. Initially, Financial Proposals will be opened and reviewed for responsiveness to the RFP, and if a Financial Proposal is found to be non-responsive, that Proposal may be eliminated from consideration.

Each Financial Proposal that is deemed responsive will be evaluated and assigned a financial score. The Cost Proposals will be scored based on a maximum cost score of 30 points. The maximum financial score will be allocated to the Financial Proposal with the lowest price. All other responsive Financial Proposals will receive a proportionate score based using this formula:

Financial points awarded = 30 potential points x (Lowest Cost Proposal / Cost of Proposal Being Evaluated).

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

NOTE: OTDA reserves the right to reject any financial proposal which offers service fees for mandatory and Optional Services in excess of DDD's fee schedule. DDD's fee schedule is included in Appendix N.

7.5. Preliminary Composite Score

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

7.6. Interviews

Interviews, if determined to be necessary, will be held for all Offerors which submitted responsive Proposals in person in Albany, NY or, at the discretion of the Technical Evaluation Committee, by telephone or videoconference. The purpose of an interview is to allow the evaluators to validate the Offeror's experience and qualifications. The Offeror, including any key personnel, should be present and participate in the interview. **No new material will be permitted to be introduced during the interview.**

7.7. Final Composite Score

A final composite score will be calculated by OTDA by adding the Technical Proposal points and the Financial Proposal points.

7.8. Award Recommendation

The Offeror with the highest composite score(s) will be notified of selection. The awarded Offeror will enter into a written Agreement substantially in accord with the terms of **Attachment E**, Draft Contract Agreement, to provide the required Services as specified in this RFP. The resultant contract shall not be

binding until fully executed and approved by the New York State Offices of the Attorney General and the OCS's Bureau of Contracts.

**ATTACHMENT A
OFFEROR'S CERTIFIED STATEMENTS**

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

RFP Capital District CE Contract Medical Provider
1. Information with regard to the Offeror
A. Provide the Offeror's name, address, telephone number, and fax number.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Fax Number (including area code):
B. Provide the name, address, telephone number, and email address of the Offeror's Primary Contact with OTDA with regard to this proposal.
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:
C. Provide the name, address, telephone number, and email address of the person authorized to bind the Offeror contractually, if different from (B).
Name:
Address:
City, State, ZIP Code:
Telephone Number (including area code):
Email Address:
2. Minimum Requirements (Section 2.3)

<p>A. The Offeror certifies that it has a minimum of five (5) years' experience performing the annual volume and types of services specified in this RFP, past experience may include DDD exams, employment exams, independent medical exams and direct patient care.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>B. The Offeror certifies that it is a single, fully responsible prime contractor "Qualified Offeror" and has identified any intended subcontractors and describes in detail its specified roles in the technical proposal. (For the purposes of this procurement and the resultant contract, a subcontractor is considered to be any individual or legal entity, as defined in the Glossary of Terms that performs a portion of the prime contractor's obligation under the terms of a written agreement with the prime contractor. Any entity that exclusively provides only goods, supplies and/or materials shall be considered exempt from this definition.)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>C. The Offeror certifies that it and its staff are in full compliance with federal, state and local operating requirements, as appropriate, for providing a facility and services as specified by this RFP. (Contractors providing medical consultative examination services must comply with those articles, which regulate the admission to and practice of the professions, including medicine. All such entities must be in compliance with the requirements of Education Law §6527 and in compliance with Article 15 of the New York State Business Corporation Law, or other corporate organization for physicians as authorized by law. All directors and officers of a corporation providing medical examinations (except those entities delineated in §6527) must be physicians. OTDA reserves the right to disqualify from consideration any organization that it believes is not capable of performing the services as specified in this RFP.)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>D. The proposal, including the Technical, Administrative, and Cost Proposals, constitutes a firm and irrevocable offer for a period of 270 days from the date of submission to OTDA.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>3. Offeror's Acknowledgement of Proposal Requirements: [Please note: alteration of any language contained in this section may render your proposal non-responsive.]</p>	
<p>A. By submission of a proposal, the Offeror agrees not to make any claims for or have a right to any damages because of any misrepresentations or misunderstanding of the specifications or because of any lack of information.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>B. The Offeror certifies that all information provided to OTDA is complete, true, and accurate with regard to prior non-responsibility determinations within the past four (4) years based on (i) impermissible contacts or other violations of State Finance Law § 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>C. The Offeror certifies that it can and will provide and make available, at a minimum, all Services as described in the RFP if selected for award.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>D. The Offeror certifies that staff provided to perform Services possesses the necessary integrity and professional capacity to meet OTDA's reasonable expectations. Subsequent to the commencement of Services, whenever the successful Offeror becomes aware, or reasonably should have become aware, that any staff member(s) providing Services to OTDA no longer possesses the necessary integrity or professional capacity, the Offeror agrees to immediately discontinue the use of such staff and notify OTDA.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>E. The Offeror certifies that all information provided in connection with its Proposal is true and accurate.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>F. The Offeror has read, understands, and accepts all provisions of Appendix A – Standard Clauses for NYS Contracts. Appendix A contains important information related to the Contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between OTDA and the selected Offeror. By submitting a response to the RFP, the Offeror agrees to comply with all the provisions of Appendix A.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>G. The Offeror's Legal representation has reviewed and understands Attachment E (Draft Contract Agreement), and the Offeror is willing to enter into an Agreement substantially in accord with the terms of Attachment E (Draft Contract Agreement), should the Offeror be selected for contract award.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>H. The Offeror agrees that OTDA shall have the right to approve or disapprove, after appropriate review and/or interview(s), any and all subcontractor(s) of the Offeror prior to their performance of services under the Agreement.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>I. The Offeror agrees that it shall be fully responsible for performance of work by its staff and by its subcontractor's staff. OTDA reserves the right to request removal of any Offeror staff or subcontractor's staff if, in OTDA's discretion, such staff is not performing in accordance with the Contract.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*
<p>J. The Offeror warrants that, if selected, it will execute an Agreement of Confidentiality wherein it agrees to protect confidential information accessed during the Term of the Contract from unauthorized disclosure.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No*

K. In accordance with 5 NYCRR §142.13, the Offeror acknowledges that if it awarded a contract and is found to have willfully and intentionally failed to comply with the M/WBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and OTDA may withhold payment from the Contractor as liquidated damages.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
L. The Offeror certifies that no Federal appropriated funds have been or will be expended in violation of the prohibition on Use of Federal Funds for Lobbying described in SECTION 4.14 of the RFP or if any funds other than Federal appropriated funds have been or will be expended by the awarded Offeror/Contractor to pay any person for influencing any Federal officer, employee or member of Congress described in SECTION 4.14 of the RFP in connection with such Federal grant, the Offeror/Contractor certifies that it will make a written disclosure on a OTDA specified disclosure form. The Offeror agrees to file a certification to this effect prior to approval of a contract with OTDA.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
M. The Offeror certifies that it is in compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
N. The Offeror certifies that all information and forms contained within its technical proposal are true and accurate, that all 4095 Consultant Enrollment forms were completed by each physician proposed to perform the work specified in this RFP in accordance with Attachment 1. Statement of Work of the RFP, and that no changes or modifications to the completed 4095 forms have been made by any other individual.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
O. The Offeror certifies that it has not acted in collusion with any other prospective Offeror or competitor in preparing its proposal or responding to this RFP.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
P. The Offeror certifies that it has not disclosed its pricing which is included in the financial proposal (Appendix B) submitted in response to this RFP.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
Q. The Offeror certifies that it has not acted to restrict competition in responding to this RFP.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
R. The Offeror confirms that it has specified any planned subcontractors	<input type="checkbox"/> Yes <input type="checkbox"/> No*
S. The Offeror certifies that it has disclosed any potential conflict of interest involving the Offeror or any planned major subcontractors. If there are none it shall be so stated.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
T. The Offeror authorizes OTDA to submit any and all names of medical staff submitted in the Offerors proposal to licensing authorities.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
U. The Offeror certifies that all information supplied to or obtained by the Offeror or its agent(s) pertaining to a Social Security claimant is confidential in nature and may not be used for any purpose other than the formulation of a good faith offer based on this RFP. The Offeror further acknowledges that any other uses of or release to any party or parties of this information without the prior written consent of OTDA shall constitute a breach of confidentiality and may result in disqualification of the Offeror or other sanctions as determined by OTDA.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
V. The Offeror certifies that he/she has read and understands the provisions applicable to post-employment restrictions affecting former State officers and employees (Public Officers Law § 73(8)(a)(i), (the two-year bar); and Public Officers Law § 73(8)(a)(ii), (the lifetime bar);and that submission of Offeror's proposal does not violate any provision contained therein.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
4. Background Investigations (Section 4.16):	
A. The Offeror has conducted background investigations (as defined in SECTION 4.18) for employees that will be providing the Services described in this RFP to OTDA or Background investigations (as defined in SECTION 4.18) of employees that will be providing the Services described in this RFP to OTDA will be conducted before such services are provided to OTDA.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
B. The Offeror certifies that the provisions of SECTION 4.18 will apply to any new/replacement employee(s) providing the Services described in this RFP to OTDA.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
C. The Offeror certifies that it will maintain records related to the background investigations performed for the Term of the Agreement resulting from this RFP.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
* A "No" Response in Sections 2, 3, or 4 of this attachment will result in disqualification.	
5. Information Required:	

A. The Offeror is (check as applicable):

- A New York State Certified Minority-Owned Business Enterprise
- A New York State Certified Woman-Owned Business Enterprise
- A New York State Certified Service-Disabled Veteran-Owned Business Enterprise
- None of the above

B. Provide the name, title, address, telephone number, and email address of the person authorized to receive Notices with regard to the Contract entered into as a result of this procurement.

Name:

Title:

Address:

City, State, ZIP Code:

Telephone Number (including area code):

Email Address:

C. Offeror's Taxpayer Identification Number:

D. Offeror's NYS Vendor Identification Number, if enrolled:

By my signature on this Attachment A, I certify that I am authorized to bind the Offeror contractually.

Typed or Printed Name of Authorized Representative of the Offeror

Title/Position of Authorized Representative of the Offeror

Signature of Authorized Representative of the Offeror

Date

**ATTACHMENT B
PROPOSAL DOCUMENTS SUBMITTED**

RFP Capital District CE Contract Medical Provider			
FOR THE ADMINISTRATIVE PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
N/A	§	Three Original and Four Copies of the Complete Administrative Proposal, containing the Tabs listed in this Section	<input type="checkbox"/>
	§	Two separate CD/thumb drive in PDF format containing a representative copy of the Administrative Proposal, including signatures	<input type="checkbox"/>
APPENDIX E STANDARD REQUIRED FORMS			
1	§ 5.1.A	<u>Appendix Z M/WBE Participation Requirements:</u>	<input type="checkbox"/>
		The Offeror's EEO Policy Statement, as described in Clause 12 of Appendix A – Standard Clauses for NYS Contracts	<input type="checkbox"/>
		Form OTDA-4934- Offeror's EEO Staffing Plan	<input type="checkbox"/>
		Form OTDA-4976- Offeror's M/WBE Goal Requirements – Certification of Good Faith Efforts	<input type="checkbox"/>
		Form OTDA-4937– Offeror's M/WBE Utilization Plan	<input type="checkbox"/>
		Form OTDA-4938– Offeror's M/WBE Subcontractor's/Supplier's Notice of Intent to Participate	<input type="checkbox"/>
		Form OTDA-4969– Request for Waiver, <u>with all required documentation</u> , if applicable	<input type="checkbox"/>
		Form OTDA-4971 MWBE EEO Workforce Employment Utilization Report	<input type="checkbox"/>
2	§5.1.B.	SDVOB Requirement –Form OTDA -4200 - Offeror's Service-Disabled Veteran Owned-Business Enterprises in Contract Performance. (Appendix Y)	<input type="checkbox"/>
3	§5.1.D.	Iran Divestment Certification	<input type="checkbox"/>
		MacBride Fair Employment Principles	<input type="checkbox"/>
		Non-Collusive Bidding	<input type="checkbox"/>
		Offeror's ID Form	<input type="checkbox"/>
		Vendor Responsibility Questionnaire, certified within six months of the Proposal due date (<u>unless filed and certified online</u>)	<input type="checkbox"/>
		If Vendor Responsibility Questionnaire was completed and certified online, check here and do not attach a paper copy.	<input type="checkbox"/>
		Offeror Disclosure of Non-Responsibility Determinations	<input type="checkbox"/>
		Certification of Drug-Free Workplace Requirements	<input type="checkbox"/>
		Procurement Lobbying Act Offeror's Certification of Affirmation of Understanding and Agreement pursuant to SFL §139-j and k	<input type="checkbox"/>
		Security, Nondisclosure, Confidentiality and Press Release Agreement	<input type="checkbox"/>
Subcontractor/Supplier Identification Form	<input type="checkbox"/>		

		Sample Reports and Tests	<input type="checkbox"/>
9	§ 5.2.I	Agency/Department References (APPENDIX M)	<input type="checkbox"/>
10	§ 5.2.J	Contract Provisions Statement	<input type="checkbox"/>
11	§5.2.L	Contractor/Subcontractor Background Questionnaire (APPENDIX L)	<input type="checkbox"/>
12	§ 5.1.B	Diversity Plan Requirement- Offeror's responses to OTDA's Capital District CE RFP Diversity Practice Questionnaire (Appendix X).	<input type="checkbox"/>
FOR THE Financial PROPOSAL			
TAB	RFP §	REQUIREMENT	INCLUDED
N/A	§	Three Original and FOUR Copies of the Financial Proposal	<input type="checkbox"/>
	§	TWO separate CD/thumb drive in PDF format containing a representative copy of the Financial Proposal, including signatures	<input type="checkbox"/>
1	§5.3 A	Appendix B, Financial Proposal Mandatory Services Cost Proposal	<input type="checkbox"/>
2	§5.3 B	Appendix C, Financial Proposal Optional Services Cost Proposal	<input type="checkbox"/>
3	§5.3 C	Appendix D, Supporting Cost Data	<input type="checkbox"/>
4	§5.3 D	Financial Status and Stability –Dun and Bradstreet Comprehensive Report	<input type="checkbox"/>

ATTACHMENT E
DRAFT CONTRACT AGREEMENT
STATE OF NEW YORK
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
AGREEMENT WITH
[Contractor Name]
NEW YORK STATE CONTRACT NUMBER C0XXXX

THIS AGREEMENT (hereinafter "Agreement") is by and between the New York State Office of Temporary and Disability Assistance (hereinafter "OTDA"), whose main office and principal place of business is 40 North Pearl Street, Albany, New York, 12243, and [Contractor Name] (hereinafter the "Contractor") whose office is located at [Contractor Address].

W I T N E S S E T H

WHEREAS, The Division of Disability Determinations (DDD) of the New York State Office of Temporary and Disability Assistance is responsible for adjudicating claims for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Benefits under an agreement with the Social Security Administration; and

WHEREAS, to meet this responsibility OTDA issued a Request for Proposals dated September 14, 2016 (hereinafter "RFP") soliciting proposals from vendors for the establishment of one contract medical provider to establish one site in the Capital District for the purpose of performing all mandatory medical examinations and ancillary testing of claimants applying for or currently receiving Social Security disability benefits (hereinafter "Services"); and

WHEREAS, the Contractor responded to the RFP with a proposal dated on or before November 2, 2016 @ 3:00pm (hereinafter "Proposal") indicating its willingness to perform the Services; and

WHEREAS, based upon the evaluation of various proposals submitted in response to the RFP, it has been determined that the Contractor's proposal offered the best value and that it would be in the best interests of OTDA to retain the services of the Contractor in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms set forth and the mutual covenants and obligations of the parties, the parties do hereby agree as follows:

I. TERM

This Agreement shall be for a period commencing on July 1, 2017, or upon approval of the New York State Office of the Comptroller's Bureau of Contracts, if after July 1, 2017, and continue for a period of up to four and one-half (4.5) years (through December 31, 2021), and is subject to earlier termination as provided for in **SECTION XX** "Termination".

Year 4 of the agreement will begin on July 1, 2020 and Year 5 (last six months) of the agreement will begin on January 1, 2021.

Prior to the start of the Contract, the Contractor must make all arrangements necessary to accept 100% of the assigned workload.

II. MERGER OF DOCUMENTS/CONFLICT OF CLAUSES

This Agreement shall be deemed inclusive of **Appendices A** through and including **Z**, **Attachments 1, A** and **B** which are hereby incorporated into this Agreement as if herein set forth at length. Only documents expressly mentioned below shall be deemed a part of this Agreement.

1. **Appendix A** – Standard Clauses for NYS Contracts;
2. **Agreement** – (This Document);
3. **Appendix B** (Mandatory)-and **C** (Optional) Cost Proposal Rate Form;
4. **Appendix D** – Support Documentation Form;
5. **Appendix E** – Standard Response Form;
6. **Appendix F** – Business Affiliation Form;
7. **Appendix G** – Business Disclosure Form;
8. **Appendix H** – Equipment Form;
9. **Appendix I** – Staffing Forms;
10. **Appendix J** – Proposed Appointment Schedule
11. **Appendix K** – Optional Services
12. **Appendix L** – Contractors/Subcontractors Background Questionnaire;
13. **Appendix M** – Agency Department Reference Form;
14. **Appendix N** – DDD Fee Schedule;
15. **Appendix O** – Conditions Governing Referrals;
16. **Appendix P** – OTDA Non-Disclosure Form;
17. **Appendix Q** – Reporting Requirements 2015;
18. **Appendix R** – Mandated Specialties;
19. **Appendix S** – Data Exchange Guidelines;
20. **Appendix T** – Miscellaneous CE Forms;
21. **Appendix U** – Technical Evaluation Forms;
22. **Appendix V** – 4095 Consultant Enrollment Form;
23. **Appendix W** – NYS Contractor Insurance Requirements;
24. **Appendix X** – Diversity Practice Questionnaire;
25. **Appendix Y** - Use Of Service-Disabled Veteran-Owned Business Enterprises In Contract Performance - OTDA-4200 (1/16);
26. **Appendix Z** – M/WBE and EEO Participation Requirements;
27. **Attachment 1** – Statement of Work
28. **Attachment A** – The Capital District CE RFP, including the Questions and Answers; and
29. **Attachment B** – The Proposal (**Attachments B1** – Technical Proposal, **B2** – Cost Proposal, and **B3** – Administrative Proposal), including any clarifications thereto.

Conflicts between these documents shall be resolved in the following order of precedence:

1. **Appendix A** – Standard Clauses for NYS Contracts;

2. **Agreement** – (This Document, including **Attachments 1** (Statement of Work), and **A** (Offeror's Certified Statements, and **Appendices B** through **Z**);
3. Amendments to the Capital District CE RFP, to include the Questions and Answers;
4. **Attachment A** – The Capital District CE RFP; and
5. **Attachment B** – The Proposal (**Attachment B1** – Technical Proposal, **B2** – Cost Proposal, and **B3** – Administrative Proposal), including any clarifications thereto.

III. COMPENSATION

OTDA shall compensate the Contractor pursuant to this Agreement in accordance with the Fee Schedule as set forth in the Contractor's proposal, **Attachment B2** – Fee Schedule. Total compensation for Services shall not exceed the sum of \$XXXXX.

IV. PAYMENT AND INVOICES

- A. The compensation for Services shall be payable by OTDA in the ordinary course of State business upon OTDA's receipt of the Contractor's invoice. Approved invoices for payment will be processed in accordance with Article 11-A of the New York State Finance Law.
- B. In order to track utilization of minority or women-owned business enterprise (M/WBE) participation goals as required by New York State Executive Law Article 15-A and 5 NYCRR 142.11, Contractor shall submit a quarterly **OTDA-4968 M/WBE Quarterly Compliance Report** in **Appendix Z**, which shall include the actual total cost of the contract work performed by each certified M/WBE for the work relating to the quarter and the actual amounts of any payments made by the Contractor to each certified M/WBE during the quarter. Failure to comply with the M/WBE participation goals set forth in **Appendices Z** of the RFP, as they may change from time to time, may result in penalties.
- C. OTDA will make best efforts to process all vouchers within thirty (30) days of their receipt, however, failure to make payment within said timeframe shall not be considered a breach of this Contract Agreement. To the extent required by law, timeliness of payment and any interest to be paid to the Contractor for late payment shall be governed by Article XI-A of the State Finance Law, to the extent required by law.

OTDA shall not be liable for the payment of any taxes under the Agreement, however designated, levied or imposed.

The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at <http://osc.state.ny.us/vendors/epayments.htm> by email at epunit@osc.ny.gov, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures, except where OTDA has expressly authorized payment by paper check as set forth herein.

Contractor shall provide complete and accurate billing invoices to the OTDA in order to receive payment. Billing invoices submitted to the OTDA must contain all information and supporting documentation required by the Contract, the OTDA, and the State Comptroller. The Contractor acknowledges that payment for invoices submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by OTDA, in OTDA's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices as established by the State Comptroller.

The Contractor shall also comply with the State Comptroller's requirement to file a Substitute Form W-9. The form and the instructions for completing the form, as well as the Electronic Payment Authorization Form located at http://osc.state.ny.us/vendor_management/forms.htm.

- D. OTDA reserves the right to deduct \$15 per report if the Contractor fails to meet the Contract's processing time and/or quality requirements on 25% or more of the reports prepared as determined by OTDA, in its sole discretion, on a sample basis. If deemed to be out of compliance based on

OTDA's sample (minimum of 100 reports reviewed), all payments processed for a period of up to the next thirty (30) days will include a deduction of \$15 per report. OTDA will notify the Contractor in writing if this option is exercised.

- E. OTDA reserves the right to withhold reimbursements under the Contract should Contractor fail to perform fully during any month. The retainage or portion thereof will be paid to the Contractor when OTDA has reason to believe that the Contractor has returned to full performance.
- F. Payments to the Contractor shall be based on the prices and/or rates set forth in the Cost Proposal Rate Form, submitted in the Offeror's Financial Proposal. Invoicing will be submitted by the Contractor to OTDA in arrears for services rendered under this Agreement.
- G. Contractor shall be reimbursed for services performed under the Contract based on the submission of an Order and Voucher Form (CE-7) satisfactory to OTDA and the Comptroller of the State of New York. Services shall be invoiced at the offer rate for each procedure. Bills must conform to OTDA's fiscal payment process. Contractor will submit individual CE-7's to OTDA for each referral. The Contractor shall submit CE-7's certifying the amount reimbursable; and shall maintain accounting records in accordance with **SECTION 4.21** subject to OTDA examination and audit. It is the Contractor's responsibility to insure proper and timely delivery of services ordered pursuant to the Contract resulting from this RFP and the proper and timely submission of the associated Order and Voucher Form (CE-7). The following payment policy will control. If OTDA provides the CE provider with notice of exam cancellation prior to the exam date, yet the provider conducts the exam anyway, no payment will be made. In addition to other standard forms of notification, cancellation information posted by OTDA in a Provider Directory on the DDD Web Server prior to the exam date will count as timely notification, even if the CE Provider fails to process the posted information. OTDA's Medical Relations Officer may authorize payment if, in his or her judgment, extenuating circumstances so permit.
- H. If a consultative examination report is certified but a voucher is not received by OTDA within ninety (90) days of certification, the voucher will be cancelled and no payment will be made. OTDA's Medical Relations' Officer may authorize payment if, in his or her judgment, extenuating circumstances so permit.
- I. OTDA, at its discretion, may provide the Contractor with notification of outstanding CE orders. When notification is provided by OTDA, the Contractor must submit the CE report and voucher for these outstanding orders within sixty (60) days of that notification. After the sixty (60) days, no payment will be considered for these orders.
- J. If one-hundred-fifty (150) days elapse from the date of CE order and no report and voucher has been received by OTDA, the consultative examination and voucher will be deemed cancelled and no payment will be made. OTDA's Medical Relations' Officer may authorize payment if, in his or her judgment, extenuating circumstances so permit.
- K. The Contractor must submit in writing any disputed or unresolved payment issue to the attention of OTDA by June 30 of the calendar year following the date of the CE service, in order to receive consideration for payment by OTDA. Under no circumstances will OTDA consider a request for payment submitted on or after July 1 of the calendar year following the calendar year in which the date of service occurred.

V. M/WBE AND EEO REPORTING REQUIREMENTS

A. EQUAL EMPLOYMENT OPPORTUNITY (EEO) REPORTING

In addition to the requirements stated in **Appendix A** Clause 12 (*Equal Employment Opportunities for Minorities and Women*), and to ensure complete compliance with such requirements (and with the Article and the Regulations adopted pursuant thereto), the Contractor shall submit to OTDA on a quarterly basis **Form OTDA-4971 (EEO Workforce Employment Utilization/Compliance Report)** attached in **Appendix Z**, which should document the workforce actually utilized on the State Contract, broken down by specified ethnic background, gender, and federal occupational categories or other appropriate categories specified by OTDA.

The Contractor's/Subcontractor's EEO Workforce Utilization Reports shall be reviewed as part of OTDA's general compliance monitoring. If discrepancies exist between the EEO Staffing Plan of Anticipated Workforce submitted with a bid/proposal and the Contractor's/Subcontractor's EEO Workforce Utilization Reports, the Contractor/Subcontractor may be subject to an in-depth EEO compliance review.

If deficiencies are identified during general contract compliance monitoring or during in-depth compliance reviews, OTDA shall make every effort to resolve the deficiencies identified and to bring the Contractor/Subcontractor into compliance with such requirements.

If OTDA is unsuccessful in its efforts, it may submit a written complaint to the New York State Department of Economic Development's Division of Minority and Women's Business Development ("DMWBD") regarding the Contractor's/Subcontractor's noncompliance and shall recommend to DMWBD that it review and attempt to resolve the noncompliance matter.

DMWBD shall attempt to resolve a noncompliance dispute. If a resolution of the noncompliance dispute is satisfactory to the parties, the parties shall so indicate by signing a document indicating that the matter has been resolved and stating the terms of the resolution. If a resolution is not possible, DMWBD shall take all appropriate actions under statute (Executive Law §316) and regulation (5 NYCRR §143.6).

B. New York State M/WBE Contract System Reporting Requirements

The Contractor shall comply with the following New York State M/WBE Contract System reporting requirements as set forth below:

The OTDA has developed compliance requirements to ensure that (i) all contractors as defined under § 310 (3) (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful Offerors with whom the OTDA enters into State Contracts, as defined in § 310 (13) [hereinafter "Contractors"], as well as proposed or actual "Subcontractors", as defined in § 310 (14) shall comply with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, and, (ii) there are meaningful participation opportunities for certified minority or women-owned business enterprises (M/WBEs) in the OTDA procurement process. Contractors participating in and/or selected for procurement opportunities with the OTDA shall fulfill their obligations to comply with applicable Federal, State and Local requirements concerning Equal Employment Opportunity and opportunities for Minority and Women Business Enterprises, including but not limited to the Statute and its implementing regulations as promulgated by the New York State Division of Minority and Women's Business Development (DMWBD) and set forth at 5 NYCRR Parts 140-145). Please refer to **Appendix Z**, attached and incorporated by reference herein, for the specific EEO/M/WBE requirements. To streamline the M/WBE compliance tracking, vendors may now report payments and track goals using an electronic monitoring and compliance system. The New York State Contract System will allow vendors to electronically update their contact information, provide subcontractor payment data for contract audits and provide revenue and payment data for concession audits. The system will also allow Subcontractors to enter the system to verify receipt of Contractor payments. Data is to be submitted without change to goals specified in the RFP or contract, unless otherwise authorized by OTDA. The electronic monitoring and reporting system can be viewed at <https://ny.newnycontracts.com/?TN=ny>. The Vendor Guide and Vendor Training Manual are available on the OTDA's internet site at <http://otda.ny.gov/contracts/M/WBE/forms.asp>.

Vendors who cannot access the electronic monitoring and compliance tracking system may also opt to submit hardcopy forms to the designated OTDA Project Director. Please refer to **Appendix Z**, attached and incorporated by reference herein, for the specific EEO/M/WBE requirements and associated forms required by this procurement. These forms are to be submitted without change to goals specified in the RFP or Contract, unless otherwise authorized by OTDA. Copies of the required OTDA Forms are identified in **Appendix Z** and available on the OTDA's Internet site at <http://otda.ny.gov/contracts/M/WBE/forms.asp>.

VI. Service-Disabled Veteran-Owned Business Enterprises (SDVOBs) Utilization

1. Contractor agrees, to the maximum extent practical and consistent with legal requirements of the State Finance Law, the Executive Law and any implementing regulations, to use NYS certified Service-Disabled Veteran-Owned

Business Enterprises (SDVOBs) in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Contractor acknowledges being subject to the provisions of Executive Law Article 17-B and the applicable regulations (9 NYCRR Part 252), and that the directory of NYS certified SDVOBs is located at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Contractor acknowledges that the SDVOB utilization goal for this Agreement is 0%. Contractor further acknowledges that this requirement is separate and distinct from the similar requirement elsewhere in this Agreement to utilize small, minority and women-owned businesses (M/WBEs), consistent with current State law (Executive Law, Article 15-A).

2. Contractor agrees to report on actual participation by each SDVOB during the term of the contract to the OTDA on a quarterly basis according to policies and procedures to be set by the OTDA.
3. Contractor agrees that, following contract execution, if the OTDA determines that the contractor may not have acted in good faith, has failed, is failing, or is refusing to comply with the participation or utilization contractual goals for SDVOB participation, OTDA may after giving the contractor an opportunity to be heard, make a determination that Contractor has failed to meet the contract goals and may be in breach of contract.
4. Upon determination that the Contractor is in breach of contract, as set forth in this Article, the OTDA may require the submission of a corrective action plan for meeting the contractual goals, and may also assess actual damages as authorized by regulation [9NYCRR Section 252.2 (s)] based on the actual cost incurred by the State agency, related to the State agency's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing certified service-disabled veteran-owned business enterprise programmatic goals.

NOTE: Information about SDVOB certification and set asides for SDVOB participation in public procurement can be found at: <http://www.ogs.ny.gov/Core/SDVOBA.asp>, which provides certification information and guidance for State agencies in making determinations and administering set asides for procurements from SDVOBs.

VII. NOTICES

Any notice or other communication given pursuant to this Agreement shall be in writing and shall be effective either when delivered personally to the party for whom intended, or five (5) days following deposit of the same into the United States Postal Service mail (certified mail, return receipt requested, or first class postage prepaid), or upon actual receipt by the intended party if the same is sent by overnight mail service, addressed to such party at the address set forth in this Agreement. Either party may designate a different address by notice to the other given in accordance herewith.

The following are the names and contact information for the OTDA and the Contractor. The parties shall notify each other, as soon as possible of any change.

OTDA:
Name: Lawrence Rockefeller
Title: Division of Disability Determinations
Director of Budget and Finance
Address: One Commerce Plaza
99 Washington Avenue, 10th Floor
Albany, NY 12210
Telephone Number: 518-626-3042
Facsimile Number: 518-626-3012
E-Mail Address: Lawrence.Rockefeller@ssa.gov

Contractor:
Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

Contractor must notify OTDA contract individual listed above of any substantial contract-related problems within forty-eight (48) hours. OTDA reserves the right to assign OTDA or contracted staff to the Contractor's facility to monitor its operation.

SERVICES

- A.** OTDA hereby retains the Contractor to perform the Services, and the Contractor hereby agrees to perform the Services, which shall include all deliverables, work and/or work products as described in the RFP.
- B.** OTDA reserves the sole discretion for the volume of work provided to Contractor pursuant to this Agreement, and makes no commitment to any specific minimum volume of work. Contractor is aware that OTDA is not assuring any volume and that the volume of work given to the contractor may vary due to extenuating circumstances or due to the administrative actions of OTDA. OTDA reserves the right to assign CE referrals to other contractors or provides on the basis of cost, quality, and processing time or as is necessary to meet fiscal and operational needs. In addition, OTDA represents that the volumes projected in this RFP are estimated.
- C.** Nothing contained herein shall prohibit OTDA from contracting at any time with third parties or from performing any of the work itself or through other State entities, for any Services that otherwise may be requested or required of the Contractor pursuant to this Agreement, and the Contractor shall not assert an exclusive right to perform such Services.
- D.** OTDA and the Contractor acknowledge and agree that time is of the essence in the Contractor's performance hereunder, when and if it is specifically stipulated.
- E.** Contractor shall perform the services described herein through the use of its' own employees, agents and subcontractors who shall be experienced in and qualified to perform said work and services; provided that the functions that may be subcontracted are administrative services, transcription services, laboratory services, radiology interpretation services, and the Optional Services listed in **Appendix C**. The work to be performed under the Contract shall be described in the proposal to OTDA pursuant to this RFP, unless otherwise approved in writing by OTDA. The work shall not be sublet, subcontracted or assigned, either in whole or in part without prior written approval of the OTDA.
- F.** Contractor warrants and affirms that the terms of the Agreement do not violate any contracts or agreements to which it is a party and that its other contractual obligations will not adversely influence its capabilities to perform under the Agreement.
- G.** Contractor will not knowingly use any individual or entity:

- If he or she, or a family member is associated with the NY Disability Determination Service (NYDDS) in a working arrangement. If related to the claimant, the provider must not accept the case;
- Who is currently excluded, suspended, or otherwise barred from participation in the Medicare or Medicaid programs, or any other Federal or Federally-assisted program; who has been convicted under Federal or State law, in connection with the delivery of health care services, of fraud, theft, embezzlement, breach of fiduciary responsibility or financial abuse; who has been convicted under Federal or State law of unlawful manufacture, distribution, prescription, or dispensing of a controlled substance; whose license to provide health care services is under investigation, citation, revoked or suspended (including suspension stayed on compliance with compulsory terms) and/or conviction by any State licensing authority for reasons bearing on professional competence, professional conduct, or financial integrity; who has surrendered such a license while formal disciplinary proceedings involving professional conduct were pending; or who has had a civil monetary assessment or penalty imposed on such individual or entity for any activity described in this section or as a result of formal disciplinary proceedings.

- H. Contractor shall perform all work on premises that have received OTDA's prior written approval.
- I. Contractor shall be responsible for compensatory cost of laboratory specimens, examination and test results, and office records lost while in the possession of Contractor.
- J. The services provided by the Contractor under the Contract include, but are not limited to, any incidental direct labor, clerical, secretarial or supervisory services, overhead, equipment, machine costs, systems development, paper, envelopes, postage, photocopying, supplies, staff transportation, transcription, telephone, telefax equipment and telecommunications charges, insurance coverage, profit margin, delivery service, staff training, provider relations, necessary conferences and meetings with OTDA or its representatives and any future OTDA requested data exchange modifications such as format of data transfer, record layout, structured and unstructured data, delivery schedules, etc. All contract costs and expenses for these services must be recouped through the offer rates identified in **Appendix B** and **C** of this RFP.
- K. Contractor cannot refuse to provide service to any referral from OTDA, without prior written approval from OTDA. OTDA is not liable for payment of expenses associated with emergency medical treatment.
- L. All work performed under this Contract must be performed in territory governed by the laws of the United States and in which the Public Acts, Records, and judicial proceedings of the State of New York are entitled to full faith and credit.

VIII. COOPERATION

The Contractor and OTDA and their respective agents, employees, and subcontractors shall cooperate with each other to the fullest extent in connection with the Services to be provided under this Agreement. Pursuant to the terms and conditions of this Agreement and all appendices hereto, OTDA shall supply and make available necessary information and personnel to assist the Contractor to perform the Services contemplated hereunder.

IX. KEY STAFF

The replacement for any Key Staff removed from, reassigned or who leaves the employ of the Contractor for any reason must match or exceed the replaced staff member in terms of skill level and experience. OTDA reserves the right to approve or disapprove any proposed changes in Key Staff. OTDA in each instance will be provided with a summary of the experience of the proposed Key Staff member and an opportunity to interview that person, prior to giving its approval or disapproval. Said approval shall not be unreasonably withheld.

The Contractor specifically represents and agrees that its partners, members, employees, agents, consultants, and subcontractors have and shall possess the experience, knowledge, and character

necessary to qualify them individually for the particular duties to be performed under the Agreement.

OTDA reserves the right to remove any of the Contractor's staff if, in OTDA's discretion, such staff is not performing in accordance with this Agreement, or for any other reasonable work-related cause. The Contractor shall be fully responsible for performance of work by its staff and by subcontractor's staff.

X. SUBCONTRACTORS

In the event that the Contractor utilizes subcontractors to perform any of the Services, OTDA shall have the right to approve or disapprove, after appropriate review and/or interview(s), any and all subcontractors of the Contractor prior to their performance of Services.

The Contractor agrees not to enter into any subcontracts for the performance of the obligations contained herein until each subcontract has received the prior written approval of OTDA, which shall have the right to review and approve each and every subcontract prior to giving written approval to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by bona fide, written contract. All such subcontracts shall contain provisions specifying: (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontracts shall impair the rights of OTDA under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and OTDA.

The Contractor shall require all proposed subcontractors to complete forms included in this Agreement as are deemed necessary by OTDA prior to any such proposed subcontractor's performance of Services. The Contractor acknowledges that this requirement is ongoing for the term of this Agreement.

Failure to disclose the identity of any and all subcontractors used by the Contractor together with a detailed description of their responsibilities may, at the sole discretion of OTDA, result in a disqualification of the subcontractor or termination of this Agreement.

The Contractor shall be fully responsible to OTDA for the acts and omissions of its subcontractors and of persons either directly or indirectly engaged by them in connection with the performance of this Agreement.

OTDA reserves the right to remove any of the subcontractor's staff if, in OTDA's discretion, such subcontractor's staff is not performing in accordance with this Agreement, or for any other reasonable work-related cause.

XI. CHANGE REQUEST

Prior to the Contractor implementing any change in the Services, it shall obtain the consent and approval of OTDA. The Contractor shall, prior to implementation of any such change, give written notice to OTDA of the service affected, a description of the change, why it is needed, a suggested implementation approach (and testing if necessary), the cost to OTDA and any other information requested by OTDA. The approval, prior to implementation, of any requested change is in the sole discretion of OTDA, which shall not be unreasonably withheld.

In the event that OTDA proposes a change in technology or Services, it shall, prior to implementation of any such change, give written notice to the Contractor with a description of the change, why it is needed, a suggested implementation approach (and testing if necessary), and the Contractor shall have a reasonable time to analyze the cost, if any, to the Contractor. The final determination for implementation of any requested change pursuant to this paragraph is in the sole discretion of OTDA, which shall not be unreasonable.

OTDA reserves the right to direct operating changes to the contractor based on its own observations or based on suggestions made by the contractor; OTDA reserves the right to claim the full benefit of the cost savings accruing from such operating changes, but may elect to apportion up to 70% of the savings based on the contributions made by the contractor in identifying and implementing the operational changes.

XII. RELATIONSHIP OF PARTIES; RIGHTS TO WORK PRODUCT

The relationship of the Contractor and its employees, agents and subcontractors to OTDA shall be that of an

independent contractor, and not that of an agent or employee of OTDA. The Contractor, as an independent contractor, shall not have the authority to contract for or bind OTDA for any purpose whatsoever. The Contractor covenants and agrees that its employees and agents will not hold themselves out as agents, officers, or employees of OTDA, and that they will not make any claim, demand, or application for any right or privilege applicable to any officer or employee of OTDA, including but not limited to, Workers' Compensation coverage, Social Security coverage, or Retirement System benefits.

All work performed by Contractor and its personnel for OTDA under the Agreement is intended as work for hire that is made for the use and ownership of the State of New York. Furthermore, OTDA and the Contractor agree that the State of New York is the owner of all copyrights regarding such work. The Contractor warrants to the State of New York that it forfeits all past or future claims of title or ownership to the work produced under the Agreement.

XIII. CONFLICT RESOLUTION

In the event of a conflict or dispute between the parties, the aggrieved party shall submit to the other party a timely written explanation of the details of the conflict, including such pertinent facts as may provide a firm basis for understanding the nature of the conflict or dispute. The OTDA Director of Contract Management shall have the sole right and authority to provide the appropriate course of action to be taken to resolve the conflict. Both parties reserve the right to pursue all available legal and equitable remedies.

The parties agree that the Contract shall be construed and interpreted in accordance with the Laws of the State of New York. The Contractor shall be required to bring any legal proceedings against OTDA arising from the Contract in New York State courts.

XIV. CONFLICTS OF INTEREST

The Contractor hereby covenants and represents that it currently has no conflicts of interest with respect to Services and any other client representation, consultant contract or employment, and that the Contractor shall immediately advise OTDA whenever it becomes aware of any situation that involves or appears to involve such a conflict of interest or potential conflict.

XV. RIGHTS TO INFORMATION

Except as otherwise provided herein, the ideas, concepts, know-how or techniques developed during the course of this Agreement by Contractor personnel or jointly by the Contractor and the OTDA can be used by either party in any way it may deem appropriate.

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

- A.** If a modification, improvement or enhancement to software generally licensed by the Contractor to end-users occurs, then such modifications, improvements, and enhancements shall be the property of the Contractor and the Contractor hereby grants to the OTDA a non-transferable (except to sibling state agencies to the OTDA), non-exclusive, irrevocable and royalty-free license to use and any software or instruction manuals necessary to use.
- B.** If a modification, improvement, or enhancement to application software that has not been licensed to the OTDA by the Contractor and is used by the Contractor in its provision of services occurs, then such modifications, improvements and enhancements shall be the property of the Contractor.
- C.** If a modification, improvement or enhancement to application software that is owned by the OTDA and has been licensed to the Contractor occurs, then such modifications, improvements, and enhancements shall be jointly owned, without right of accounting.
- D.** If a modification, improvement or enhancement to application software developed exclusively by the Contractor for use by the OTDA occurs, then such modifications, improvements, and

enhancements shall be jointly owned without right of accounting. In all other cases, such modification, improvements and enhancements shall remain the sole property of the Contractor.

- E. If a new application software program for the OTDA with development costs partially funded by the Contractor occurs, then such application software program shall be jointly owned, without right of accounting.
- F. If a derivative of existing applications software, that is the property of the Contractor with development costs funded in whole or in part by the OTDA occurs, then such derivative application software shall be jointly owned, without right of accounting.
- G. If a new application program for the OTDA that has been entirely funded by the OTDA occurs, then such new application software shall be the property of the OTDA.
- H. If a new application software program for the OTDA with development costs partially funded by the Contractor or derived from the existing application software that is the property of the Contractor occurs, then such applications software program shall be jointly owned, without right of accounting.
- I. All systems software developed by the Contractor during the term of this Contract shall be the property of OTDA. Contractor shall provide copies of such software to OTDA. Any non-proprietary software the Contractor has acquired to accomplish its functions as required by this Contract, and which it is able to transfer, shall be made available to OTDA. The Contractor shall, in selecting any proprietary software, obtain software that is readily available to other users. Any supplies or inventory of any kind provided or paid by OTDA that is in the possession of the Contractor at the termination of this Contract shall be turned over to OTDA.
- J. The Contractor shall supply its own personal computers and printers, and related software and telecommunications equipment to be used for OTDA tasks including the receipt of electronic CE orders, appointment scheduling, report preparation and transmittal, voucher billing, and other items as identified by OTDA. Additionally, the Contractor will be responsible for electronically transmitting certain information as required by OTDA. The Contractor shall supply the appropriate software to access the Internet. OTDA will work closely with the Contractor in transitioning/setting up the electronic telecommunication system.

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

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

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

XVI. CONFIDENTIALITY, BACKGROUND INVESTIGATIONS, AND SECURITY

A. Definition

The term "Confidential Information" shall mean any and all information which is disclosed to the Contractor by OTDA either verbally, electronically, visually, or in written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary.

For purposes of the Agreement, Confidential Information shall include, but not be limited to:

1. Personal information about individuals, e.g., home addresses, home telephone numbers, social security numbers, payroll information, account numbers, financial information, health information, and eligibility and benefit information (Disability Assistance, Temporary Assistance, SNAP, Medicaid, etc.).
2. Computer codes or other electronic or non-electronic information, the disclosure of which could jeopardize the security of OTDA's computer systems.
3. Any other material designated by OTDA, verbally or in writing, as being "Confidential."

Unless OTDA provides prior written consent, Contractor will not (1) use Confidential Information for any purpose other than that authorized in this Agreement, or (2) disclose Confidential Information to any third party other than contractors, agents, or affiliates who have a justified business "need to know" in connection with the purpose of this Agreement and who are bound by obligations of confidentiality no less restrictive than those in this Agreement. This Agreement imposes no obligation upon the Contractor with respect to Confidential Information which it can establish by legally sufficient evidence: (a) was in the possession of, or was rightfully known by Contractor without an obligation to maintain its confidentiality prior to receipt from OTDA; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; (d) is independently developed by Contractor without the participation of individuals who have had access to the Confidential Information; or (e) is required to be disclosed by court order or applicable law provided written notice is promptly given to OTDA within five (5) business days of Contractor's receipt of such notice and provided further that diligent efforts are undertaken to limit disclosure.

All Contractor or subcontractor staff performing under this Contract must commit to and sign a Non-Disclosure Agreement, attached herewith in **Appendix P**, "OTDA Non-Disclosure Agreement." Such signed agreements must be submitted to the OTDA Quality Assurance Contract Manager prior to staff commencing work on the project. The Contractor's Project Manager is responsible for ensuring that all Contractor or subcontractor staff submit said Non-Disclosure Agreement.

B. Confidential Information of the State

The Contractor understands that in the performance of the Services its employees, directors, officers and subcontractors may receive or have access to the State's Confidential Information, and agrees that the Contractor, its employees, directors, officers and subcontractors are: (i) required to take all appropriate action to protect the confidentiality of all of the State's Confidential Information supplied to it or developed by it during the course of its performance under the Agreement; (ii) required to abide by all State confidentiality policies and procedures; and (iii) prohibited from copying, removing, communicating, or otherwise revealing any Confidential Information of State.

C. Background Investigations

Contractor, at its expense, shall conduct background investigations for each of its employees, as well as for the employees of its subcontractors, who will provide Services under this Agreement and have access to OTDA's Information Technology systems, Confidential Information, or routine access to any OTDA facility. For purposes of this policy, "routine access" is defined as access to an OTDA facility for five (5) consecutive business days or ten (10) business days over the annual term of the engagement. Contractor must certify that it has conducted these background checks prior to Services being provided to OTDA. The minimum, background investigation process shall include a review/evaluation of the following:

- Social Security Number search and verification of U.S. citizenship or legal immigration status (if appropriate);
- Criminal history check/court records (Federal, State and local for the past five years);
- Work experience/history (for the past five years); and
- Pertinent education/professional credentials.

OTDA, in its sole discretion, may audit Contractor's background investigation process, to ensure compliance with OTDA standards, at any time. Upon request, OTDA may review the results of background investigations and their supporting documentation. OTDA reserves the right to conduct its own background investigation of the Contractor's officers, agents, employees and subcontractors, at any time.

The Contractor must undertake a background investigation of any new/replacement staff during the term of this Agreement.

If the Contractor is unable to determine an employee's fitness due to the results of a criminal history/security background check, as discussed herein, the Contractor shall forward a description of the results to the OTDA, for review and determination. If it is determined that the Contractor knowingly, rendered a false positive determination of an employee's fitness, failed to conduct a criminal history/security background check, or failed to reasonably interpret the results in confirming an employee's fitness to perform duties under the terms of this Agreement, in addition to any other remedies available to the OTDA, such as liquidated damages, the OTDA may terminate this Agreement for cause. The Contractor shall provide immediate written notice to the OTDA if at any time the Contractor learns that its determination of an employee's fitness to perform duties under the terms of this Agreement was erroneous or has become erroneous by reason of changed circumstances. Contractor must agree to comply fully with all OTDA security procedures. Contractor agrees that its officers, agents, employees and subcontractors may be required to consent to undergo background security clearances, to include fingerprinting and background checks, as may be required by OTDA, prior to being authorized to work pursuant to the terms of this Agreement. If deemed necessary at the sole discretion of the State, OTDA shall arrange for the scheduling of fingerprinting and shall pay any processing fees, such as those prescribed by the New York State Division of Criminal Justice Services. All other fees otherwise related to conducting background checks will be paid by the Contractor.

The Contractor certifies that staff provided to perform Services possess the necessary integrity and professional capacity to meet OTDA's reasonable expectations. Subsequent to the commencement of Services, whenever the Contractor becomes aware, or reasonably should have become aware, that any staff member(s) providing Services no longer possess the necessary integrity or professional capacity, the Contractor shall immediately discontinue the use of such staff and notify OTDA within five (5) business days of the reason for such discontinuance.

OTDA has final approval of any staff furnished to provide Services and may refuse to approve any staff member(s) based on its review of the staff member's integrity to perform the required Services. OTDA reserves the right to bar anyone from access to OTDA's premises and/or access to its information resources. The Contractor will be required to maintain records related to the background investigations performed for the Term of this Agreement.

Contractor must agree to comply fully with all OTDA security procedures. OTDA security procedures established after the date of this Contract shall be subject to the Contractor's review and consent, which shall not be unreasonably withheld.

The Contractor, its officers, agents and employees and subcontractors, shall treat all information, with particular emphasis on information relating to Public Assistance or Medical Assistance clients and providers of services or benefits, which is obtained by it through its performance under this Agreement, as Confidential Information to the extent required by the laws of the State and of the United States and any regulations promulgated thereunder. Unauthorized disclosure of Child Protective Services data is a crime under Section 422(12) of the Social Services law.

The Contractor shall promptly advise the OTDA of all requests made of Contractor for information related to the Contract.

The Contractor must comply with the "Information Security Breach and Notification Act" (also known as the "Internet Security Privacy Act" – Article 2 of the State Technology Law and Chapter 4212, Laws of 2005). In the event the Contractor has reason to believe that there has been unauthorized access to and/or use of the OTDA's data or the data system, within one (1) hour of discovery, the Contractor must

notify the Division of Disability Determinations (DDD) and OTDA followed by written notification within twenty-four (24) hours. The Contractor must cooperate with activities necessary for the OTDA to determine the need for notification and/or to provide the notification(s) required. Within twenty-four (24) hours of the notification by the Contractor, the Contractor must report to the OTDA the steps taken or proposed to be taken in response to the instance of unauthorized access. The Contractor must also notify the OTDA of the steps taken to prevent similar instances in the future as soon as is practicable after the unauthorized access is discovered.

The Contractor will use at least the same care and discretion to avoid disclosure, publication or dissemination of confidential information as it uses with its own similar information that it does not wish to disclose, publish or disseminate.

D. Security

The Contractor shall be required to comply with all applicable facility and information security policies and procedures, including any required training, (both present and future) of OTDA in performing the services under this Agreement.

Contractor must obtain the prior written approval of OTDA before issuing any statement to the press or any material for publication through any media communication in relation the Services performed, unless otherwise required by law.

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). In the event of an information security breach, the Contractor must within one hour of discovery notify the Division of Disability Determinations (DDD) and OTDA's Information Security Officer, and adhere to State and OTDA procedures regarding information security incident reporting and management. Contractor shall be liable for the costs associated with such breach.

XVII. DISPUTES AND DISSATISFACTION

In the event OTDA or the Contractor is dissatisfied with the other's performance under this Agreement, either party must so notify the other in writing. The other party must then make every good faith effort to solve the problem or settle the dispute amicably, including meeting with the party's representatives to attempt diligently to reach a satisfactory result. If OTDA and the Contractor are unable to resolve the dispute or reach a satisfactory result within five (5) business days of the written notice, the area of disagreement will be presented to OTDA's Director of BCM and to the Contractor's senior management, who will make every good faith effort to solve the problem diligently. If the Director of BCM, after such action, believes that the dispute cannot be resolved to the satisfaction of all parties, OTDA will so notify the Contractor in writing of OTDA's final determination regarding the disputed matter within ten (10) business days of the matter being presented to him/her. Nothing herein shall limit a party's ability to pursue all available legal remedies.

XVIII. INDEMNIFICATION AND LIABILITY

- A.** Neither the Contractor, OTDA, nor the State shall be liable for any delay or failure in performance beyond its control resulting from acts of war, hostility or sabotage; act of God; electrical, internet, or telecommunications outage that is not caused by the obligated party; or other force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such force majeure events upon performance of their respective duties under this Agreement. If such event continues for more than ninety (90) days, either party may terminate all or any agreed upon portion of the Services immediately upon written notice. This Article does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures, or OTDA's obligation to pay for Services provided by the Contractor which have been approved by OTDA.
- B.** The Contractor shall be fully liable for any act or omission of the Contractor, its employees, subsidiaries, affiliates, partners, agents and subcontractors, and shall fully indemnify, defend and hold harmless OTDA and the State, their officials, agents and employees, without limitation, from suits, actions, damages and costs of every name and description (including reasonable attorney's fees and expenses) arising from personal injury (including wrongful death) and/or damage to real or tangible personal property (including electronic systems, software, and databases) or intellectual

property caused by any intentional act or negligence of the Contractor, its employees, subsidiaries, affiliates, partners, agents or subcontractors; provided, however, that the Contractor shall not be obligated to indemnify OTDA for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of OTDA.

For third party claims, OTDA shall give the Contractor:

1. prompt written notice of any action, claim, suit, proceeding, or threat of such action relating to this Agreement;
 2. the opportunity to take over, settle, or defend any such action, claim, suit, or proceeding at Contractor's sole expense; and
 3. reasonable assistance in the defense of any such action at the expense of Contractor.
- C. For all other claims, liabilities, and expenses arising under or related to this Agreement where liability is not otherwise set forth in this Agreement as being without limitation, and regardless of the basis on which the claim is made, the Contractor shall be fully liable for any act or omission of the Contractor, its employees, subsidiaries, affiliates, partners, agents or subcontractors. Such liability by Contractor for direct damages under this Agreement shall not exceed, in aggregate, the two (2) times the dollar amount of this Agreement.
- D. Notwithstanding the above, neither party shall be liable for any consequential, indirect, or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit.
- E. OTDA may, in addition to other legal remedies available to it, retain from amounts otherwise due Contractor such monies as may be necessary to satisfy any claim for damages OTDA may have against Contractor.

Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, OTDA shall hold Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of OTDA or of its officers or employees when acting within the course and scope of their employment.

- F. Contractor's liability for any claim, loss or liability arising out of, or connected with the products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in an amount equal to two (2) times the value of the Contract or one million dollars (\$1,000,000), whichever is greater. Where express loss liabilities set forth herein provide for a higher loss limitation liability than as set forth in this Paragraph, or where such express provisions impose Contractor liability "without limitation," such express warranties, obligations and indemnifications shall supersede the loss limitation cap contained in this Paragraph. For any suit, action, claim, damages or costs arising under or connected to the title, patent and copyright, or other intellectual property actions by third parties, Contractor shall be fully liable for damages without limitation. Notwithstanding the foregoing, Contractor remains liable, without monetary limitation, for direct damages for personal injury, death or damage to real property or tangible personal property or intellectual, property attributable to the negligence or other tort of Contractor, its officers, employees or agents.

XIX. RESPONSIBILITY TERMS

- A. The Contractor covenants and represents that it has, to the best of its knowledge, truthfully and thoroughly completed the Contractor's Vendor Responsibility Questionnaire (hereinafter "Responsibility Questionnaire") provided to the Contractor by OTDA prior to execution of this Agreement. The Contractor further covenants and represents that as of the date of execution of this Agreement, there are no material events, omissions, changes, or corrections to such document requiring an amendment to the Responsibility Questionnaire.
- B. The Contractor shall provide to OTDA updates to the Responsibility Questionnaire if any material event(s) occurs requiring an amendment or as new information related to such Responsibility

Questionnaire becomes available. The Contractor shall, on an annual basis from the anniversary date of execution of this Agreement, re-certify such Responsibility Questionnaire, noting any changes, whether material or non-material, or submit a certification of "no change" to OTDA.

- C. Notwithstanding Subsection (B) hereinabove, OTDA reserves the right, in its sole discretion, at any time during the term of this Agreement, (i) to require updates or clarifications to the Responsibility Questionnaire, (ii) to inquire about information included in or omitted from the Responsibility Questionnaire, and (iii) to require the Contractor to provide such information to OTDA within a reasonable timeframe to be established at OTDA's sole discretion.
- D. OTDA reserves the right to make a final determination of the Contractor's non-responsibility (hereinafter "Determination of Non-Responsibility") at any time during the term of this Agreement based on (i) any information provided in the Responsibility Questionnaire and/or in any updates, clarifications, or amendments thereof; or (ii) the Contractor's failure to disclose material information; or (iii) the State's discovery of any other material information which pertains to the Contractor's responsibility.
- E. If OTDA preliminarily determines the Contractor to be non-responsible, it shall provide written notice to the Contractor detailing the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard before the determination is finalized.
- F. Upon a Determination of Non-Responsibility of the Contractor, OTDA reserves the right to terminate this Agreement for cause.

XX. TERMINATION

- A. This Agreement may be terminated in whole or in part by the mutual written consent of both parties.
- B. OTDA may terminate this Agreement with or without cause upon thirty (30) days' prior written notice. In the event of such termination, the Contractor shall be entitled to compensation for services performed through the date of termination which are acceptable to OTDA, in OTDA's sole discretion.
- C. OTDA reserves the right to terminate this Agreement, or to terminate the Contractor's services with respect to a specific matter or matters, immediately upon written notice to the Contractor, should the Contractor fail to substantially meet all Federal, State, and/or Local regulations or if OTDA deems the Contractor's performance unsatisfactory at any time during the term of this Agreement, in OTDA's sole discretion.

All information collected in performance of the Contract is the sole property of OTDA and should be promptly returned upon termination of the contract.

- D. Notwithstanding the foregoing termination provisions in Paragraphs XX (A) through XX(C), Contractor understands that the OTDA's Division of Disability Determinations functions under the rules and guidance of the Social Security Administration. Therefore, OTDA reserves the right to opt out of this Agreement at any time for any reason without penalties or termination costs to either OTDA or the Social Security Administration as long as ninety (90) days prior Written Notice is provided to the Contractor.
- E. In the event of termination based on any of the provisions of this section, the Contractor shall not incur new obligations for the terminated portion after the notice of effective date and shall cancel as many outstanding obligations as possible. The Contractor agrees not to seek any punitive damages, compensation for any lost or anticipated profits or any other additional compensation or redress as a result of any such event. OTDA is not obligated to pay the Contractor for lost or anticipated profits.
- F. Except as otherwise provided in the Contract, any termination of the Contract by OTDA under this section shall be deemed to be a termination of the Contract for cause. The remedies set forth in this section shall be in addition to any other remedy available to OTDA under this Contract or under any other provisions of law.

XXI. TRANSITION

Upon expiration or termination of this Agreement, the Contractor shall, upon the appointment of the successor contractor, provide access to such successor contractor all necessary records in the Contractor's possession relating to the services provided under this Agreement. At OTDA's request, the Contractor shall, at current (hourly) rates defined on the Indeed website (Indeed.com/salary) for job titles in region, make appropriate staff available to OTDA and to the successor contractor during normal business hours to answer questions regarding such records and the services which have been provided by the Contractor under this Agreement. The Contractor shall cooperate to the fullest extent with any successor contractor in order to accomplish a smooth and orderly transition, so that the Services are uninterrupted and are not adversely impacted by the change in contractor.

XXII. OTHER AGENCY USE

The Contractor must extend these terms and conditions to any state agency in New York State. It must also extend these terms and conditions to (1) County agencies in New York State providing human services such as income maintenance, job training, employment and social services or health related services as well as (2) Local Social Services Districts (LSSD) in New York State including New York City, which is considered a single LSSD, consisting of the Human Resources Administration, the Administration for Children's Services, and the Department of Homeless Services. In the event services are used by an LSSD, upon acceptance by the LSSD of such services, OTDA may accept the resulting bills, consistent with the terms for those services, and process said bills for payment on behalf of the LSSD. In such event, the State will subsequently make the necessary arrangements with the LSSD and the appropriate Agency(s) for reimbursement.

XXIII. MISCELLANEOUS PROVISIONS

A. WAIVER

The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other subsequent default or breach.

B. SEVERABILITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

C. CONTRACT ASSIGNMENT

This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous written consent of OTDA.

D. SUBSTANTIAL COMPLIANCE OF CONTRACTOR

The Contractor hereby assures OTDA that with respect to its performance under the Contract and all other activities in which it is engaged, the Contractor is in substantial compliance and will continue to be in substantial compliance throughout the life of the Contract with any and all applicable statutes and regulations. This includes, but is not limited to substantial compliance with Titles II and XVI of the Social Security Act and regulations promulgated by the Social Security Administration at Title 20, Chapter III, Code of Federal Regulations (CFR) Parts 404 and 416.

Additional procedures can be introduced by OTDA and included under the provisions of the Contract. OTDA reserves the right to modify examination, testing, reporting, and procedural requirements over the term of the Contract. Rates associated with additional procedures or substantial modifications may be re-negotiated. Any additional material services will be subject to the approval of the Office of the State Comptroller.

The Contractor must verify the claimant's identity; e.g. driver's license, State ID or any other method for verifying an individual's identity deemed acceptable by law or regulation. OTDA reserves the right to require the use of finger imaging for either or both Title II or XVI claimants.

The Contractor agrees, pursuant to Section 1352, Title 31, United States Code, not to expend Federal appropriated funds received under this Contract to pay any person for influencing or attempting to

influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. The Contractor agrees to complete and submit a "Certification Regarding Lobbying" form in accordance with its instructions.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract or the underlying Federal grant, the Contractor agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall include the provisions of this Section in all subcontracts under the Contract and require that all subcontractors certify and disclose accordingly.

The Contractor understands that it must comply with federal Executive Order 11246, the Copeland "Anti-Kickback Act" (18 USC 874), Section 306 of the federal Clean Air Act, Section 306 of the federal Clean Water Act, and that it must certify that neither it nor its principals are debarred or suspended from federal financial assistance programs and activities and to complete and return in pursuit of such certification any appropriate form required by OTDA (see federal Executive Order 12549 and 7 CFR Part 3017).

XXIV. REQUIRED APPROVALS

This Agreement and any amendment hereof shall not be deemed executed, valid, or binding unless and until approved in writing by the New York State Attorney General and thereafter, approved in writing by the Office of the State Comptroller pursuant to Section 112 of the State Finance Law, and filed in the Office of the State Comptroller.

XXV. ENTIRE AGREEMENT

All provisions stated in **Attachments A** and **B** (the RFP, amendments to and Questions and Answers) are incorporated into this Agreement and are part of the contractual obligations under this Agreement, unless explicitly stated herein that such provision(s) is deemed excluded from this Agreement.

The State of New York is not liable for any cost incurred by the Contractor in preparation for or prior to the approval of an executed Agreement by the Comptroller of the State of New York. Additionally, no cost will be incurred by OTDA for the Contractor's participation in any pre-contract award activity.

This Agreement, the Appendices, and Attachments hereto constitute the entire Agreement between the parties and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the parties hereto.

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Contract Signature Page

Agency Code: 270000 Contract Number: _____

Agency Certification

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

Agency Signature Dated

Contractor Signature Dated

Contractor Signatory Name (Printed): _____

Contractor Signatory Title: _____

Corporate, Partnership Or Individual Acknowledgement

STATE OF NEW YORK)

) SS.:

COUNTY OF)
[Check One]

If an individual: On this _____ day of _____, 20__, before me personally came _____, to me known and known to me to be the person described in and who executed the foregoing instrument and (s)he acknowledged to me that (s)he executed the same.

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

If a partnership: On this _____ day of _____, 20__, before me personally came _____, to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for herself/himself depose and say that (s)he is a member of the firm of _____, and that (s)he executed the foregoing instrument in the firm name of _____, and that (s)he had authority to sign same, and (s)he did duly acknowledge to me that (s)he executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

Notary Public

Approved as to Form:
Eric T. Schneiderman
Attorney General

Approved:
Thomas P. DiNapoli
State Comptroller

By: _____

By: _____

Date: _____

Date: _____

ATTACHMENT I
STATEMENT OF WORK

A. Introduction

The Division of Disability Determinations (DDD) of the New York State Office of Temporary and Disability Assistance adjudicates claims for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Benefits under an agreement with the Social Security Administration. OTDA, which currently has processing centers in Albany, Buffalo, Endicott, and Manhattan has processed claims filed by New York State residents since the program's inception in 1956.

As part of OTDA's adjudicative process, disability analysts obtain medical evidence from claimants' treating sources. When this information is unavailable or insufficient to make a determination, the disability analyst will order a consultative examination (CE). The information from this medical examination and ancillary testing is used to assist OTDA's staff in making a determination of disability under federal guidelines.

Consultative examinations are purchased by OTDA from two basic Consultative Examination (CE) provider groups enrolled in the disability program:

1. CE Panelist - individual physicians, psychologists, speech-language pathologists, group practices, clinics, etc.
2. Key Providers - CE contractors and high volume providers that specialize in performing CE's for OTDA.

CE providers examine the claimant and perform certain ancillary testing on their premises at the request of OTDA. The most frequent types of testing include: X-rays, Resting and Exercise Treadmill EKG's, Pulmonary Function Tests, and laboratory tests. Contract providers must perform the mandatory ancillary testing on site and refer the laboratory work to a laboratory. Individual CE panelists may refer the claimant to a secondary source for ancillary testing.

OTDA is requiring offers to perform examinations and testing as identified in **Appendix B** and **C**.

Offerors must bid on and be able to provide **ALL SERVICES** identified as "Mandatory" and "Optional Services." **All services must be provided throughout the life of the contract.**

B. Eligibility

- B.1. All Offerors bidding on this contract must be in full compliance with federal, state and local operating requirements, as appropriate, for providing a facility and services as specified in this RFP at the time the bid is submitted. Compliance must include, but not be limited to, compliance with New York State Education Law Articles 130 and 131. Contractors providing medical consultative examination services must comply with those articles, which regulate the admission to and practice of the professions, including medicine. All such entities must be in compliance with the requirements of Education Law §6527 and in compliance with Article 15 of the New York State Business Corporation Law, or other corporate organization for physicians as authorized by law. Offerors will be screened by the New York State Department of Health to verify compliance status.
- B.2. Any application required for a change in status must be approved by appropriate Federal, State and local regulating agencies at the time the bid is submitted.
- B.3. Offerors currently suspended from providing health care or diagnostic services by any

government regulating agency will not be allowed to offer. In addition, Offerors whose license to provide health care services is under investigation, citation, suspension (including suspension stayed on compliance with compulsory terms) and/or conviction by any State licensing authority for reasons bearing on professional competence, professional conduct, or financial integrity will not be allowed to offer.

- B.4. The Offeror must demonstrate the capacity to perform the number and types of services specified in this RFP through past experience (see **SECTION 2.3 Minimum Requirements**).
- B.5. The Offeror must have either a written backup agreement with a certified hospital or must indicate use of 911 services for emergency medical services prior to the submission of a proposal.
- B.6. The decision of OTDA will be binding in the event of conflict as to whether an organization is eligible to offer on this RFP.

C. Staffing

- C.1. All physicians, psychologists and speech-language pathologists performing examinations must be licensed, certified (psychologists) or otherwise qualified (speech-language pathologist) and currently registered in New York State.
- C.2. Physicians must be currently licensed, have the training and experience to perform the type of examination or test requested and not be currently excluded, suspended or otherwise barred from participation in Medicare or Medicaid programs or any other Federal or federally assisted programs.
- C.3. The consultative examination contractor must assure OTDA that all support staff (nurses, technicians, etc.) that assist in conducting a consultative examination are licensed or certified, when applicable, and have appropriate experience and training in performing specified services. The consultative examination contractor must provide training to all appropriate staff in performing CEs and preparing CE reports.
- C.4. Any contractor, subcontractor, physician, psychologist, speech-language pathologist or other health care provider currently disciplined, sanctioned, censured or suspended by any government regulatory agency will not be allowed to participate in this program.

It is the affirmative obligation of any contractor, subcontractor, physician, psychologist, speech-language pathologist or other health care provider to report to the prime contractor and to OTDA any notification of investigation by a licensing authority. For example, any physician notified by the New York State Department of Health's Office of Professional Misconduct (OPMC) that an investigation has commenced regarding professional competence, conduct and/or related behavior must report that notification to the prime contractor. The CE prime contractor and physician understand that there exists, as a condition of service engagement, an affirmative responsibility by the physician to immediately report the notification of investigation to the contractor. In turn, the CE prime contractor is obligated to report immediately to OTDA any such notice of investigation.

- C.5. All physicians, psychologists, speech-language pathologists or other health care workers must be approved by OTDA before performing any examinations or ancillary testing. They must have the proper training and experience to perform the type of examination or test requested. A psychiatrist and psychologist who can examine children must be provided. Applications for approval must include proof of New York State license/registration. Contractor must notify OTDA's appropriate processing center of any change in status of all physicians, psychologists and speech-language pathologists associated with this contract

that become excluded, suspended, or otherwise barred from participation in the Medicare or Medicaid programs as set forth in Eligibility B.1.

- C.6. The Contractor's medical staff must have a good understanding of the Social Security Disability program and the evidentiary role they play. They must be familiar with the Listing of Impairments used in evaluating disability in adults and children under the SSDI and SSI programs.
- C.7. The Contractor must make all medical and non-medical staff available for occasional training and education by OTDA, both at the contractor's site and at OTDA's appropriate processing center. **All costs associated with training must be included in each rate provided in your cost proposal, but rates proposed cannot exceed the fee schedule located in Appendix N.**
- C.8. On occasion Contractor's medical staff may be required to testify at the SSA Office of Disability Adjudication and Review.
- C.9. The Contractor must have administrative/technician staff fluent in Spanish to assist claimants. This includes reception, history taking, appointment scheduling, and ancillary testing as appropriate. The Contractor must provide a Spanish-speaking psychiatrist and/or psychologist. In addition, other multilingual physicians, psychologists, and speech-language pathologists, particularly those fluent in Spanish, will be beneficial. Although other multilingual consultants are not required, the scope of other multilingual consultants that can be provided will be one of the factors under which Offerors will be evaluated.
- C.10. The Contractor must have a contract liaison assigned to coordinate activities and be responsible to resolve day-to-day problems and questions from OTDA.

D. Examinations

- D.1. All consultative examinations must be performed by licensed and currently registered physicians, psychologists and speech-language pathologists. A person may not conduct a consultative examination if he or she, or a member of the family is associated with the NY Disability Determination Service (NYDDS) in a working arrangement. If related to the claimant, the provider must not accept the case.
- D.2. All consultative examinations and ancillary testing must be performed in accordance with sound medical practice with the Contractor assuming full responsibility.
- D.3. The Contractor must provide the following mandatory specialty examinations at their proposed primary site: Internal Medicine, Orthopedic, Neurological, Psychiatric, Psychological, Pediatric, and Speech-Language. Licensed psychologists can perform psychiatric examinations, provided the requirement is met as outlined in C.5. See **Appendix R**.
- D.4. Case consult services also are included as mandatory services for the following specialties: internal medicine, psychiatry, pediatrics, psychology, and speech-language. These specialist services may be used to assist OTDA in disability case review and adjudication activities (based upon an hourly rate). Case review time may vary significantly depending on the type of case and degree of complexity or upon a specific aspect of case review being requested by OTDA.

This service would be required if OTDA's regional offices require "medical consultant" assistance due to staff shortages or rapidly increasing disability caseloads. Contractor physicians, psychologists, and speech-language pathologists may be required to review and sign disability decisions. This would be a paper and/or electronic, case file review, not

a claimant examination. It is anticipated that this service would be used infrequently, and only until OTDA could hire permanent "medical consultant" staff to accommodate the workload. Reimbursement would be based upon the number of hours worked at an OTDA specified office, and travel time would not be included.

- D.5. The optional examinations are those examinations identified in **Appendix C**. An Offeror must bid on all Optional examinations. Optional examinations listed in **Appendix C** may be subcontracted and may be provided offsite. If Optional examinations are provided offsite, indicate the name of facility where the service will be performed and include letter of commitment from the facility with your technical proposal.
- D.6. Scheduling intervals must allow sufficient time to permit the Contractor to take a case history and perform the examination, including any needed tests. Use the following minimum scheduling intervals, i.e., time set aside for the individual, not the actual duration of the CE.
- Comprehensive general medical, musculoskeletal or neurological examinations: at least 30 minutes, 20 of which must be actual time spent with the physician.
 - Comprehensive psychiatric examination: at least 40 minutes, 30 of which must be actual time spent with the physician/psychologist.
 - Psychological examination: at least 60 minutes, 45 of which must be actual time spent with the psychologist. (Additional time may be required depending on types of psychological tests administered.)
 - Speech-language evaluation: at least 60 minutes must be spent with the speech-language pathologist.
 - All others must last at least 30 minutes, or in accordance with accepted medical practice, with prior approval by the OTDA.

Appointments must be scheduled to accommodate the above duration requirements and to minimize waiting time.

- D.7. The Contractor shall not recommend treatment or a change in treatment directly to the claimant, but should include such suggestions in the report. However, in circumstances where the evidence shows a medical condition that is legally reportable or which could be injurious to the health or safety of the individual or others, or where the individual has made a threat against himself/herself or others, or has made statements concerning a non-medical serious reportable event (SRE) covered by statute or law, the Contractor should take action consistent with sound and accepted medical practice including notification to the claimant, claimant's representative/family, or claimant's treating source as appropriate and/or permitted by applicable laws. Any emergency treatment and/or information provided should be (1) reported immediately to OTDA and (2) specified in the report. OTDA is not liable for payment of expenses associated with emergency medical treatment.
- D.8. During the course of the examination, the claimant's privacy must be maintained. All claimants can request to have someone present during their physical examination. However, female claimants must be given the option of having a female staff person present during their physical examinations. Female claimants must sign a form acknowledging that they were provided this option.
- D.9. Claimants and beneficiaries are to be given equal and courteous treatment.
- D.10. **Appendices B and C** include an estimated volume of exams and tests to be performed by the Contractor. The actual number of referrals are slightly higher; the effect of "no shows" (see **Attachment 1- Statement of Work, G.10.** of this RFP) and, occasionally, CE orders cancelled by OTDA before exams are held, reduce the actual volumes of exams/tests performed. It is emphasized that those numbers are strictly estimates based on past

experience but actual future CE orders may differ (increase or decrease).

- D.11. As referenced in **SECTION D.10**, these volumes fluctuate not only on an annual basis due to overall disability workload and budgeting factors, but also on a daily/weekly basis due to varying volumes of case receipts and case types. As a result, the Contractor must have the capacity to accommodate these workload fluctuations at a minimum of 50% and still maintain contract performance standards.
- D.12. The Contractor shall be required to repeat examinations and tests, without charge, which OTDA determines to be incomplete, conflicting, or in error.
- D.13. Claimants or other third party insurers, including governmental sources, shall not be charged for any services rendered.
- D.14. If additional examinations or ancillary testing other than those ordered by OTDA become necessary during the course of the examination, approval for such testing must be obtained from OTDA. This approval should be obtained while the claimant is still at the examining site.

E. Ancillary Testing

- E.1. All ancillary testing must be authorized by OTDA. The Contractor must perform the following mandatory ancillary testing (specified in **Appendix B**) at the primary site on the same day as the exam:
 - X-rays – X-ray equipment and table must accommodate the weight of 400 pounds
 - EKG including Treadmill EKG
 - Doppler Testing including Exercise Doppler
 - Pulmonary Function Testing

Contractor shall draw blood/specimens when needed as part of the examination process. 1) Contractor must have arrangements with a laboratory that will accept the DDD Fee Schedule rates to process all blood specimens **OR** 2) Contractor must have arrangements with a laboratory to process all blood specimens at the Contractor's expense. Blood specimens processed at the Contractor's expense shall be included in the invoice with a zero, or no, charge. Federal fiscal year 2014 and 2015 pathology services are used to project the estimated annual pathology or laboratory volumes for this contract. The estimated annual volume of pathology services for the Capital District is 11 - procedures totaling \$136.40.

- E.2. Optional ancillary testing includes those tests identified in **Appendix C**. An Offeror must bid on all Optional ancillary testing. Optional ancillary testing listed in **Appendix C** may be subcontracted and may be provided offsite. If Optional ancillary testing is provided offsite, indicate the name of facility where the service will be performed and include letter of commitment from the facility with your technical proposal.
- E.3. Ancillary testing must be performed according to sound medical practice by appropriate medical staff.
- E.4. Based on the background information received with the referral, history secured, and the medical examination, the Contractor will complete only those tests on OTDA's Order and Voucher that are not medically contraindicated. Contractor shall include reasons in the CE report why tests ordered by OTDA are medically contraindicated and/or are not performed.
- E.5. All equipment used in ancillary testing must be capable of providing required results as specified in our reporting guidelines.

- E.6. All equipment must meet all health, safety, and infection control requirements, be maintained in good working order and continue to meet these requirements.
- E.7. All equipment calibration and cleaning/sterilization must be done according to manufacturer's guidelines and OTDA requirements.

F. Reporting Requirements

- F.1. The history and physical/mental examination report must be provided on Contractor's letterhead as a typed narrative of the findings, and not in the form of responses to a questionnaire or a check off list. The narrative report must include all requested test results and interpretations in accordance with SSA program standards.
- F.2. The reported results of the history, physical/mental examination, ancillary test(s), pertinent requested laboratory findings, diagnosis and prognosis must conform to accepted professional standards and practices in the medical field for a complete and competent examination.
- F.3. No examination or test should be initiated or conducted on claimants who are under the influence of alcohol or drugs, if such conditions could affect the validity or reliability of the examination/test in the professional judgment of the consultative examination examiner. A statement of validity and reliability must be included in the report.
- F.4. In addition to the actual medical facts, the report must include a statement, which describes the individual's ability to do work related activities based on the findings of the examination. For individuals less than 18 years of age, there should be a statement describing the individual's ability to perform age appropriate activities and behave in an age appropriate manner. Opinions such as "claimant is unable to work" or "claimant is disabled" must not be included in the report.
- F.5. The Contractor must address all items on any of the consultative examination reporting requirement forms provided by OTDA for specific examinations. These forms are attached as **Appendix Q**. Original tracings, x-ray interpretations, laboratory findings, charts and graphs must be attached to the narrative report. Include with the report copies of any medical reports or test results brought by the claimant.
- F.6. Claimant name, Order & Voucher (O&V) number, Module/Unit, Personal Identification Number (PIN), and date of report must appear on the first page of the report typed on original letterhead. All subsequent pages, tracings and any other material must have claimant name, O&V number, and Module/Unit/Personal Identification Number. The claimant's Social Security Number (SSN) should not appear on any of the documents mentioned above.
- F.8. All reports must be personally reviewed and signed by the consultant who actually performed the examination. A rubber stamp signature or a signature entered by another physician, nurse, or any other person is not acceptable. The consultant's name and specialty must be typed at the end of the report.
- F.9. The Contractor's physicians, psychologists, etc., performing the examinations must be made available during OTDA's normal working hours for telephone discussions to clarify or to answer any questions regarding the report. Responses must be received within 48 hours from OTDA's request. A copy of all examination and testing reports, including tracings, lab results and x-ray films, must be kept by the Contractor for a minimum period of one year and supplied to OTDA upon request at no charge. Thereafter, these reports are maintained by SSA for a minimum of six years.

- F.10. Complete confidentiality of claimant information must be maintained. Examination/test results must not be divulged to anyone including the claimant, their representative, or treating source or used in any study or publication without the express written approval of OTDA, except as specified in **D.7**. If the claimant requests a copy of the examination/test report sent to his or her treating source, the claimant may sign an "Authorization to Release" CE-9 form (previously mailed or given to the claimant) and return it to OTDA. It is the responsibility of OTDA to release reports, where appropriate and consistent with applicable law. Third party service providers (transcription, messenger, etc.) must be made aware that claimant confidentiality must be maintained and that disclosure of claimant information is prohibited.
- F.11. Should the Contractor receive a request for disclosure or release of a report or a subpoena, the Contractor should immediately call the medical relations officer in the appropriate processing center for further instructions.
- F.12. One hundred percent (100%) report quality must be maintained; i.e., all items in this Reporting Requirements section must be strictly adhered to on all reports. Reports must be redone without charge if OTDA determines that they are incomplete, conflicting and/or in error.
- F.13. The Contractor must return completed CE reports electronically to OTDA. (See **Appendix S**)
- The Contractor must have a back-up plan in the event of system failure. A back-up plan must include but is not limited to (a) signature guidelines in F.8. must be followed, and (b) reports must be delivered daily to the appropriate processing center.

G. Appointment Process

- G.1. All appointments shall be scheduled by the Contractor so that adequate time is spent by the specialist to provide a complete examination according to standard medical practices. Appointments must be scheduled to minimize waiting time for claimants.
- G.2. A weekly schedule showing: hours of operation, physician name, specialty, hours present, and number of claimants scheduled during this time, must be prior approved by OTDA.
- G.3. Appointments shall be scheduled by telephone, where one is available, so the appointment is no more than 7 days from the time the order is received. The Contractor shall contact the claimant by telephone and determine whether the claimant agrees to attend the appointment. If the claimant agrees, the contractor will: 1. Explain the necessary details of the appointment, including location, date and time, and 2. Explain that if the claimant does not attend the Consultative Exam appointment a determination may be made on their claim with information in the case file and it may be found that they are not disabled. In all cases, an appointment letter (see **Appendix T**) must immediately be sent to the claimant, and also a reminder call must be made within 2 days of the appointment date. For appointments scheduled 10 days or more in the future follow G.14. If a claimant cannot be reached by telephone or the claimant does not have a telephone, an appointment letter will be mailed. This time frame may be adjusted at the request of OTDA or the claimant if there is a travel or other valid reason for the claimant's inability to attend the exam. Appointments must be scheduled between the hours of 9 a.m. to 5 p.m., Monday through Friday, and may be scheduled on weekends with OTDA approval. No appointments can be scheduled for evening hours unless prior approval is given by OTDA. Note: Successful claimant and third party telephone contact is speaking directly with the claimant or third party. Leaving a message on voicemail is not considered a successful attempt.

- G.4 Ophthalmology service: In claims involving a finding or allegation of a visual impairment, beneficiaries, claimants, recipients, and representative payees will be able to receive SSA notices and correspondence, including OTDA notices and correspondence that may impact either current benefits or the rights to future benefits. When a claim meets the requisite profile, at OTDA's discretion the Contractor may be responsible for sending appointment notices on that claim by certified mail and may also be responsible for placing a follow-up telephone call, within 5 business days of sending a notice, for the purpose of making contact with the claimant and reading the notice to the claimant. Additionally, the Contractor may be required to forward a copy of the notice to a 3rd party vendor so that the 3rd party vendor can make provision to take care of additional levels of notification.
- G.5. The contractor shall assist when necessary in making appropriate travel arrangements to and from the facility.
- G.6 The Contractor must develop and implement the technical infrastructure necessary to electronically accept, on a daily basis from OTDA's processing centers', orders for consultative examinations. Further, the Contractor must provide an electronic receipt notice of each order sent back to the originating requestor. Personalized claimant letters and pamphlets shall be sent to the claimants, authorized representatives and designated third parties, by the Contractor, in a format designated by OTDA (see **Appendix T**).

The personalized claimant appointment letter must contain the following information:

- a. Why we need the CE and why we may need additional tests;
- b. Who the notice is from;
- c. A statement that the Social Security Administration will pay for the appointment;
- d. The date, time, type of CE appointment, the name, address, and telephone number of the CE provider;
- e. Instructions for responding to the notice, including a request that the claimant respond immediately if he or she cannot attend the CE appointment or if the claimant's treating source tells him or her not to attend the CE appointment;
- f. A reminder the claimant must bring all current medication in their original containers, along with any other medical aids (e.g., hearing aid(s) or eyeglasses) to the CE appointment;
- g. A request for the claimant to notify us if he or she needs travel assistance;
- h. An explanation that we will send a copy of the CE report to the claimant's treating source if we receive the claimant's written authorization;
- i. A request for the claimant to notify us if he or she needs an interpreter;
- j. A request that the claimant and any accompanying adult bring government issued photo identification to the CE appointment;
- k. If claimant is a child under the age of 18 include this language in the letter – All claimants under the age of 18 must be accompanied by a custodial parent or other authorized and documented adult who is familiar with the child's condition(s).
- l. Close out language stating: If you do not attend your appointment, we may make a decision based on the evidence we already have in your file. We may find that you are not eligible or no longer eligible for disability benefits; and
- m. Enclose with the letter any CE leaflets or attachments requested by OTDA.

The Contractor shall retain a copy for their records for 12 months. The letter shall be sent to the claimant in all instances. Contractor must electronically notify OTDA of the appointment date, whether the appointment was kept, etc., by completing and transmitting the CE Appointment History Form, DDD-4184 within 1 business day after each action. At OTDA's request, the contractor will send copies of the personalized claimant letter to OTDA. See **Appendix T** for examples and **Appendix S** for "Instructions for Completion and Transmission of the Consultative Examination (CE) Appointment History Form, DDD-4184."

- G.7. The Contractor must verify the claimant's and any accompanying adult's identity; e.g. driver's license, State ID or any other method for verifying an individual's identity deemed acceptable by law or regulation. If the claimant or accompanying adult does not have any identification, the contractor must contact the appropriate OTDA Medical Relations Officer. OTDA reserves the right to require the use of finger imaging for eight both Title II or XVI claimants.
- G.8. Ancillary testing must be scheduled to be performed on the same day as the examination and at the same site, except where otherwise specifically approved by OTDA. In situations where two different specialist exams are ordered, the Contractor must attempt to schedule the exams on the same day.
- G.9. Any necessary instructions or notices sent to the claimant in advance of the examination must be provided by the Contractor, subject to approval by OTDA.
- G.10. If the claimant fails to appear for an examination, the Contractor must schedule a second appointment (using the procedure described in G.3) unless otherwise instructed by OTDA. Although additional appointments must be made if requested by OTDA, the updated appointment information must be immediately reported electronically to OTDA after any appointment is missed (via the DDD-4184). There will be no payment for missed or cancelled appointments, lateness for appointment or discontinued examinations. Historically, "no show" rates are highest for psychiatric referrals. Average "no show" rates for all specialties are generally in the range of 20-25% (missed first and second appointments).
- G.11. Contractor must be able to receive an electronic request for a 3rd appointment. Upon receipt of the 3rd appointment request:
- a) The contractor must attempt telephone contact with the claimant (2 attempts on 2 different days at 2 different times) to schedule the CE appointment.
 - b) The third appointment must be scheduled at least 10 days into the future.
 - c) After scheduling appointment with the claimant, send the claimant appointment letter and send notification to OTDA (see **Appendix T**).
 - d) If the claimant does not have a telephone or you did not reach the claimant by telephone, send a call-in letter. The call-in letter:
 - must be sent on the same day as, or after, 2nd unsuccessful call attempt;
 - must be sent no fewer than 10 days prior to scheduled exam;
 - must contain examination details as those noted in the claimant appointment letter (see G.6); and
 - must contain the following statement: If you do not respond within ten (10) calendar days after the date of this letter, a determination may be made based on information in your case file and it may be found that you are not eligible or no longer eligible for disability benefits.
 - e) Send the 3rd appointment details to OTDA (See **Appendix S** (DDD-4184) and **Appendix T**).
 - f) Send a reminder notice to the claimant as appropriate following G.14.
 - g) If claimant does not call-in or attend the appointment, send response to OTDA (see **Appendix S** (DDD-4184) and **Appendix T**).
- G.12. Contractor must be prepared to receive an electronic request that includes third party contact information. Upon receipt, contractor must contact third party by phone and/or by mail to request assistance in helping claimant manage the CE process. The contractor must notify OTDA (within 1 business day) of all contractor actions regarding contact or attempted contact with the third party. (See **Appendix T**).
- a) The contractor must attempt telephone contact with the third party (2 attempts on 2 different days at 2 different times). If the telephone contact is successful contractor is

to provide the third party with the following information only:

1. Claimant has an appointment on this date, at this time, at this location.
2. Claimant has indicated that you are someone who can assist them.
3. If possible, please assist this claimant to attend this appointment.

No further details of personal information should be provided to the third party.

- b) If telephone contact is unsuccessful, send the third party a letter with the information found in **G.12 a 1, 2 and 3**.

- G.13. Contractor must be able to upload TIFF images and structured data throughout the life of a CE order documenting significant order events as required by OTDA, including claimant contacts, third party contacts, reminder notices and appointment status. These significant order events are documented using the DDD-4184 and TIFF images and should be uploaded to OTDA within 1 business day of any significant order event. (See **Appendix S** (DDD-4184) and **Appendix T**). As needed, OTDA will give guidance in terms of the presentation of TIFF images and clarification regarding significant order events. OTDA reserves the right to make changes to forms and TIFF images throughout the life of the contract.
- G.14. Any exam scheduled more than 10 days into the future will require that a reminder notice be sent 10 days prior to the scheduled exam or on the next business day if the reminder date falls on a non-business date.
- G.15. All timeframes for scheduling, phone contacts, third party contacts, reminder notifications and written examination notifications are subject to change by OTDA.
- G.16. At OTDA's discretion, the contractor may be required to send the claimant an additional call-in letter to discuss exam details with the claimant.
- G.17. Reports must be received by OTDA no later than 5 days after the examination. Processing time from the date an order is received electronically by the Contractor to the delivery of the report to OTDA must not exceed 20 days, unless OTDA requests that a third appointment be made. If OTDA requests a third appointment be made, processing time must not exceed 30 days from the date the order is received electronically by the Contractor to the delivery of the report to OTDA.
- G.18. The Contractor may be required to accept telephone orders for scheduling on a same day appointment basis where physician availability allows it.

H. Facility Requirements

- H.1. Offeror must propose a site that is located in the Capital District with a satellite site in Clinton county. The primary and satellite site must be centrally located to all major highways and be within reasonable walking distance of public transportation. While additional satellite sites are not a requirement, the office preference is for sites which meet the convenience of claimants in the catchment areas described below. Accessibility is a key consideration in the technical evaluation process. **All worksite locations performing services** under the contract must be approved by OTDA.
- H.2. The facility must have sufficient natural or mechanical ventilation and be maintained at a comfortable temperature range.
- H.3. There must be sufficient lighting at the building entrance and in parking areas, if provided, and in all areas within the building where people, equipment or files are located. Although a parking area is not a requirement it will be one of the factors under which Offerors will be

evaluated.

- H.4. There must be at least two suitable exits which are marked with prominent signs that are visible at all times.
- H.5. Passageways, corridors, doorways and other means of exits must be clear and unobstructed.
- H.6. Exit doors and doors in exit passageways must swing in the direction of exit travel.
- H.7. Cubicle curtains and draperies must be flame retardant.
- H.8. Smoking regulations must be prominently posted and enforced.
- H.9. Electrical outlets must not be overloaded.
- H.10. Facility must be in compliance with all State, County and City or local fire and building codes at all times.
- H.11. Facility must have a reception and information desk, telefax equipment and administrative area for staff meetings.
- H.12. Waiting room must be of sufficient size so there is adequate seating for claimants. Minimum waiting room requirements by location are as follows:
 - Capital District 30 seats
 - Clinton County Satellite 10 seatsThe facility shall have accessible drinking water, toilet facilities and telephone availability for claimants.
- H.13. Facility must be accessible to disabled claimants including:
 - primary entrance to building usable by claimants in a wheelchair
 - toilet usable by disabled claimants
 - doors used by disabled claimants at least 32" wide
 - elevators if more than first floor used by disabled claimants
- H.14. If dressing rooms are used, separate rooms with doors must be provided to assure privacy of claimants.
- H.15. Examining rooms must have doors to assure privacy and be not less than 80 square feet.
- H.16. There must be a minimum number of medical examining rooms and psychological rooms at the proposed site per the following guidelines.
 - Capital District: 5 medical rooms and 3 psychological rooms
 - Clinton County Satellite: 2 medical rooms and 1 psychological room
- H.17. The facility must have the capacity to accommodate a minimum workload increase of 50%.
- H.18. Electric wiring and extension cords to appliances must be in good condition with no frayed wiring, worn insulation or splices.
- H.19. The facility must have a written procedure for staff action in the event of a medical emergency, fire or disaster.
- H.20. Premises must be kept clean and in good repair.

- H.21. A sufficient linen supply must be maintained.
- H.22. Hand washing facilities must be present in all medical examination rooms, except those examination rooms designated for psychiatric, psychological and speech-language evaluations.
- H.23. Written policy and procedures must be established and followed to provide a sanitary environment and ensure proper techniques for infection control.
- H.24. Security of claimants' clothing and personal property must be provided during the examination.
- H.25. Locked storage must be provided for drugs and biologicals.
- H.26. All necessary licenses and inspection certificates to do business as a medical facility must be secured, posted, and kept current including certificate of occupancy, health and fire, and radiology.
- H.27. Lease commitments must specify the term of the lease and the term of any lease extensions. Uninterrupted facility/lease access hours must be, at a minimum, Monday-Friday, 9 AM - 6 PM. The lease must also indicate weekend access.
- H.28. Contractor must maintain a minimum number of three telephone lines in their administrative office with toll-free service for callers throughout New York State.