



# Corrections and Community Supervision

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Governor

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## Request for Proposals

**RFP# 2020-16**

## Statewide Centralized Laboratory Services

**Issued: December 29, 2020**

### **DESIGNATED CONTACT:**

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

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### **PERMISSIBLE SUBJECT MATTER CONTACT:**

Pursuant to State Finance Law § 139-j(3)(a), the Department of Corrections and Community Supervision identifies the following allowable contact for communications related to the submission of written proposals, written questions, pre-bid questions, and debriefings.

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## 1.0 CALENDAR OF EVENTS

<b>RFP #2020-16 STATEWIDE CENTRALIZED LABORATORY SERVICES</b>	
<b><u>EVENT</u></b>	<b><u>DATE</u></b>
Issuance of Request for Proposals	December 29, 2020
Deadline for Submission of Written Questions	Questions Due by <b>2:00 pm ET</b> January 13, 2021
Responses to Written Questions Posted by DOCCS	Responses Posted <b>on or About</b> January 27, 2021
Deadline for Submission of Proposals	Proposals Due on or Before <b>3:00 pm ET</b> February 17, 2021
<u>Anticipated</u> Contract Start Date • New Contractor Awarded Contract	June 01, 2021
<u>Anticipated</u> Contract Start Date • Incumbent Awarded Contract	July 01, 2021

## 2.0 OVERVIEW

Through this Request for Proposals (“RFP”), the New York State (“State”) Department of Corrections and Community Supervision (“DOCCS”) is seeking competitive proposals from qualified bidders to provide comprehensive medical laboratory services for NYS Correctional Facilities in accordance to standards set by the NYS Department of Health (NYSDOH) as further detailed in [Section 4.0](#) (Scope of Work). It is the Department’s intent to award one (1) contract from this procurement.

### 2.1 Introductory Background

The New York State Department of Corrections and Community Supervision (DOCCS) is responsible for the confinement and rehabilitation of approximately 35,000 individuals under custody held at (currently) 50 state correctional facilities located throughout New York State (see **Attachment 14**). DOCCS is responsible for the delivery of medical care to those incarcerated individuals confined to its correctional facilities. DOCCS is responsible for providing health care for incarcerated individuals within the correctional facilities 24 hours a day, 7 days a week. DOCCS seeks to make provisions for incarcerated individuals to receive comprehensive medical laboratory services in an appropriate setting within secure correctional facilities.

This RFP is issued by DOCCS pursuant to Section 23, Subdivision 2, of the Correction Law and Correction Law Sections 70(2)(c) and 112.

### 2.2 Important Information

It should be noted that Appendix A (**Attachment 8**), “Standard Clauses for New York State Contracts”, contains important information related to the contract to be entered into as a result of this RFP and will be incorporated, without change or amendment, into the contract entered into between DOCCS and the successful Bidder. By submitting a response to the RFP, the Bidder agrees to comply with all the provisions of Appendix A.

Note, **Attachment 7**, the Bidder’s Certifications/Acknowledgements, should be submitted and includes a statement that the bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this RFP including any exhibits and attachments. It also includes a statement that the bidder acknowledges that, should any alternative proposals or extraneous terms be submitted with the proposal, such

alternate proposals or extraneous terms will not be evaluated by the DOCCS.

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

**2.3 Term of the Agreement**

This contract term is expected to be for a period of five (5) years and one (1) month if awarded to a new contractor, to allow for a one (1) month transition period from the previous contractor to the new contractor, and five (5) years if awarded to the incumbent contractor, both commencing on the date shown on the Calendar of Events in [Section 1.0](#), subject to the availability of sufficient funding, successful contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

**2.4 Incurring Costs**

DOCCS shall not be held liable for any costs incurred by the bidder in the preparation, production or submission of a proposal, or for any work performed by a bidder prior to the approval of an award Agreement.

DOCCS shall not be held liable for any costs incurred by a bidder in modifying or explaining details of the bidder's proposal in response to questions from DOCCS.

DOCCS shall not be held liable for any costs incurred by a bidder for any negotiations with DOCCS required to finalize and sign a formal Agreement document.

**2.5 Glossary of Terms**

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

The terms “proposal” and “bid” are used interchangeably herein and shall have the same meaning.

The name of this agency, NYS Department of Corrections and Community Supervision, is used interchangeably herein with “Department”, “DOCCS”, and “NYSDOCCS”.

<b>Term</b>	<b>Definition</b>
Commissioner	Commissioner of the Department of Corrections and Community Supervision or duly authorized representative.
Contractor/Vendor/Bidder/Offeror/ Proposer/	Any person, partnership, firm, corporation or other authorized entity submitting a proposal to the State pursuant to this RFP.
Department/DOCCS/NYSDOCCS	New York State Department of Corrections and Community Supervision.
Prime Contractor	One who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.
Subcontractor	A business or person that carries out work for a company as part of a larger project. See Section 5.10 for further subcontractor utilization information.
RFP	Request for Proposal.
Issuing Office	Department of Corrections and Community Supervision, Division of Support Operations/Contract Procurement Unit.

Proposal/Bid	Documentation from participating Vendors that provide the necessary information requested by the RFP.
DIN	Department Identification Number.
STAT Lab	Providing the results of a lab without delay; immediately. DOCCS will require emergency lab work upon request. Results of a 'STAT' lab will be reported to the requesting facility via phone immediately upon test completion. Written lab results are expected within a 24-hour turnaround period.
Chain of Custody	The chain-of-custody protocol is a clerical and custodial service by the laboratory to document specimen collection transportation, and storage prior to analysis.
MMIS	Medicaid Management Information System.
NYSDOH	New York State Department of Health.
NYS PFIC	New York State Police Forensic Investigation Center.

### 3.0 BIDDERS QUALIFICATIONS TO PROPOSE

#### 3.1 Minimum Qualifications

NYS DOCCS will accept proposals from organizations with the following types and levels of experience as a prime contractor. Bidders interested in participating in the RFP must meet the qualifications outlined in this section.

- A minimum of 3 years' experience providing comprehensive medical laboratory services to a population of 35,000 or greater in multiple sites; and
- A minimum of 3 years' experience collecting DNA.

For the purposes of this RFP, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion. A prime contractor undertakes to perform a complete contract and may employ (and manage) one or more subcontractors to carry out specific parts of the contract.

Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

#### 3.2 Mandatory Submissions

Bidder must submit the following requested documents with their proposal. Bidders who fail to provide all of the mandatory submissions will be disqualified.

- A copy of the operating permit from New York State Department of Health (NYS DOH);
- Copies of certification by NYSDOH and a valid Clinical Laboratory Evaluation Program (CLEP) in the specialty categories for which services are provided;
- A valid copy of a Certification of Qualification that the Lab Director possesses from NYSDOH (Division of Laboratory Quality Certification and CLEP) in the specialty categories for which services are provided; and
- An electronic copy of the current Laboratory Compendium Manual.

#### 3.3 Preferred Qualifications

Bidders that demonstrate experience with the following requirements are preferred:

- The bidder has experience working with a correctional facility; and/or
- The bidder has experience working within a correctional setting.

## 4.0 SCOPE OF WORK

This Section describes the services for comprehensive medical laboratory services that are required to be provided by the selected bidder. The selected bidder must be able to provide all these services, at minimum, throughout the contract term.

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

### 4.1 Overview

A current map of NYS Correctional Facilities is attached as **Attachment 14** for informational purposes. Bidders should review this map to familiarize themselves with the locations of all the Correctional Facilities.

Contractor must provide comprehensive laboratory services in accordance with NYSDOH standards to all facilities (currently 50 facilities) within New York State. The laboratory service will include, but is not limited to:

- Provide liaison(s) and phlebotomy staff who meet the minimum qualifications as outlined in [Section 4.2](#);
- Perform laboratory tests that are requested by DOCCS medical staff;
- Collect and store lab specimens from the facilities;
- Provide the results of said tests in the appropriate time frame of the request;
- Produce monthly and/or annual reports to DOCCS as outlined in [Section 4.4](#);
- At a minimum, supply a Laboratory Compendium Manual on an annual basis to each Regional Medical Director. The Contractor must supply to DOCCS throughout the duration of this Agreement, the most up-to-date version of the Contractor's Laboratory Compendium Manual. DOCCS must have at all times, at all locations, the most up to date version of the Contractor's Laboratory Compendium Manual.

The Contractor must abide by and comply with all relevant departmental directives, policies & procedures, and regulations throughout the term of the contract. **Attachment 23** of this RFP is a collective sampling of the most relevant and important directives that the contractor will be expected to abide by. Contractor is responsible to abide by all DOCCS directives, not just the ones found in **Attachment 23**. All of the DOCCS Directives can also be found at: <https://doccs.ny.gov/legal>. Upon award of the contract, the contractor will be provided with further appropriate instruction with respect to facility rules, regulations and directives as well as required behavior of employees in a correctional setting.

1. All laboratory examinations must be medically necessary and related to the specific complaints and symptoms of the patient and require the written order of a physician or qualified practitioner. Lab tests initiated by the laboratory based on the findings or test results of a preliminary procedure ("reflex testing") without prior approval and written order will not be reimbursable (see [Section 5.4](#) Payment).
2. Tests or procedures repeated at the request of the ordering practitioner, when the result of the original test or procedure is not consistent with the clinical finding, will not be reimbursable (see [Section 5.4](#) Payment).
3. The Contractor will be held responsible for any costs incurred by DOCCS above the cost of the contract pricing to obtain the services covered under this contract by another laboratory service provider due to Contractor negligence (see [Section 5.4](#) Payment).

If utilizing a subcontractor(s), Contractors are to disclose the subcontractors being used with DOCCS and explain how they will be utilized. Contractors will also need to provide the subcontractor(s) necessary licenses and credentials to DOCCS for approval prior to the subcontractor's start of work.

### 4.2 Staffing

All the Contractor's and Reference Laboratories/Subcontractor's employees that provide services are subject to background checks/fingerprinting. DOCCS is responsible for the cost associated with fingerprinting. All employees are subject to security procedures as required by DOCCS.

All Contractor and/or Subcontractor employees who provide services to DOCCS will be required to comply with flu vaccinations, TB protocols, proper N95 mask procedures (when servicing patients in respiratory isolation), contact precautions, and any other protocols when servicing patients in contact isolation.

Services performed on-site by the Contractor's employee/Subcontractor shall be rendered in accordance with these additional requirements as determined by the Correctional Facility:

- Employee Sign-In: Contractor's Employee shall sign in and out in accordance with the Correctional Facility's security procedures and guidelines. Failure to sign in or out, whether intentional or not, may be understood to mean that service was not performed;
- A review of all facility use rules for the subject location;
- An introduction for each respective Agency organization, chain of command, etc., and
- Any other additional security or other requirements set forth by the Correctional Facility.

Absent the phlebotomists, no other Contractor employee/Subcontractor, including the liaison, will be granted access to DOCCS Correctional Facilities without the explicit approval of the Contract Manager located in Central Office's Division of Health Services.

The Contractor will conduct recruitment, organization and training efforts that will provide an adequate number of appropriately trained and qualified staff to successfully carry out all tasks and deliverables outlined in [Section 4.0](#).

If Subcontracting is needed for the contractor to perform all the duties outlined in this RFP, the Contractor will provide a description as to how they intend to utilize Subcontractors (to provide appropriate and quality laboratory results if necessary) to not exceed 15% of the total contract cost and must possess all necessary certifications and permits.

One month prior to work startup, or when replacing staff, all resumes for both Contractor and Subcontractor staff will be forwarded to the attention of DOCCS Director of Health Services, Operations and Management, for review prior to the start of work. DOCCS reserves the right to reject any proposed personnel, upon the initial review of their resume.

Furthermore, DOCCS reserves the right to reject any Contractor or Subcontractor staff, for any reason, throughout the term of the contract. Replacement staff member or members must be of equal or greater qualifications.

The contractor will ensure that all staffing needs of the program are met on an ongoing basis.

Any individual hired by the Contractor to work in the facilities, by virtue of accepting his/her assignment, must abide by all the policies, rules and regulations of the Department. In addition, the Contractor will be familiar with and provide staff with information in federal and NYS Laws as well as Department Policy on the Prevention of Sexual Abuse of Inmates: <http://www.doccs.ny.gov/PREA/PREAINfo.html>.

#### **4.2.1 Liaison**

The Contractor will designate individual(s) that will act in a liaison capacity to DOCCS Director of Health Services, Operations and Management, or designee and the NYSDOH as applicable. The designated administrative and clinical liaison(s) will be available during normal business hours (8:00 am – 4:00 pm) to address matters which arise in the performance of services under this Agreement. The liaison(s) will meet with the DOCCS contact no less than quarterly to address operational issues or concerns as well as to advance the objectives of this joint venture. The contractor will ensure the liaison(s) has the experience to perform the liaison

work described in this RFP and will successfully resolve any issues that arise (e.g. staffing, equipment, specimen pickup, supplies, test result issues, etc.) to the satisfaction of DOCCS.

#### **4.2.2 Phlebotomist**

The Contractor will provide a phlebotomist(s) on a regular schedule, to be mutually agreed to by the Contractor and the Superintendent or designee of the individual correctional facility. A recent phlebotomy schedule identifying the number of phlebotomists utilized, the days and hours per week the work will be required and the name of the correctional facility requiring a phlebotomist is attached (see **Attachment 17**). Modifications to the current schedule are permitted, provided the changes are in the best interest of the facility and are approved by the Nurse Administrator at the facility. The phlebotomist will be responsible for entering the order into the contracted laboratory provider's computerized system or completing the manual requisition in addition to drawing the blood/collecting the specimen. In addition, the phlebotomist will be responsible for all immediate processing of the specimen(s) such as labeling and packaging.

DOCCS Health Service staff will enter the laboratory test ordered by the health care provider into the Health Services System, FHS1. The Contractor's phlebotomist will be responsible for utilizing the computer printed Health Service System FORM HSC458 (**Attachment 15**), in order to enter this information in the Contractor's computerized system. The phlebotomist will be required to prepare a manual test requisition(s) if the Contractor's computerized system is not available. The facilities will maintain the manual test requisition forms for their utilization. Under no circumstance shall the phlebotomist prepare a requisition from a handwritten order. Phlebotomists employed by the Contractor/Subcontractor are not permitted to access a patient's Ambulatory Health Record.

The following exception will apply: whenever there is a DOCCS employed, RN, LPN or phlebotomist who is responsible for the lab function at a facility (i.e., Attica, Bedford, and Clinton) the DOCCS Health Services staff will enter the labs into FHS1 system and the RN, LPN, or phlebotomist will enter the requisition into the Contractor's computerized system or prepare a manual test requisition when the computerized system is not available. In a facility (i.e., Fishkill and Green Haven) where there are both a Contractor phlebotomist and a New York State (NYS) phlebotomist, each individual phlebotomist will be required to enter their own lab test requisitions into the Contractor's computer system or prepare the manual test requisition when necessary. Due to the fact the Contractor's phlebotomist needs to enter data into a computerized system, they must be computer proficient. In the event, DOCCS is unable to secure a NYS phlebotomist/employee, for one of the above facilities, the Contractor will be required to fill the position with a Contractor phlebotomist.

The Contractor and all Subcontractors must comply with all sections of NYS Education Law Article 165 regarding qualifications for phlebotomists (<http://www.op.nysed.gov/prof/ct/article165.htm>).

#### **4.2.3 Training**

All Contractor and Subcontractor employees who provide services within a DOCCS correctional setting will be required to attend DOCCS trainings sessions. Training sessions will include, but may not be limited to, facility related security training, Prison Rape Elimination Act, and Maintaining Professional Boundaries. All trainings will occur at the Correctional Facility where the employees are expected to provide services and all trainings will be given at the discretion of the Correctional Facility.

The Contractor will be required to provide HIPAA training to each phlebotomist prior to providing services to DOCCS incarcerated individuals. The Contractor will also be required to provide documentation to the DOCCS Director of Health Services, Operations and Management, or their designee, demonstrating the training was completed.

#### **Security Related Trainings:**

Contractor employees will be required to participate in DOCCS standardized 16-hour orientation. The 16-hour orientation will be conducted within the employees first two days at their assigned facility. A Facility Training Contact will meet with and oversee the training. Note: In cases where employees are hired at more

than one correctional facility location (ex: nurses, phlebotomists), the first facility the new employee reports to must complete the full, 16-hour orientation. Subsequent locations must verify the full orientation took place, then provide a modified version of the orientation to include introductions to executive team members, a facility tour, and any local policy that may differ from other facilities.

A Facility Training Contact will meet with and oversee the training. Once training is completed, Contractor employees will sign off on the Orientation Sign-off Sheet along with two Report of Training Forms.

Be advised, if deemed necessary by the facility, additional trainings may be added. See DOCCS Training Manual: Subject 7.150 Orientation Program for Per Diem and Non-Departmental Employees (**Attachment 21**) for more information.

#### **DOCCS Policies Implementing the Prison Rape Elimination Act (PREA):**

Contractor will require each staff member to participate in PREA training prior to providing services under the Contract.

It is DOCCS intention to ensure that all contracted staff who have contact with an incarcerated individual(s) understand their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection and response policies and procedures. Attached is Directive #4027A: Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, Directive #4028A: Sexual Abuse Prevention & Intervention – Staff-on-Inmate/Staff-on-Parolee (both within **Attachment 23**), and the Policy on Prevention of Sexual Abuse of Inmates memorandum dated September 4, 2013, from Acting Commissioner Anthony J. Annucci (**Attachment 22**). DOCCS wishes to remind Contractors and their staff that the **New York State Department of Corrections and Community Supervision has zero tolerance for sexual abuse and sexual harassment**. All reports of sexual abuse and sexual harassment must be reported to the Correctional Facility Watch Commander for referral and investigation in accordance with Department Policy.

With this in mind, it is imperative that each Contracted staff member, complete, date and sign any and all training forms acknowledging receipt and confirming your understanding of your responsibilities under these policies. Once completed it should be returned to the attention of the Director of Health Services, "Operation and Management" or designee.

It is the responsibility of the Contractor to see that all employees are aware of the directives cited above and all other applicable rules and regulations of the Department. Copies of all relevant parts of the Department's Employee Rule Book will be made available to the Contractor.

#### **4.3 Specimen Pick-up**

The Contractor will be responsible for specimen pickup arrangements. The specimen pickup arrangements include securing the couriers and scheduling pickup times between Monday through Friday, on a non-holiday basis at each correctional facility. The Contractor will be expected to work with the Superintendent or designee of each correctional facility to determine the most appropriate time for pickups. Specimen pick-up boxes are generally located in the front lobby of each correctional facility. The specimen pickup couriers will be required to enter the main door of the facility.

The Contractor will provide DOCCS with written policies and procedures which meet or exceed industry standards for the collection and storage of lab specimens and will be responsible for the distribution of approved policies and procedures to all correctional facilities.

The Contractor will be required to retain specimens for a period of no less than seven (7) days to permit additional or repeat testing without requiring additional specimens to be drawn.

Specimen pickups are expected to be picked up each day a lab or labs are drawn, whether they are drawn by a Contracted phlebotomist or a DOCCS phlebotomist.

#### 4.4 Reporting/Record Keeping

The Contractor will be required to provide the final results of routine laboratory test requests in hard copy format (8.5" x 11") and / or electronically in a format capable of Electronic Medical Record (EMR) retrieval and storage (if and when DOCCS introduces an EMR system) (see [Section 4.7, Information Technology/Electronic Interface](#)), listing incarcerated individual's name, DIN and date of birth, to the facility medical staff of the requesting correctional facility within:

- twenty-four (24) HOURS of specimen collection for profiles;
  - twenty-four to forty-eight (24-48) HOURS for microbiology\*;
  - five (5) DAYS for all other routine tests;
  - within five (5) DAYS for routine pathology reports.
- (\*unless specific tests require additional time)

The results of the above tests need to be available for retrieval by facility medical staff by 11:00 a.m. on the day they are due via the Contractor's web accessible database frontend, as well as other formats as mutually agreed upon. When results are determined to be significantly abnormal or whenever the facility medical staff have requested the results of a test, results will be provided by telephone, with a faxed hard copy. The contractor will work with DOCCS to establish abnormal values of specific laboratory tests that will result in immediate notification to DOCCS.

If an error(s) is discovered by lab personnel that has been communicated to DOCCS, they will immediately report to facility medical staff via telephone and promptly follow up with a written report clearly identifying the error reported and the correct information. No additional fees will be charged for repeat testing when the lab is in error.

Incarcerated individuals requiring STAT labs are transported to area hospitals for testing/results. If the Contractor is asked to perform a STAT test, requests are to be expedited and results provided to facility medical staff immediately upon completion. These reports will contain all the information necessary for full and proper medical diagnosis and treatment. See [Section 2.5](#) for definition of STAT as defined by DOCCS.

All culture report results that are positive must be reported to the Infection Control Supervisor on at least a weekly basis for all facilities that he/she covers and can be done electronically or via fax. All incarcerated individual reports must include a Name, DIN, DOB, Facility, Date lab drawn, Date lab reported. The report must clearly delineate normal from abnormal results and a reference range for each reported test. A copy of the Contractor's proposed printout of results should be supplied for review (SCORE).

The Contractor will provide utilization and quality control reports as listed below by correctional facility to their facility medical staff with a copy to the Deputy Commissioner of Health Services or an appointed designee. Reports may be deleted or added by DOCCS as needed.

- Monthly Reports** - All monthly reports are due by the 10<sup>th</sup> of the following month.
  - A monthly report requires the Inmate identifier (DIN), Test Ordered (Code), Test Ordered (Literal), Date Test Ordered, Provider who ordered test, Facility Name, Test Performed (code), Test Performed (Literal) (Test Result), Date Test Performed, Warnings and Comments, test name, Number of each test provided, Medicaid Fee Schedule Code, Unit cost and total cost for each test performed;
  - A monthly report requires the test name, number of each test provided and the name of the physician that requested the tests; and
  - A monthly report consolidating diagnosis.
- Annual Reports** - Each annual report is due by April 30<sup>th</sup>, of the new fiscal year and covers the time period of April 1<sup>st</sup> through March 31<sup>st</sup>, of the previous fiscal year.
  - A consolidated annual report requires the test name, number of each test provided, Medicaid Fee Schedule Code, unit cost and total cost for each test performed;
  - A consolidated annual report requires the test name, number of each test provided, Medicaid Fee Schedule Code, unit cost and total cost for each test performed in descending order from the most utilized to the least utilized with grand totals of test numbers and dollar figures; and
  - An annual report consolidating diagnosis.

The Contractor will provide a record retrieval system for any and all tests performed until disposal authorization is given by DOCCS. Duplicate copies must be provided within twenty-four (24) hours of the request. The Contractor will not be responsible for the disposal of any laboratory medical supplies.

The Contractor will maintain efficient, complete and separate books and records concerning all areas of performance hereunder. All records maintained by the Contractor will be made available to DOCCS upon request.

The Contractor will establish a quality assurance/control program on its procedures and programs which will be subject to review by DOCCS upon request, to include, but not limited to the following statistics:

- Accession logs;
- Equipment maintenance;
- Test accuracy;
- Collection process

These statistics will be put in written form and submitted on a monthly basis to DOCCS Deputy Commissioner of Health Services, Operations and Management, or designee.

#### **4.5 DNA Testing**

The Contractor's phlebotomy staff will be responsible for collecting inmate DNA specimens, based on the specifications provided by the NYS Police Forensic Investigation Center (NYSPFIC). The NYSPFIC will provide NYSDOCCS with lab kits with explicit instructions for securing all DNA specimens. **Attachment 16; NYS Convicted Offender DNA Specimen Collection Kit Process** are the current instructions provided by the NYSPFIC. Please note that the Contractor is only required to collect the samples, and to not process or analyze.

Chain of custody procedures are to be followed at all times. The purpose of following chain of custody procedures is to maintain the quality of all samples during collection, transportation, and storage prior to analysis. The chain of custody documentation must contain chain of custody from collection to results to include at a minimum, dates, times and involved parties. See [Section 2.5](#) for Chain of Custody as defined by DOCCS.

#### **4.6 Equipment**

The Contractor will provide all necessary supplies for the collection, identification, and transport of specimen(s) {at no additional cost}. Equipment includes, but is not limited to, needles; containers; shipping materials; cold packs; request slips; labor; postage; and specimen pick-up boxes, regardless of who draws the sample(s). The Contractor will be responsible for supplying an estimated number of 10 compact refrigerators (with freezer functionality), as a means of refrigerating/freezing specimens. The Contractor will potentially also be responsible for supplying up to 49 centrifuges.

Upon contract expiration or termination, all remaining medical supplies will become the property of DOCCS. Only refrigerators, freezers and centrifuge(s) will be returned to the Contractor at the Contractor's request. Any request for the return of a refrigerator, freezer and/or a centrifuge will be required within (30) days of the termination of the agreement. The return of said item(s), will be arranged and paid for by the Contractor. See [Section 4.9](#) Transition for more information.

#### **4.7 Information Technology/Electronic Interface**

The contractor is expected to have (or make available) an electronic order entry and results reporting capability that is accessible to DOCCS. The contractor's electronic ordering system needs to be compatible with DOCCS Network, Hardware, and Software. Further details will be provided to tentative awardee.

The contractor will be required to provide appropriate DOCCS staff (approximately 1,670 employees) with web access to their database frontend for purposes of checking laboratory results in real time.

The application and all systems and components supporting it, including but not limited to any forms and databases that include Personal Health, Personal Identification or other New York State information, must comply with all NYS security policies and standards listed at <http://its.ny.gov/tables/technologypolicyindex.htm>. See [Section 4.8 Security](#).

In addition, DOCCS has a long-term goal to implement software for electronic medical records. It is expected that the contractor will be able to work with various electronic medical record software.

#### **4.8 Security**

The selected Contractor shall comply with all privacy and security policies and procedures of the Department (<https://its.ny.gov/eiso/policies/security>) and applicable state and federal law and administrative guidance with respect to the performance of this contract.

The Contractor is expected to provide secure and confidential backup, storage and transmission for hard copy and electronically stored information. All DOCCS data must be stored within the continental United States. Under no circumstances will any records be released to any person, agency, or organization without specific written permission of the DOCCS. The Contractor is obligated to ensure any Subcontractor hired by Contractor who stores, processes, analyzes or transmits data on behalf of Contractor has the appropriate security requirements in place and must be approved by DOCCS. If any breach or suspected breach of the data or confidentiality occurs, whether the breach occurred with the Contractor or Subcontractor, DOCCS must be notified immediately. If a vendor responsible security breach occurs, the vendor is responsible for developing a DOCCS approved resolution plan and implementing at the vendor's expense.

The contractor is required to maintain and provide to the DOCCS, prior to the start of work and upon request, their data confidentiality plans and procedures for meeting security requirements as they relate to the deliverables and services within this RFP, including all plans as they relate to subcontractor work where applicable.

The contractor will develop and maintain adequate fully trained staff to respond to all stakeholder inquiries while protecting confidentiality and maintaining the security and integrity of all systems. Staff must be trained to understand and observe requirements related to confidentiality and operating guidelines for functions included in this RFP.

The Contractor will comply fully with all current and future updates of the security procedures of the DOCCS And NYS Information Technology Services, as well as with all applicable state and federal requirements, in performance of this contract.

#### **4.9 Transition**

The transition represents a period when the current contract activities performed by the Contractor must be turned over to the DOCCS, another DOCCS agent or successor Contractor during or at the end of the contract.

The Contractor shall ensure that any transition to the DOCCS, DOCCS agency or successor Contractor be done in a way that provides the DOCCS with uninterrupted laboratory services. This includes, but not limited to, a complete and total transfer of all data, files, reports, and records generated from the inception of the contract through the end of the contract, in a current, standard electronic format, to the DOCCS or another DOCCS agent or successor Contractor should that be required during or upon expiration of its contract.

The contractor shall provide technical and business process support as necessary and required by the DOCCS to transition and assume contract requirements to the DOCCS or another DOCCS agent should that be required during or at the end of the contract.

The contractor shall manage and maintain the appropriate number of staff to meet all requirements listed in the RFP during the transition. All reporting and record requirements, security standards, and performance standards are still in effect during the transition period.

The contractor is required to develop a work plan and timeline to securely and smoothly transfer any data and records generated from the inception of the contract through the end of the contract to the DOCCS or another DOCCS agent or successor contractor should that be required during or upon expiration of its contract. The plan and documentation must be submitted to the DOCCS no later than four (4) months before the last day of its contract with DOCCS or upon request of the DOCCS.

## **5.0 ADMINISTRATIVE INFORMATION**

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

### **5.1 Restricted Period**

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

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the bidder is non-responsible and therefore ineligible for this contract award. Two (2) violations within four (4) years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in DOCCS procurements for a period of four (4) years.

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

### **5.2 Questions**

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

### **5.3 Right to Modify RFP**

DOCCS 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 DOCCS, 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 DOCCS will be posted to the DOCCS website.

If the bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Bidder shall immediately notify DOCCS of such error in writing to [doccscontracts@doccs.ny.gov](mailto:doccscontracts@doccs.ny.gov) and request clarification or modification of the document.

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

## 5.4 Payment

Pursuant to NYS Department of Health memorandum 88-70 dated 9/1/1988, all state health care programs except No Fault Insurance and Workers Compensation, will use the MMIS Provider Manual Fee Schedule to compensate providers for health care services rendered to all state clients. Use of the MMIS Provider Manual Fee Schedule for both Medicaid and other State agency sponsored recipients has been initiated to simplify and streamline billings and claims adjudication.

The Contractor will bill and provide invoices in accordance to NYS Medicaid billing guidelines and methodologies. The Contractor billed amounts will reflect current Medicaid pricing.

Upon contract approval, the Contractor will provide a price Fee Schedule to each correctional facility listing the bid prices for each test or groups of tests.

Any payment made by DOCCS to the Contractor will be made through direct payment upon submission of billing invoices. Compensating balances will not be employed. Contractor must provide complete and accurate billing invoices to DOCCS in order to receive payment. Billing invoices submitted to DOCCS on a standard voucher must contain all information and supporting documentation. The Contractor will need to submit billing invoices either monthly or bi-weekly, depending on the size of the facility and the number of tests. Specific invoicing schedules will be determined mutually between DOCCS and the Contractor after notice of contract award. Payment for invoices submitted (if applicable) by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at <https://www.osc.state.ny.us/state-vendors>, by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by telephone 518-474-4032. **Vendor 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 the Commissioner has expressly authorized payment by paper check as set forth above.** Every contractor doing business with the State of New York is required to be a registered vendor with the Office of the State Comptroller's Vendor Management Unit. For contracts to be approved and executed by both DOCCS and the Office of the State Comptroller, a contractor must be registered within the Statewide Financial Management System (SFS). If the awardee does not already have a NYS Vendor ID number, upon contract award notice, the contractor must submit a substitute W-9 to DOCCS. This information will allow DOCCS to request the addition of the contractor within the SFS. If the contractor is already a registered vendor within the SFS, the contractor shall provide the assigned vendor identification number upon request. Instructions regarding invoice submission will be provided to the vendor after notice of contract award.

### Payment terms:

Payment for services rendered in accordance with the terms and conditions specified in this RFP and to the satisfaction of the DOCCS are to be paid based on the RFP, [Section 4.0](#) Scope of Work, [Section 6.3](#) Cost Proposal, and **Attachment 12** Cost Proposal, and the following:

1. The Contractor will pay all fees and charges due to Reference Laboratories/Subcontractors used by the Contractor to process DOCCS laboratory work and bill DOCCS at contractually agreed upon prices.
2. All laboratory examinations must be medically necessary and related to the specific complaints and symptoms of the patient and require the written order of a physician or qualified practitioner. Lab tests initiated by the laboratory based on the findings or test results of a preliminary procedure ("reflex testing") without prior approval and written order will not be reimbursable.
3. Blood draws shall not be assessed, as blood draws are covered under each test's specific test code.
4. The Contractor further understands that tests or procedures repeated at the request of the ordering practitioner, when the result of the original test or procedure is not consistent with the clinical finding, will

not be reimbursed.

5. The Contractor will be held responsible for any costs incurred by DOCCS above the cost of the contract pricing to obtain the services covered under this contract by another laboratory service provider due to Contractor negligence.
6. For each lab test not reported in the Medicaid Fee Schedule, DOCCS and the Contractor will negotiate a rate that is fair and customary. The rate must be justified, at a minimum by the contractor showing similar invoices to other governmental agencies in which they have performed the same service showing that DOCCS is receiving the lowest price.
7. The contractor may invoice for travel only when a phlebotomist travels to a correctional facility(ies) outside of their normal work site. Contractor must utilize the Medicaid Fee Schedule CPT code P9604 when invoicing and apply the bid percentage of the Medicaid Fee Schedule. Contractor's may not charge a different rate for travel. When factoring travel into an invoice(s), contractor must base travel on a "per site" basis, not "per patient" basis. See Attachment 19, pages 9 through 12, for Medicaid's information regarding travel reimbursement.
8. Estimates for DOCCS annual Medicaid spending and DNA draws found on **Attachment 12** are based on historical numbers. Actuals may be higher or lower. DOCCS will only pay for actual work performed.

#### **Billing:**

Vendors must bill as a percentage of Medicaid. Paper Invoices will be submitted for payment to each individual correctional facility where the specimen was collected.

Invoice cover page must include Vendor Name, Facility Account Number, SFS Vendor ID Number and Contract Number.

Invoice must include:

- Facility Account Number
- Date Specimen was collected
- Patient Name, including DOCCS Department Identification Number DIN#
- Accession Number
- Lab Test Code
- Billed Charges Corresponding NYS MMIS Medicaid CPT Code
- Description of Test Performed
- Corresponding NYS MMIS Medicaid CPT Code

#### **5.5 Minority & Woman-Owned Business Enterprise Requirements**

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

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

implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOCCS establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

#### Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOCCS hereby establishes an overall goal of **0%** for MWBE participation, **0%** for Minority-Owned Business Enterprises (“MBE”) participation and **0%** for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms). A contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOCCS may withhold payment pending receipt of the required MWBE documentation. For guidance on how DOCCS will determine “good faith efforts,” refer to 5 NYCRR §142.8.

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

By submitting a bid, a bidder agrees to complete an MWBE Utilization Plan (**Attachment 5**, Form #1) of this RFP. DOCCS will review the submitted MWBE Utilization Plan. If the plan is not accepted, DOCCS may issue a notice of deficiency. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt. DOCCS may disqualify a Bidder as being non-responsive under the following circumstances:

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

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

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

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

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

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

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

## **5.6 Equal Employment Opportunity (EEO) Reporting**

By submission of a bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. Additionally, the successful bidder will be required to certify they have an acceptable EEO (Equal Employment Opportunity) policy statement in accordance with **Attachment 5** (Form #5).

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

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

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

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

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

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

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

Forms are available through these links:

- ST-220 CA: [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](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](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)

## 5.8 Indemnification

The Contractor shall assume all risks of liability for its performance, or that of any of its officers, employees, subcontractors or agents, of any contract resulting from this solicitation and shall be solely responsible and liable for all liabilities, losses, damages, costs or expenses, including attorney's fees, arising from any claim, action or proceeding relating to or in any way connected with the performance of this Agreement and covenants and agrees to indemnify and hold harmless the State of New York, its agents, officers and employees, from any and all claims, suits, causes of action and losses of whatever kind and nature, arising out of or in connection with its performance of any contract resulting from this solicitation, including negligence, active or passive or improper conduct of the Contractor, its officers, agents, subcontractors or employees, or the failure by the Contractor, its officers, agents, subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this solicitation. The CONTRACTOR's duty to indemnify shall cover direct, indirect, special and consequential damages. Such indemnity shall not be limited to the insurance coverage herein prescribed.

## 5.9 Contractor Insurance Requirements

Prior to the commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, DOCCS, Certificates of Insurance (hereinafter referred to as "Certificates"), evidencing compliance with all requirements. Such Certificates shall be of a form and substance acceptable to DOCCS.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this Solicitation, policies of insurance as required by this Section. All insurance required by this Section shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Section should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. DOCCS may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

The Contractor shall not take any action or omit to take any action that would suspend or invalidate any of the required coverages during the term of the Contract.

A. **General Conditions Applicable to Insurance.** All policies of insurance required by this Solicitation or any Contract resulting from this Solicitation shall comply with the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B Insurance Requirements below.
2. Policy Forms. Except as otherwise specifically provided herein or agreed to in the Contract resulting from this Solicitation, all policies of insurance required by this Section shall be written on an occurrence basis.
3. Certificates of Insurance/Notices. Bidders and Contractors shall provide DOCCS with a Certificate or Certificates of Insurance, in a form satisfactory to DOCCS as detailed below, and pursuant to the timelines set forth in Section B below. Certificates shall reference the Solicitation or award number and shall name The New York State Department of Corrections and Community Supervision, Harriman Campus, 1220 Washington Avenue, Albany, New York 12226-2050, as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to DOCCS and in accordance with the New York State Insurance Law (e.g., an ACORD certificate); Exception: **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Solicitation or any Contract resulting from this Solicitation;
- Refer to this Solicitation and any Contract resulting from this Solicitation by award Contract number;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations / Locations / Vehicles section: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

Only original documents (certificates of insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

DOCCS generally requires Contractors to submit only certificates of insurance and additional insured endorsements, although DOCCS reserves the right to request other proof of insurance. Contractors should refrain from submitting entire insurance policies, unless specifically requested by DOCCS. If an entire insurance policy is submitted but not requested, DOCCS shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by DOCCS does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation.

4. **Primary Coverage.** All liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. Any other insurance maintained by the People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees shall be excess of all applicable Contractor's insurance, including any umbrella and/or excess policies, and shall not contribute with the Bidder/Contractor's insurance.
5. **Breach for Lack of Proof of Coverage.** The failure to comply with the requirements of this Section at any time during the term of the Contract shall be considered a breach of the terms of the Contract and shall allow the People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees to avail themselves of all remedies available under the Contract or at law or in equity.
6. **Self-Insured Retention/Deductibles.** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from DOCCS. Such approval shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Bidder/Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request. If the Contractor is unable to meet their obligation under any deductible, self-insured retention or self-insurance, neither the People of the State of New York nor DOCCS will be obligated to drop down to cover those amounts.
7. **Subcontractors.** Prior to the commencement of any work by a Subcontractor, the Contractor shall require such Subcontractor to procure policies of insurance as required by this Section and maintain the same in force during the term of any work performed by that Subcontractor.
8. **Waiver of Subrogation.** For all liability policies and the workers' compensation insurance required below,

the Bidder/Contractor shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against The People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if the Contractor waives or has waived before the casualty, the right of recovery against The People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees or (ii) any other form of permission for the release of The People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

9. **Additional Insured.** The Contractor shall cause to be included in each of the liability policies required below, coverage for on-going and completed operations naming as additional insureds (via ISO coverage forms CG 20 10 04 13 and CG 20 37 04 13 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): The People of the State of New York, the New York State Department of Corrections and Community Supervision, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to DOCCS pursuant to the timelines set forth in Section B below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, the Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Contractor would have been required to pursuant to this Section had the Contractor obtained such insurance policies.
10. **Excess/Umbrella Liability Policies.** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies; however, a minimum of one million dollars (\$1,000,000.00) must be primary coverage for general liability and auto liability. All Contractor's applicable insurance policies, including umbrella and excess insurance, will be primary to any insurance, self-insurance, deductible or self-insured retention of The People of the State of New York, the New York State Department of Corrections and Community Supervision, or any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request.
11. **Notice of Cancellation or Non-Renewal.** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Contractor shall provide DOCCS with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.
12. **Policy Renewal/Expiration** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered to DOCCS. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Contract resulting from this Solicitation, or proof thereof is not provided to DOCCS, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by DOCCS.
13. **Deadlines for Providing Insurance Documents after Renewal or Upon Request.** As set forth herein, certain insurance documents must be provided to the DOCCS Contract Procurement Unit. This requirement means that the Contractor shall provide the applicable insurance document to DOCCS as soon as possible but in no event later than the following time periods:

- For certificates of insurance: 5 business days
- For information on self-insurance or self-retention programs: 15 calendar days
- For other requested documentation evidencing coverage: 15 calendar days
- For additional insured and waiver of subrogation endorsements: 30 calendar days

14. Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to DOCCS, DOCCS shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

**B. Insurance Requirements**

Contractors shall obtain and maintain in full force and effect, throughout the term of any Contract resulting from this Solicitation, at their own expense, the following insurance with limits not less than those described below and as required by the terms of any Contract resulting from this Solicitation, or as required by law, whichever is greater:

Insurance Type		Proof of Coverage is Due
<b>Commercial General Liability</b>	Not less than \$2,000,000 each occurrence	Updated in accordance with Contract
General Aggregate	\$2,000,000	
Products – Completed Operations Aggregate	\$2,000,000	
Personal and Advertising Injury	\$1,000,000	
Medical Expenses Limit	\$5,000	
<b>Business Automobile Liability Insurance</b>	Not less than \$2,000,000 each occurrence	
<b>Professional Errors and Omissions (medical malpractice) Insurance</b>	\$2,000,000 each occurrence	
<b>Crime Insurance</b>	Not less than \$50,000	
<b>Workers’ Compensation</b>		
<b>Disability Benefits</b>		

1. **Commercial General Liability Insurance:** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract).

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
- Products – Completed Operations Aggregate
- Personal and Advertising Injury
- Each Occurrence

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

- Premises liability;
- Independent contractors;
- Blanket contractual liability, including tort liability of another assumed in a contract;
- Defense and/or indemnification obligations, including obligations assumed under the Contract;

- Cross liability for additional insureds;
- Products/completed operations for a term of no less than three [1-3] years, commencing upon acceptance of the work, as required by the Contract.

2. **Business Automobile Liability Insurance:** Such insurance shall cover liability arising out of any automobile used in connection with performance under the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract on a form provided by DOCCS. If, however, during the term of the Contract, the Contractor acquires, leases or hires any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to DOCCS in accordance with the insurance requirements of any Contract resulting from this Solicitation.

In the event that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, but the Contractor does subcontract, hire and/or utilize non-owned automobiles in connection with performance under the Contract, the Contractor, subcontractor or owner of the automobile(s) must: (i) obtain Business Automobile Liability Insurance as required by this Solicitation or any Contract resulting from this Solicitation, except that such insurance may be limited to liability arising out of hired and/or non-owned automobiles, as applicable; and (ii) attest to the fact that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, on a form provided by DOCCS. If, however, during the term of the Contract, the Contractor acquires or leases any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this Section and provide proof of such coverage to DOCCS in accordance with the insurance requirements of any Contract resulting from this Solicitation.

3. **Crime Insurance:** If providing services on-site, the Contractor shall maintain, during the term of the Contract, Crime Insurance on a “loss sustained form” or “loss discovered form,” and coverage must include the following:

- The policy must allow for reporting of circumstances or incidents that might give rise to future claims.
- The policy must include an extended reporting period of no less than one (1) year with respect to events which occurred but were not reported during the term of the policy.
- Any warranties required by the Contractor’s insurer as a result of the Contract must be disclosed and complied with. Said insurance shall extend coverage to include the principals (all directors, officers, agents and employees) of the Contractor as a result of this Contract.
- The policy shall include coverage for third party fidelity and name “The People of the State of New York, Department of Corrections and Community Supervision, any entity authorized by law or regulation to use this Contract as an Authorized User and their officers, agents, and employees” as “Loss Payees” for all third-party coverage secured. This requirement applies to both primary and excess liability policies, as applicable.
- The policy shall not contain a condition requiring an arrest and conviction.
- The policy shall include coverage for computer crime/fraud.

4. **Professional Errors and Omissions (Medical Malpractice):** If providing professional occupation job titles, the Contractor shall maintain Professional Liability insurance.

- Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services.

- If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the start of work; and that continuous coverage will be maintained, or an extended discovery period exercised, throughout the performance of the services and for a period of not less than three years from the time work under this Contract is completed. Written proof of this extended reporting period must be provided to DOCCS prior to the policy's expiration or cancellation.
- The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this Contract.
- If such professional title includes computer related services, coverage must include the following (is not limited to): consulting, data processing, programming, system integration, software development, installation, distribution or maintenance, systems analysis or design, training, staffing or other support services, any electronic equipment, computer hardware or software developed, manufactured, distributed, licensed, marketed or sold.

5. **Workers' Compensation Insurance and Disability Benefits Requirements:** Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any contract renewal. A Bidder will not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to DOCCS.** Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to DOCCS at the time of Bid submission, policy renewal, contract renewal, and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**

The failure to comply with the requirements of this Attachment at any time during the term of any Contract resulting from this Solicitation shall be considered a breach of the terms of any Contract resulting from this Solicitation and shall allow the People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use any Contract resulting from this Solicitation and their officers, agents, and employees to avail themselves of all remedies available under any Contract resulting from this Solicitation, at law or in equity.

**Proof of Compliance with Workers' Compensation Coverage Requirements:**

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form C-105.2 (9/07), *Certificate of Workers' Compensation Insurance*, sent to DOCCS by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to DOCCS upon request from the Contractor; or
- Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or
- Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Contractor's Group Self-Insurance Administrator.

**Proof of Compliance with Disability Benefits Coverage Requirements:**

- Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to DOCCS by the Contractor's insurance carrier upon request; or
- Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State

## Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, <http://www.wcb.ny.gov>. Once on the site, click on the Employers/Businesses tab and then click on Employers' Handbook.

### **5.10 Subcontracting**

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

### **5.11 DOCCS's Reserved Rights**

The State of New York DOCCS reserves the rights for the following:

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

### **5.12 Freedom of Information Law ("FOIL")**

All proposals may be disclosed or used by DOCCS to the extent permitted by law. DOCCS may disclose a proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All proposals

will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. **Any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the proposal as directed in [Section 6.1 \(B\) of the RFP](#).** If DOCCS agrees with the proprietary claim, the designated portion of the proposal will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

### 5.13 Lobbying

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

- a) made the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b) required the above-mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c) required governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d) authorized the New York State Commission on Public Integrity, (now New York State Joint Commission on Public Ethics), to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e) directed the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f) required the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment; (Bidders responding to this RFP should submit a completed and signed **Attachment 1**, "Prior Non-Responsibility Determination".)
- g) increased the monetary threshold which triggers lobbyists obligations under the Lobbying Act from \$2,000 to \$5,000; and
- h) established the Advisory Council on Procurement Lobbying.

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

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

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

#### **5.14 State Finance Law Consultant Disclosure Provisions**

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

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

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

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at: <http://www.osc.state.ny.us/agencies/forms/ac3271s.doc> and <http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>.

#### **5.15 Debriefing**

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the proposal or bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of release of the written or electronic notice by the Department that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the award/non-award letter.

#### **5.16 Protest Procedures**

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

#### **5.17 Piggybacking**

New York State Finance Law section 163(10)(e) (see also <http://www.ogs.ny.gov/purchase/snt/sf1xi.asp>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor's consent.

#### **5.18 Encouraging Use of New York Businesses in Contract Performance**

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders should complete **Attachment 6**, Encouraging Use of New York Businesses in Contract Performance, to indicate their intent to use/not use New York Businesses in the performance of this contract.

#### **5.19 Diversity Practices Questionnaire**

Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") 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 MWBEs.

Accordingly, respondents to this procurement may include as part of the technical proposal response to this procurement, as described in this RFP herein, the Diversity Practices Questionnaire (**Attachment 10**) as provided by the Division of Minority and Women's Business Development for evaluation.

## **5.20 Participation Opportunities for NYS Certified Service-Disabled Veteran-Owned Businesses**

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

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

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

Bidders are encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

## **5.21 Intellectual Property**

Any work product created pursuant to this agreement and any subcontract shall become the sole and exclusive property of the New York State Department of Corrections and Community Supervision, which shall have all rights of ownership and authorship in such work product.

## **5.22 Vendor Assurance of No Conflict of Interest or Detrimental Effect**

All bidders responding to this solicitation should submit **Attachment 4** to attest that their performance of the services outlined in this RFP does not create a conflict of interest and that the bidder will not act in any manner that is detrimental to any other State project on which they are rendering services.

## **5.23 Executive Order Number 26**

Bidders should review this executive order prior to submitting proposals. You may access the executive order on the Governor's Web site: <https://www.governor.ny.gov/news/no-26-statewide-language-access-policy>. If translation/interpretation services are required for languages other than the Spanish language, the selected Contractor must agree to comply with any requests by DOCCS to provide documents or other assistance to allow for translation or interpretation to be conducted. Any costs associated with the translation or interpretation services will be incurred by DOCCS.

## **5.24 Executive Order Number 38**

Limits on State-Funded Administrative Costs & Executive Compensation: Bidders should review Executive Order 38 and the rules and regulations prior to submitting proposals. More specifically, Bidders should review the restrictions on allowable administrative expenses, the limits on executive compensation, and the reporting

requirements. It is the obligation of the selected Contractor, not the State, to determine if Executive Order 38 is applicable. In addition, the selected Contractor must include a provision in any agreement with a subcontractor or agent stating that if said subcontractor or agent is receiving State funds or State-authorized payments from the Contractor to provide program or administrative services under the Contract resulting from this RFP, the subcontractor must also comply with Executive Order 38.

All Contractors doing business with DOCCS should be familiar with Executive Order 38 and the applicable DOCCS Rules and Regulations for the executive order.

Executive Order 38 can be accessed at, [executiveorder38.ny.gov](http://executiveorder38.ny.gov), or from the DOCCS' Website at [www.doocs.ny.gov](http://www.doocs.ny.gov). The applicable DOCCS Rules and Regulations for the executive order are located in the 7 New York Codes, Rules, and Regulations (NYCRR) Part 513.

## **5.25 Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination**

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics. In accordance with Executive Order No. 177, the Offeror certifies that they do not have institutional policies or practices that fail to address those protected status under the Human Rights Law (**Attachment 11**).

## **5.26 Sexual Harassment Prevention Certification**

Pursuant to New York State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of New York State Labor Law § 201-g: <https://www.nysenate.gov/legislation/laws/LAB/201-G>.

New York State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of New York State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>

Pursuant to New York State Finance Law § 139-I, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, DOCCS may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

## **5.27 Breach of Services**

In the event of any material breach of service by the contractor, the Department shall give written notice specifying the material breach. If such written notice of material breach is given and the contractor does not correct the breach to DOCCS satisfaction within thirty (30) days after receipt of the written notice, DOCCS shall have the right to

unilaterally and immediately terminate the contract and seek a replacement provider in order to maintain services without penalty to DOCCS.

### **5.28 Agency Termination**

DOCCS reserves the right to cancel the complete contract or any part thereof, at any time, giving the Contractor thirty (30) days written notice for convenience or unavailability of funds. If in the judgment of DOCCS, the Contractor fails or refuses to perform the work in accordance with the contract, DOCCS may terminate the contract immediately by written notice for cause.

DOCCS may, upon thirty (30) day notice, terminate the contract resulting from this RFP in the event of the awarded Bidder's failure to comply with any of the bid's requirements unless the awarded Bidder obtained a waiver of the requirement.

In addition, DOCCS may also terminate any contract resulting from this RFP upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of creditors.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate DOCCS' officials or staff, the contract may be terminated by the DOCCS' Commissioner or his designee at the Contractor's expense where the Contractor is determined by the DOCCS Commissioner or his designee to be non-responsible. In such event, the DOCCS Commissioner or his designee may complete the contractual requirements in any manner he may deem advisable and pursue available legal or equitable remedies for breach.

Any termination by DOCCS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this RFP and no liability shall be incurred by or arise against DOCCS, its agents and employees therefore for lost profits or any other damages.

### **5.29 Procurement Lobbying Termination**

DOCCS reserves the right to terminate this contract 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, DOCCS may exercise its termination right by providing written notification to the Offeror in accordance with the written notification terms of this contract.

### **5.30 Extent of Services**

DOCCS reserves the right to re-negotiate at its discretion, to reduce the amount of services provided under any contract resulting from this solicitation. This reduction in services shall be effectuated by written amendment to the contract and subject to approval by the Office of the State Comptroller.

### **5.31 Non-Disclosure Agreement**

Upon contract award, the vendor will be required to sign a non-disclosure agreement.

- No-Use – Recipient agrees not to use the confidential information in anyway, except for the purpose of the projects or assignments they are performing for DOCCS.
- No Disclosure – Recipient agrees to use its best efforts to prevent and protect the confidential information, or any part thereof, from disclosure to any person other than Recipient's employees and/or consultants designated by DOCCS having a need of disclosure in connection with Recipients' authorized use of the confidential information. This includes employees and consultants that may not be directly working on the project or job. Recipient agrees not to disclose the nature of the work to any third party without prior written DOCCS consent. In circumstance where the signer of this document is representing a Recipient with more than one employee, the Recipient also agrees that all of its current and future staff who may be involved in the relationship with DOCCS have been and will be instructed in the requirements of this agreement.

- Protection of Secrecy – Recipient agrees to take all steps reasonably necessary to protect the secrecy of the confidential information, and to prevent the confidential information from falling into the public domain or into the possession of unauthorized persons. Such steps shall include keeping Confidential Information stored in a locked office/facility where only authorized personnel would have access.

### 5.32 Health Insurance Portability and Accountability Act

Contractor agrees that all medical information/records will be kept confidential by all employees as well as subcontractors in accordance with applicable state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (hereinafter referred to as “HIPAA”) and the regulations thereunder. In addition, Contractor will also be subject to any New York State laws, rules, regulations or DOCCS directives concerning confidentiality of medical records.

## 6.0 PROPOSAL CONTENT

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

To expedite review of the proposals, Bidders are requested to submit proposals in separate Administrative, Technical, and Cost packages inclusive of all materials as summarized in **Attachment 13**, Proposal Document Checklist. This separation of information will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the Administrative, Technical, and Cost Proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents.

**DOCCS will not be responsible for expenses incurred in preparing and submitting the Administrative, Technical, or Cost Proposals.**

### 6.1 Administrative Proposal

The Administrative Proposal should contain all items 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 may be subject to verification for accuracy. Please provide the forms in the same order in which they are requested.

#### A. Bidder’s Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed **Attachment 1**, “Prior Non-Responsibility Determination.”

#### B. Freedom of Information Law – Proposal Redactions

Bidders must clearly and specifically identify any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See [Section 5.12](#), (Freedom of Information Law)

#### C. Vendor Responsibility Questionnaire

Complete, certify, and file a New York State Vendor Responsibility Questionnaire. DOCCS 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 <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://www.osc.state.ny.us/state-vendors/vendrep/enroll-vendrep-system>.

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](mailto:ciohelpdesk@osc.state.ny.us).

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, <https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-forms>, or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form. Bidder's should complete and submit the Vendor Responsibility Attestation, **Attachment 3**.

D. Vendors Assurance of No Conflict of Interest or Detrimental Effect

Submit **Attachment 4**, Vendor's Assurance of No Conflict of Interest or Detrimental Effect, which includes information regarding the Bidder, members, shareholders, parents, affiliates or subcontractors. **Attachment 4** must be signed by an individual authorized to bind the Bidder contractually.

E. M/WBE Forms

Submit completed Form #1 and/or Form #2, Form #4 and Form #5 as directed in **Attachment 5**, "Guide to New York State DOCCS M/WBE RFP Required Forms."

F. Encouraging Use of New York Businesses in Contract Performance

Submit **Attachment 6**, "Encouraging Use of New York State Businesses" in Contract Performance to indicate which New York Businesses you will use in the performance of the contract.

G. Bidder's Certified Statements

Submit **Attachment 7**, "Bidder's Certified Statements", which includes information regarding the Bidder. **Attachment 7** must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder. DOCCS reserves the right to reject a proposal that contains an incomplete or unsigned **Attachment 7** or no **Attachment 7**.

H. References

Provide references using **Attachment 9** (References) for three (3) professional references that can verify your experience as described in [Section 3.0](#). In addition to a completed **Attachment 9**, letters on official letterhead from each reference mentioned on Attachment 9 should be included. These letters should include name, address, and phone number, (for inquiry purposes) and should outline the Vendor's past work performance in the opinion of the reference. In the event that any/all references cannot be reached, DOCCS will request for two (2) alternate references. Please note references from the Department of Corrections and Community Supervision staff are not acceptable. Provide firm names, addresses, contact names, telephone numbers, and email addresses.

I. Diversity Practices Questionnaire

The Department has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents of this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement should include as part of their response to this procurement, **Attachment 10** "Diversity Practices Questionnaire". Responses will be formally evaluated and scored in the technical proposal.

J. Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination

Submit **Attachment 11** certifying that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin,

sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

## **6.2 Technical Proposal**

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

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

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

Pricing information contained in the Cost Proposal cannot be included in the Technical Proposal documents.

### **A. Title Page**

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

### **B. Table of Contents**

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

### **C. Documentation of Bidder's Eligibility Responsive to [Section 3.0](#) of RFP**

#### **C.1 Minimum Qualifications**

Bidder must meet all the requirements stated in [Section 3.1](#) of the RFP. The bidder must submit documentation that provides sufficient evidence of meeting the criterion. Bidders are requested to provide such documentation outlining the population size and number of sites, dates of service and a brief synopsis of the comprehensive medical laboratory services provided.

- A minimum of 3 years' experience providing comprehensive medical laboratory services to a population of 35,000 or greater in multiple sites; and
- A minimum of 3 years' experience collecting DNA.

Failure to meet these Minimum Qualifications will result in a proposal being found non-responsive and eliminated from consideration.

#### **C.2 Mandatory Submissions**

Bidder must submit the following documents as outlined in [Section 3.2](#) of the RFP. Bidders who fail to provide all of the mandatory submissions will be disqualified.

- A copy of the operating permit from New York State Department of Health (NYSDOH);

- Copies of certification by NYSDOH and a valid Clinical Laboratory Evaluation Program (CLEP) in the specialty categories for which services are provided;
- A valid copy of a Certification of Qualification that the Lab Director possesses from NYSDOH (Division of Laboratory Quality Certification and CLEP) in the specialty categories for which services are provided; and
- An electronic copy of the current Laboratory Compendium Manual.

### C.3 Preferred Qualifications

Bidder should submit documentation that demonstrates their experience with the following outlined in [Section 3.3](#) Preferred Qualifications. Bidders are requested to provide such documentation in the form of a narrative description outlining project names, dates and a brief synopsis of each project.

- The bidder has experience working with a correctional facility; and/or
- The bidder has experience working within a correctional setting.

Please include this narrative response in the Organization and Experience Section of this submitted technical proposal found in [Section 6.2](#) D1.3 of this RFP.

## D. Technical Proposal Narrative

The technical proposal should provide satisfactory evidence of the Bidder's ability to meet, and expressly respond to each element and information requested in the RFP, [Section 4.0](#) Scope of Work. **Bidder should respond to each element of Technical Proposal and label each section by its corresponding Number/letter below, including the following information:**

### D.1 Organization and Experience

Provide a detailed narrative for each of the following:

1. Provide a brief history and description of your organization. This should include a chart outlining the organizational structure that is to be used for this project.
2. Provide a narrative description of the organization's documented experience within this field. Specify the total number of years of experience, and the sizes of the populations. Identify current services of a similar nature that are being provided to other companies and/or agencies.
3. Provide response to preferred qualifications ([Section C.3](#)).

### D.2 Work Plan

Provide a detailed plan describing how the bidder plans to provide the services and deliverables as set forth in this RFP and meet the following objectives to the satisfaction of DOCCS as outlined in [Section 4.1](#):

1. Describe the plan to provide comprehensive laboratory services in accordance with the New York State Department of Health standards to all DOCCS facilities and include a description of the following:
  - A. Perform laboratory tests that are requested by DOCCS medical staff;
  - B. Collect and store lab specimens from the facilities;
  - C. Provide the results of said tests in the appropriate time frame of the request;
  - D. Produce monthly/annual reports to DOCCS as outlined in [Section 4.4](#);

- E. At a minimum, supply a Laboratory Compendium Manual on an annual basis to each Regional Medical Director. The Compendium Manual supplied to DOCCS throughout the duration of this Agreement, is to be the most up-to-date version of the Contractor's Laboratory Compendium Manual. Include a description of how bidder plans to supply manual for all DOCCS facilities at all times, at all locations, in the most up to date version of the Contractor's Laboratory Compendium Manual.
2. Provide liaison(s) and phlebotomy staff who meet the minimum qualifications as outlined in [Section 4.2](#).
3. If utilizing a subcontractor(s), please list them and explain how they are to be utilized and the plan to ensure they possess all necessary certifications and permits.
4. Provide a description of the plan to abide and comply with all relevant departmental directives, policies & procedures, and regulations throughout the term of the contract (See [Section 4.1](#) and Attachment 23 for reference).
5. Provide a description on how the bidder plans to ensure that all laboratory examinations conducted are medically necessary and related to the specific complaints and symptoms of the patient.

### D.3 Staffing

1. Provide a table of organization outlining reporting roles and responsibilities appropriate to the operation of a comprehensive medical laboratory service. The table of organization is to include a designated administrative and clinical liaison.
2. Describe the bidder's recruitment, organization and training efforts that are to provide an adequate number of appropriately trained and qualified staff to successfully carry out tasks and deliverables outlined in [Section 4.0](#) of the RFP and how the bidder plans to ensure the staffing needs of the program are met on an ongoing basis.\*

#### A. Liaison(s)

- Describe your selection process for liaison(s), their qualifications, experience, work achievements, etc.
- Describe the plan to ensure the administrative and clinical liaison's availability to meet the needs of the department per [Section 4.2](#) and [4.2.1](#).
- Describe how liaison(s) are to keep track and ensure contractor employees/subcontractor are up to date on DOCCS training.

#### B. Phlebotomist

- Describe your selection process for phlebotomists and how you ensure that all contractor/subcontractor phlebotomists comply with all sections of NYS Education Law Article 165 regarding qualifications for phlebotomists (<http://www.op.nysed.gov/prof/clt/article165.htm>).
  - Describe the plan to ensure that all phlebotomists who work for the Contractor have a minimum of 1 year of phlebotomy experience.
  - Describe the plan and procedure to be used by the phlebotomist for collecting laboratory specimens.
3. Describe how the bidder plans on ensuring that the staff they provide receive all the mandatory DOCCS' Training in accordance with [Section 4.2](#) and [Section 4.2.3](#) of the RFP.
  4. Describe the plan to ensure all Contractor's and Reference Laboratories/Subcontractor's employees

that provide services complete background checks/fingerprinting. DOCCS is responsible for the cost associated with fingerprinting. All employees are subject to security procedures as required by DOCCS.

5. Describe the plan to ensure all Contractor and/or Subcontractor employees who provide services to DOCCS comply with flu vaccinations, TB protocols, proper N95 mask procedures (when servicing patients in respiratory isolation), contact precautions, and any other protocols when servicing patients in contact isolation.

\*For the following, resumes of liaisons and/or phlebotomist will not be accepted or evaluated.

#### **D.4 Specimen Pick-up**

Provide a detailed plan outlining and describing activities to accomplish in each of the tasks detailed in Scope of Work Sections below.

1. Describe the plan for specimen pickup arrangements. Include in the plan;
  - securing the couriers and scheduling pickups, between Monday through Friday, on a non-holiday basis at each correctional facility;
  - securing pick-ups each day a lab or labs are drawn, whether they are drawn by a Contracted phlebotomist or a DOCCS phlebotomist;
  - flexibility to work with the Superintendent or designee of each correctional facility to determine the most appropriate time for pickups;
  - direction to couriers of placement of specimen pick-up boxes (generally located in the front lobby of each correctional facility) and how to enter facility.
2. An overview of the written policies and procedures which meet or exceed industry standards for the collection and storage of lab specimens and describe the distribution of approved policies and procedures to all correctional facilities.
3. A plan to retain specimens for a period of no less than seven (7) days to permit additional or repeat testing without requiring additional specimens to be drawn.

#### **D.5 Reporting/Record Keeping**

1. Describe how your organization plans to meet DOCCS reporting needs for this service as outlined in [Section 4.4](#). Specifically, the reports listed below.
  - Reports for final results of routine laboratory test requests;
  - STAT reports;
  - Weekly Culture reports;
  - Monthly reports;
  - Annual reports; and
  - Reports for quality assurance/ control program reports.
2. Describe the record retrieval system that the bidder plans to utilize to fulfill the needs of this RFP.
3. Describe how the bidder proposes to handle notifications on errors and fixing said errors. Describe if there is any system in place to minimize errors (if any).

4. Outline how the bidder plans to maintain books and records concerning all areas of performance hereunder.

#### **D.6 DNA Testing**

1. Describe the plan and procedure to be used by the phlebotomist for collecting inmate DNA specimens, based on the specifications provided by the NYS Police Forensic Investigation Center (NYSPFIC). The NYSPFIC provides NYSDOCCS with lab kits with explicit instructions for securing all DNA specimens. **Attachment 16**; *NYS Convicted Offender DNA Specimen Collection Kit Process* are the current instructions provided by the NYSPFIC. Please note that the Contractor is only required to collect the samples, and to not process or analyze.
2. Describe the Chain of Custody procedures to maintain the quality of all samples during collection, transportation, and storage prior to analysis and to ensure that these procedures are followed at all times.
3. Describe the custody documentation that contains chain of custody from collection to results to include at a minimum, dates, times and involved parties.
4. Describe the certification process for unbroken chain of custody.

#### **D.7 Equipment**

Describe the plan to meet the specifications set forth in [Section 4.6](#) Equipment.

#### **D.8 Information Technology/Electronic Interface**

1. Describe your Company's ability to meet the specifications set forth in [Section 4.7](#) Information Technology/Electronic Interface.
2. Describe your company's capability and experience with interfacing with an Electronic Medical Record system.

#### **D.9 Security**

Bidder should include a proposed data security plan(s) that is in compliance with all NYS security policies and standards described in [Section 4.8](#) Security. Plan(s) should also include an outline for a resolution plan in the event a vendor responsible security breach occurs.

#### **D.10 Transition**

Provide an overview of the bidder's transition plan as described in [Section 4.9](#) Transition.

### **6.3 Cost Proposal**

As stated in [Section 5.4](#) Payments, it is DOCCS intent to utilize the MMIS Medicaid Provider Manual Fee Schedule as the basis for determining the rates paid for laboratory services. Vendors shall bid as a percent of the current NYS MMIS Medicaid rates for laboratory services. Although Medicaid rates are used, NYS Medicaid is not the payor for services rendered, DOCCS is the payor per the RFP, all Medicaid billing policies, and methodologies shall apply. As Medicaid rates are adjusted by the NYS Department of Health, the vendor pricing will reflect those adjustments. **Attachment 18** is a copy of the MMIS Medicaid Provider Manual Fee Schedule. **Attachment 19** is a copy of the NYS Medicaid Program Laboratory Manual Policy Guidelines. **Attachment 20** is a copy of the NYS Medicaid Program Laboratory Procedure Codes. Bidders are encouraged to familiarize themselves with these documents.

Submit a completed and signed **Attachment 12**; Cost Proposal. The Cost Proposal shall comply with the format and content requirements as detailed in this document and in **Attachment 12**. Failure to comply with the format and content requirements may result in disqualification.

The bid price is to cover the cost of furnishing all of the said services in the RFP and Scope of Work ([Section 4.0](#)), including but not limited to travel ([Section 5.4](#)), materials, equipment ([Section 4.6](#)), overhead, profit and labor to the satisfaction of the Department of Corrections and Community Supervision and the performance of all work set forth in said specifications. Payment is conditional upon DOCCS acceptance of each billed deliverable including any reports. See [Section 5.4](#) Payment for more information.

The Cost Proposal includes:

1. Laboratory Fees.

A percentage (%) of the prevailing Medicaid Fee Schedule for each corresponding laboratory test code. DOCCS' current estimated annual spending is \$7,550,000.00. Actuals may be higher or lower. Payment will be made on actuals only.

*Example:           Test A price per the Medicaid Fee Schedule = \$5.00  
                           Vendor A's percentage = 105%  
                           Test A is now invoiced at \$5.25*

2. DNA Sample Collection:

A fee for each DNA sample collected by the phlebotomist at a correctional facility utilizing the DNA kit provided from the NYSPFIC. DOCCS' currently estimates 3,100 DNA draws annually. Actuals may be higher or lower. Payment will be made on actuals only.

## 7.0 PROPOSAL SUBMISSION

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

	Electronic Submission	Paper Submission
<b>Administrative Proposal</b>	1 dedicated flash drives or CDs labeled "Administrative Proposal" containing a standard searchable PDF file with copy/read permissions only.	1 Original 4 Copies
<b>Technical Proposal</b>	1 dedicated flash drives or CDs labeled "Technical Proposal" containing a standard searchable PDF file with copy/read permissions only.	1 Original 9 Copies
<b>Cost Proposal</b>	1 dedicated flash drives or CDs labeled "Cost Proposal" containing standard searchable PDF file(s) with copy/read permissions only.	1 Original 2 Copies

1. All hard copy proposal materials should be printed on 8.5" x 11" white paper (single-sided) and **be clearly page numbered on the bottom of each page with appropriate header and footer information.** A font size of eleven (11) points or larger should be used. The Technical Proposal materials should be presented separate from the sealed Cost Proposal.
2. Where signatures are required, the proposals designated as originals should have a handwritten signature and be signed in blue ink.
3. The NYSDOCCS discourages overly lengthy proposals. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the NYSDOCCS to evaluate proposals fairly and completely, proposals should follow the format described in this RFP to provide all requested information. The Bidder should not repeat information in more than one section of the proposal.

If information in one section of the proposal is relevant to a discussion in another section, the Bidder should make specific reference to the other section rather than repeating the information;

4. Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team; and
5. In the event that a discrepancy is found between the electronic and hardcopy proposal, the original hardcopy will prevail.

**The proposal must be received by the NYSDOCCS, no later than the Deadline for Submission of Proposals specified in [Section 1.0](#), (Calendar of Events). Late bids will not be considered.**

Proposals should be submitted in three (3) separate, clearly labeled packages: (1) Administrative Proposal, (2) Technical Proposal and (3) Cost Proposal, prepared in accordance with the requirements stated in this RFP. Mark the outside envelope of each proposal as "RFP# 2020-16 Statewide Centralized Laboratory Services – (Administrative) (Technical) or (Cost) Proposal submitted by (Bidder's name)". The three (3) sealed proposals may be combined into one (1) mailing, if desired.

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

**RFP # 2020-16: Statewide Centralized Laboratory Services  
Attention: Robin Kuinlan, Contract Management Specialist I  
NYS Department of Corrections and Community Supervision  
550 Broadway  
Menands, New York 12047**

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

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

#### **7.1 No Bid Form**

Bidders choosing not to bid are requested to complete the No-Bid form **Attachment 2**.

### **8.0 METHOD OF AWARD**

The results of the technical and cost scores for all responsive and responsible contractors will be combined and the contractor receiving the highest combined score will be awarded the contract.

#### **8.1 General Information**

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

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

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost

Proposal) will be weighted **75%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **25%** of a proposal's total score.

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

In the event of a tie, the determining factors for award, in descending order, will be:

- (1) lowest cost; and
- (2) proposed percentage of MWBE participation.

## **8.2 Submission Review**

DOCCS will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in [Section 6.0](#) (Proposal Content) and [Section 7.0](#) (Proposal Submission), including documentation requested 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 DOCCS, may be rejected.

## **8.3 Technical Evaluation**

The evaluation process will be conducted in a comprehensive and impartial manner. A Technical Evaluation Committee comprised of DOCCS program staff will review and evaluate all proposals. A separate Evaluation Committee comprised of DOCCS MWBE staff will review and evaluate all Diversity Practices Questionnaires.

Proposals will undergo a preliminary evaluation to verify Minimum Qualifications Proposed in [Section 3.1](#) and [Section 3.2](#).

All Evaluation Committee members will independently score their respective section that meets the submission requirements of this RFP. The individual scores will be averaged to calculate the Technical Score for each responsive Bidder.

The technical evaluation is **75% (up to 75 points)** of the final score.

## **8.4 Cost Evaluation**

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

The Cost Proposals will be scored based on a maximum weighted score of 25 points. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

$$C = (A/B) * 25\%$$

A is Total price of lowest cost proposal;  
B is Total price of cost proposal being scored; and  
C is the Cost score.

The cost evaluation is **25% (up to 25 points)** of the final score.

## **8.5 Composite Score**

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

#### **8.6 Reference Checks**

The Bidder should submit references using **Attachment 9** (References). At the discretion of the Evaluation Committee, references may be checked at any point during the process to verify bidder qualifications to propose ([Section 3.0](#)).

#### **8.7 Best and Final Offers**

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

#### **8.8 Award Recommendation**

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

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

## ATTACHMENTS

The following attachments are attached and included in this RFP:

1. Bidder's Disclosure of Prior Non-Responsibility Determination
2. No-Bid Form
3. Vendor Responsibility Attestation
4. Vendor Assurance of No Conflict of Interest or Detrimental Effect
5. Guide to New York State DOCCS M/WBE Required Forms & Forms
6. Encouraging Use of New York Businesses in Contract Performance
7. Bidder's Certified Statements
8. Appendix A (Standard Clause for Contracts)
9. References
10. Diversity Practices Questionnaire
11. Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination
12. Cost Proposal
13. Proposal Document Checklist
14. DOCCS Geographical Map
15. Sample HSC 458 Form
16. NYS Convicted Offender DNA Specimen Collection Kit Process
17. NYS Phlebotomy Schedule
18. NYS Medicaid Laboratory Fee Schedule/MMIS Fee Schedule for Laboratory Tests
19. NYS Medicaid Program – Laboratory Manual Policy Guidelines
20. NYS Medicaid Program Laboratory Procedure Codes
21. DOCCS Training Manual; Subject 7.150 Orientation Program for Per Diem and Non-Departmental Employees
22. Policy on Prevention of Sexual Abuse of Inmates memorandum dated September 4, 2013, from Acting Commissioner Anthony J.
23. DOCCS Directives
  - a. Directive 0410 – Confidential Security Information
  - b. Directive 2216 – Fingerprinting/Criminal History Inquiry – New Employee and Contractors
  - c. Directive 4027A - Sexual Abuse Prevention & Intervention – Inmate-on-Inmate
  - d. Directive 4028A – Sexual Abuse Prevention & Intervention – Staff-on-Inmate/Staff-on-Parolee
  - e. Directive 4055 – Hazardous Waste Management
  - f. Directive 4750 – Volunteer Service Program