

RFA Number 1301300317

**New York State
Department of Health**
*Office of Health Insurance Programs
Health Benefit Exchange*

Request for Applications

*Consumer Assistance for the New York State Health Benefit Exchange:
In Person Assistors and Navigators*

KEY DATES

RFA Release Date:	February 13, 2013
Letters of Interest Due:	February 27, 2013 by 4:00 PM ET
Questions Due:	February 27, 2013 by 4:00 PM ET
RFA Updates and Q&As Posted:	On or about March 15, 2013
Applications Due Date and Time:	April 8, 2013 by 4:00 PM ET
Anticipated Notice of Award Date:	July 1, 2013
Anticipated Contract Start Date:	August 1, 2013
DOH Contact Name and Address:	Ms. Margaret Silverberg New York Health Benefit Exchange New York State Department of Health Corning Tower, Suite 2580 Albany, New York 12237 EMAIL: navrfa13@health.state.ny.us

GLOSSARY

ACA	The Patient Protection and Affordable Care Act was signed into law in March 2012. The ACA calls for states to establish health benefit exchanges to increase access to health insurance.
Applicant	An entity that meets the minimum eligible criteria set forth in Section II.A of this RFA that chooses to submit an Application in response to this RFA.
Application	An Applicant's proposal submitted in response to this RFA.
APTC	Advance Premium Tax Credits limit the amount that low-income individuals and families pay for health insurance premiums. Eligibility for APTCs is based on income.
BHP	The ACA permits States to develop a Basic Health Plan to use federal tax subsidy dollars to offer subsidized coverage for individuals between 139-200% of the Federal Poverty Level who would otherwise be eligible for Qualified Health Plans in the Exchange. New York is awaiting federal guidance on the Basic Health Plan before further analyzing this option.
CSR	Cost Sharing Reductions limit the amount that low-income individuals and families pay for out of pocket costs such as deductibles and copayments after they enroll in a health plan and receive covered medical services. Eligibility for CSRs is based on income.
DOH	New York State Department of Health
IAP	Insurance Affordability Programs are the public insurance programs (such as Medicaid and Child Health Plus) and federal subsidies (including Advance Premium Tax Credits and Cost Sharing Reductions) that make insurance more affordable to low-income individuals and families.
IPA	In Person Assistor
IPA/Navigator Contractor	Applicants to whom an award is made under this RFA and whom subsequently execute a contract with the DOH to provide IPA/Navigator Program services.
MAGI	For individuals who are income-eligible for Medicaid, Modified Adjusted Gross Income is the income definition used to determine an individual's eligibility.
NYHBE	New York Health Benefit Exchange: an organized marketplace designed to help New Yorkers shop for and enroll in health insurance coverage. Individuals, families and small businesses will be able to use the Exchange to help them compare commercial insurance options, calculate costs and select coverage. There are two components of the NYHBE: the Individual Exchange which serves individuals and families, and the Small Business Health Options Program (SHOP Exchange) which serves small businesses and their employees.
QHP	Qualified Health Plan: licensed health plans that have been approved by the Exchange to provide comprehensive coverage, follow limits on out-of-pocket expenses (such as deductibles, copayments, and out-of-pocket maximums), and meet other requirements.
RFA	This Request for Applications entitled "Consumer Assistance for the New York State Health Benefit Exchange: In Person Assistors and Navigators"
SHOP	Small Business Health Options Program

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I. Introduction

A. Description of Program

The New York State Department of Health (DOH) is issuing this Request for Applications, entitled “Consumer Assistance for the New York State Health Benefit Exchange: In Person Assistors and Navigators” (RFA) to solicit Applications from Applicants to participate in the New York Health Benefit Exchange (NYHBE) In Person Assistor (IPA)/Navigator Program. The IPA/Navigator Program (Program) will provide in person, culturally competent, linguistically appropriate and disability accessible health insurance application assistance. The Program is designed to reduce barriers in accessing insurance by providing in person assistance in community based locations frequented by target populations, at times that are convenient to potential Exchange enrollees (individuals, small businesses and small business employees), including evenings and weekends.

As a result of this RFA, approximately \$27.2 million will be available per year for a period of 5 years for the delivery of IPA/Navigator Program services. The actual term of the grant contracts resulting from this RFA (IPA/Navigator Contract or Contract) will be for a 62 month period with Year 1 of the Contract being 14 months in duration, commencing 8/1/2013 and ending 9/30/2014. The first two months of Year 1 of the Contract (8/1/2013 – 9/30/2013) will be allocated for start-up activities (e.g., hiring staff, obtaining resources, finalizing subcontracts, etc.) and to receiving the required IPA/Navigator certification training as discussed elsewhere in the RFA. As a result, during Year 1 of the Contract, an additional approximate \$4.5 million will be added to the \$27.2 million per year amount to arrive at Year 1 total available funds of approximately \$31.7 million. The total funds expected to be made available over the entire 62 month period is approximately \$140.6 million. The NYHBE’s goal is to have IPA/Navigator Contractors providing IPA/Navigator Program services in every county/borough in New York State, as well as funds for Federally Recognized Tribes and Urban Indian Organizations.

- Up to \$675,000 will be available per year for a period of 5 years and 2 months to Federally Recognized Tribes in New York State as recognized by the Bureau of Indian Affairs and published in the federal register, 77 FR 47868 (Aug 10, 2012) and Urban Indian Organizations as defined by the Indian Health Care Improvement Act. 25 U.S.C. 1603(29). During Year 1 of the Contracts, a total of \$787,500 will be available to fund the delivery of 12 months of Program services, plus the additional 2 months of start-up activities.
- Up to approximately \$26.5 million will be available per year for a period of 5 years and 2 months to non- Federally Recognized Tribes/Urban Indian Organizations eligible entities. In Year 1 of the Contracts, a total of \$31.0 million will be available to fund the delivery of 12 months of Program services, plus the additional 2 months of start-up activities. Approximately half of the

available funds will be distributed in New York City. Approximately half of the available funds will be distributed Upstate and in Long Island.

These grant funds are being made available to fund the following IPA/Navigator Program services:

- Provide in person health insurance enrollment services to potential enrollees.
- Educate potential enrollees about the NYHBE and the types of health insurance programs offered through the NYHBE.
- Provide education on, and facilitate enrollment into, Qualified Health Plans (QHPs), supplementary plans available through the Exchange (if offered) and/or into Insurance Affordability Programs (IAPs).
- Provide enrollment assistance to potential enrollees with the renewal of health plans.
- Assist potential enrollees with grievances, complaints or questions regarding their health coverage or a determination related to their coverage.
- Provide information in a fair and impartial manner which is culturally and linguistically appropriate, and disability accessible, for the populations being served under the Exchange, including individuals with limited English proficiency.

The IPA Program will commence within 30 days of the date that contracts awarded under this procurement are approved by the New York State Office of the State Comptroller (OSC). The Navigator Program will commence on a date to be determined and no later than January 1, 2014. IPAs and Navigators will provide the same services and it is expected that any entity receiving funding through this RFA would be able to successfully make the transition from serving as an IPA to serving as a Navigator.

The DOH anticipates that the Facilitated Enrollment Program currently administered by the DOH will be replaced by the IPA/Navigator Program. Contractors providing facilitated enrollment services under the Facilitated Enrollment Program are strongly encouraged to apply for this RFA, but are not guaranteed funding. A transition plan to end the Facilitated Enrollment program is being developed and will include processes for Facilitated Enrollment Program contractors that continue as IPA/Navigator Contractors and for those that do not.

B. Background

In April 2012, Governor Cuomo issued an Executive Order to establish the New York Health Benefit Exchange within the DOH. The NYHBE is an organized marketplace through which individuals, small businesses, and small business employees may shop for health insurance in a way that allows them to easily compare health plan options

across benefits, services, price and quality, and to receive tax credits.

The NYHBE will serve individuals who do not have affordable health insurance at work and small employers.¹ Throughout this RFA, these populations are collectively referred to as “potential enrollees.”

The NYHBE will be operational on October 1, 2013, allowing potential enrollees to explore their health insurance options, find out if they are eligible for tax credits and other financial assistance, and enroll in a health plan in the Exchange with coverage effective on January 1, 2014.

The ACA requires the NYHBE to operate an IPA/Navigator Program to assist New Yorkers in enrolling in health insurance. In accordance with 45 CFR 155.210(e), IPA/Navigator Contractors must be able to carry out the following duties:

1. Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange.
2. Provide information and services in a fair, accurate and impartial manner. Such information must acknowledge other health programs.
3. Facilitate selection of a QHP in the NYHBE or, when appropriate, a public insurance plan.
4. Provide appropriate referrals for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage.
5. Provide information in a manner that is culturally and linguistically appropriate to the needs of the population of New York State, including individuals with limited English proficiency, and ensure accessibility and usability of IPA/Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

¹ The current definition of “small employers” is those with 2-50 employees. The NYHBE may revisit the definition of “small employer” in 2016 and 2017.

II. Who May Apply

A. Minimum Eligibility Criteria

The minimum eligibility requirements for entities responding to this RFA are consistent with the final Exchange regulations issued by the U.S. Department of Health & Human Services on March 27, 2012 (45 CFR 155.210). Entities must meet the criteria in Sections II(A) of this RFA to be deemed eligible to submit an Application in response to this RFA.

1. Types of Organizations Eligible to Apply:

- The following types of entities are eligible to apply for this RFA:
 1. Community and consumer-focused nonprofit organizations;
 2. Trade, industry, and professional associations;
 3. Commercial fishing industry organizations, ranching and farming organizations;
 4. Chambers of commerce;
 5. Unions;
 6. Resource partners of the Small Business Administration;
 7. Licensed agents and brokers that do not receive direct or indirect consideration from health insurers for enrolling individuals, small businesses, or small business employees in health plans or supplementary plans; and
 8. Other public or private entities that meet the requirements of Section II(A) of this RFA. Other entities may include but are not limited to Indian tribes, tribal organizations, urban Indian organizations, and State or local human service contractors.
- Health care providers must meet all of the following criteria in order to be deemed eligible to submit an Application:
 - The provider must have a demonstrated commitment to serving the uninsured and underinsured;
 - The provider must agree to offer IPA/Navigator Program services to individuals, small businesses and small business employees beyond the provider's patient base; and

- The provider must agree to offer IPA/Navigator Program services in offsite locations in the community and may not only offer IPA/Navigator services at sites where clinical services are offered.

2. **Types of Organizations Not Eligible to Apply:**

- Entities with conflicts of interest (as described in Section V(A)(7)) may **not** serve as IPA/Navigator Contractors.
- Health plans may **not** serve as IPA/Navigator Contractors.
- Health care providers that do not meet the eligibility criteria described above may **not** serve as IPA/Navigator Contractors.
- Local Departments of Social Service (LDSS) are **not** eligible to apply to be IPA/Navigator Contractors through this RFA. Instead, LDSSs will be able to provide in-person assistance to the MAGI population as part of the State assumption of Medicaid administrative functions. The State will work with those LDSSs that have indicated a desire to provide in-person assistance to MAGI applicants in their response to the Letter of Interest. LDSSs will be compensated for in-person assistance activities from Medicaid administrative funding.

3. **DOH Organizational Capacity**

- Applicants must demonstrate that they are capable of carrying out the duties set forth in 45 CFR 155.210(e) and listed in Section III of this RFA.
- Applicants must be able to provide assistance to potential enrollees in the Individual Exchange and the SHOP Exchange. Applicants may **not** opt to only serve individuals in the Individual Exchange or to only serve small businesses and their employees in the SHOP Exchange.
- Applicants must be able to provide IPA/Navigator Program services in-person, within New York State, and only to residents of New York State. Call centers and other forms of telephone or web-based assistance will not be funded through this RFA.
- Applicants must have sufficient infrastructure to facilitate online submission of enrollment applications including: computers and internet access to facilitate online enrollment; scanners to assist potential enrollees scan and upload copies of documents to the Exchange online web portal; and, printers. Except in rare instances, all enrollment applications assisted through the IPA/Navigator Program will be electronically submitted through the NYHBE portal.

- To access the NYHBE online web portal, IPA/Navigator Contractors will need computers that are connected to the Internet with one of the following browsers:
 - Internet Explorer Versions 7, 8, or 9
 - Safari Versions 5 or 6
 - Google Chrome Versions 18 or 19
 - Mozilla Firefox Versions 12 or 13

- Upon request by an enrollee, the IPA/Navigator Contractor must be able to provide a printed copy of the completed enrollment application and proof of enrollment. IPA/Navigator Contractors are not expected to provide printed copies of these documents for all potential enrollees.

- Applicants must be capable of completing the DOH sponsored IPA/Navigator training program. If there is not adequate training capacity for all of the IPA/Navigator Contractor's staff and subcontractor staff responsible for delivering Program services to potential enrollees, IPA/Navigator Contractors must use "train-the-trainer" models to deliver the DOH training program to their remaining designated IPA/Navigator staff. The DOH, in conjunction with its vendors, will develop a training curriculum for the IPA/Navigator Program. Training modules will include:
 - The needs of underserved and vulnerable populations
 - Cultural and linguistic competency
 - A description of the coverage available under the ACA including QHPs and IAPs
 - The benefits available under various coverage options
 - Cost-sharing information for each program
 - Eligibility and enrollment rules and procedures
 - How eligibility is determined for IAPs, the Individual Exchange and the SHOP Exchange
 - How to assist potential enrollees in enrollment and the plan selection process
 - How to assist small businesses to offer health insurance to their employees through the SHOP Exchange
 - How to use the NYHBE online web portal

- Privacy and security standards including but not limited to 45 CFR 155.260
- Conflict of interest standards
- Applicants must be capable of commencing the activities funded through this RFA no later than 30 days from the date that contracts resulting from this RFA are approved by OSC.

B. Navigator Program Models

IPA/Navigator grant awards will be made to individual organizations and to organizations that choose to serve as a lead with one or more subcontractor organizations that provide IPA/Navigator Program services. Any subcontractors providing IPA/Navigator Program services must meet all of the minimum eligibility criteria in Section II (A) of this RFA.

An Applicant may only submit one Application. Applicants are neither permitted to submit their own Application and also apply as a subcontractor in a separate Application, nor permitted to apply as a subcontractor in more than one Application. DOH reserves the right to disqualify any Applicant named in more than one Application.

III. Project Narrative

IPA/Navigator Contractors must provide the IPA/Navigator Program services set forth in this Section III of the RFA as follows:

A. Provide In Person Assistance

- Provide efficient and cost effective, education and in person enrollment services to potential enrollees. Additional information regarding budget constraints is provided in Section V(A)(13) of this RFA.
- Place sufficient numbers of IPA/Navigator staff at sites that are accessible and convenient to the population being served. Sites should include a range of locations that attract as many potential enrollees as possible. IPA/Navigators should be designated to target vulnerable and hard-to-reach populations.
- Have IPA/Navigator staff available during non-traditional hours such as early mornings, evenings and weekends. Applicants will need to know the patterns in the community to determine the best hours of operation. For example, in some communities, early morning hours may be better than evening hours.
- Have IPA/Navigator staff available who are culturally and linguistically representative of the populations being served.
- Provide Program services to all potential enrollees.
 - Applicants are expected to provide IPA/Navigator Program services to the Tribe(s) or entire geographic area they propose to serve even if the individual is of a different cultural background than the IPA/Navigator Contractor generally serves.

B. Provide Education to Potential Enrollees about the NYHBE

- Educate potential enrollees about the types of health insurance programs offered through the NYHBE.
- Educate potential enrollees about different forms of out of pocket expenses (including premiums, copays, deductibles, and cost sharing).
- Educate eligible potential enrollees about Actuarial Value/Metal Tiers.
- Inform individuals that the NYHBE is the only venue to apply for IAPs.

- Inform small businesses that the NYHBE is the only venue to apply for small business tax credits.

C. Provide Education to Potential Enrollees on the Insurance Affordability Programs (IAPs) and Health Plans available to them.

- Inform potential enrollees about tools available through the NYHBE online web portal to select a health plan, such as:
 - Filters to narrow plan choice
 - Quality ratings for health plans
 - Provider networks
- For individuals applying for IAP (IAP applicants):
 - Inform IAP applicants that eligibility for IAPs must be re-determined each year.
 - Inform IAP applicants that the IRS will reconcile APTC/CSR benefits each year.
 - Counsel all IAP applicants eligible to participate in a managed care plan on the selection of a participating health plan, describe the important role of a primary care provider (PCP) and the benefits of preventive health care.
 - Educate eligible IAP applicants about managed care and how to access benefits in a managed care environment. This includes the distribution of DOH approved materials describing the opportunities for financial assistance through IAPs and the direct purchase of QHPs.
- Counsel small businesses on their QHP options in the NYHBE.
- Counsel small business employees on the plans available to them through the SHOP Exchange.
- Agree to operate as neutral parties in the health plan selection process to assure that each potential enrollee is allowed to make an informed decision on health plan selection.
- Distribute New York State’s health insurance information materials in English and other appropriate languages. These include brochures and information developed by DOH to explain health insurance coverage options available through Medicaid, CHIP, and QHPs (including APTC and CSRs, and direct purchase).

D. Assist with the Appropriate Health Insurance Enrollment Applications

- In the individual market, IPA/Navigators will provide eligible individuals with assistance in completing the enrollment application for IAPs and in directly purchasing a QHP (and, if applicable, supplemental plan) online. In all but rare instances, enrollment applications must be completed and submitted through the NYHBE on-line web portal.

- For individuals applying for financial assistance for an IAP, the Exchange will first determine if the individual is eligible for Medicaid, CHIP, or BHP (if established by the State). Individuals who are not eligible for Medicaid, CHIP or BHP will be screened for APTC and CSR benefits. IPA/Navigators will provide APTC eligible individuals with assistance in calculating their maximum APTC and in making decisions about how much of the tax credit to apply to their QHP purchase. IPA/Navigator staff will assist individuals in understanding the opportunity for CSR benefits and in obtaining any reductions for which they are eligible.
- In the SHOP Exchange, IPA/Navigator staff will provide assistance to small businesses that are providing health insurance to their employers through the SHOP. All enrollment applications must be completed and submitted through the NYHBE on-line web portal. IPA/Navigator staff will also inform small businesses about the small business tax credit.
- In the SHOP Exchange, IPA/Navigator staff will provide assistance to small business employees applying for health insurance in the Exchange. Applications must be completed and submitted through the NYHBE portal.

E. Provide Assistance at Renewal

- For individuals and small business employees enrolled in health plans in the NYHBE but not enrolled in an IAP, IPA/Navigators will provide assistance with renewal of health plans. IPA/Navigators will also provide assistance to small businesses with health plan renewal.
- IPA/Navigators may also assist individuals in renewing their eligibility for IAPs. The ACA requires the Exchange to first conduct an administrative renewal using federal and state data before sending out a renewal. It is expected that many enrollees will be administratively renewed without the need for assistance. However, IPA/Navigators remain an option for in person assistance at renewal.

F. Provide Additional Information as Required by DOH

- Provide information to individuals applying for Medicaid coverage with information regarding how to obtain informational booklets LDSS-4148A, LDSS-4148B, and LDSS-4148C (also referred to as Books 1, 2 and 3).
- Verbally inform each public program eligible household containing an individual under the age of 21 or a pregnant woman about the availability of services under the Child/Teen Health Program.
- Provide information on other State health insurance programs, for which individuals may be eligible.
- Distribute additional materials as instructed by DOH.

- Provide individuals with general counseling on the potential for Medicaid spenddown, when appropriate. In specific rare circumstances, such as an individual who needs long-term care services, a QHP may not be the best option. IPA/Navigators will be required to understand when to counsel an individual about the spenddown program and to refer the individual and their enrollment application materials to the LDSS for a Medicaid eligibility determination.
- Advise adults who are found Medicaid eligible on the need to pursue available support, including an overview of current child support enforcement policies and pursuit of medical support from non-custodial parents, when appropriate. This includes determining when Section IV-D requirements apply, determining the initial willingness of the individual to cooperate and implications regarding cooperation, and determining whether the individual is claiming “good cause” for not pursuing support. The IPA/Navigator will determine whether the individual is willing to cooperate in pursuing medical support available from an absent parent or spouse. While eligibility for children is not affected by compliance with Section IV-D requirements, adults who fail to cooperate with child support enforcement requirements, absent good cause, will not be eligible for Medicaid.
- Provide referral to the LDSS for potential enrollees who indicate they are blind or disabled. The IPA/Navigator will provide the potential enrollee with information about the potential benefit of a full Medicaid assessment by the LDSS. The IPA/Navigator must allow the individual to enroll in a QHP, if he/she chooses, while they pursue a Medicaid eligibility determination on the basis of a disability.
- Provide general guidance on an individual’s need to pursue other sources of income prior to applying for Medicaid. Individuals who appear eligible for certain benefits, such as unemployment insurance or worker’s compensation, and have not applied for these potential sources of income, are required to provide evidence that they are pursuing such financial supports.

G. Comply with Certification Requirements, Provide Technical Assistance and Ongoing Training

- Assure that all applicable IPA/Navigator and subcontractor staff are certified prior to providing IPA/Navigator Program services.
- Assure that all applicable IPA/Navigator and subcontractor staff participate in DOH sponsored training programs, or other training approved by DOH, including use of the “train-the-trainer” approach.
- Attend any DOH regularly scheduled sessions for Program information, updates, ongoing training and technical support. Attendance at these sessions may be all-inclusive or particular to the topics addressed.

H. Comply with DOH Monitoring Requirements

- Comply with DOH monitoring activities, including unannounced site visits and audits.

I. Monitor the Productivity of IPA/Navigators

- The IPA/Navigator Contractor shall monitor the productivity (enrollment applications per IPA/Navigator FTE week) of their IPA/Navigators, including its subcontractor(s) IPA/Navigators. It is anticipated that the IPA/Navigator Contractor will be able to generate productivity reports from the NYHBE web portal. IPA/Navigator Contractors will be expected to make adjustments to low performing IPA/Navigator staff, as well as its subcontractor(s), if any. If, after a few months of technical assistance and training, an IPA/Navigator fails to meet satisfactory productivity levels, the IPA/Navigator Contractor should make appropriate staff and subcontractor staff changes.
- The IPA/Navigator Contractor shall develop subcontracts that include provisions to enforce improved productivity. DOH will **not** continue to reimburse IPA/Navigator Contractors for substandard performance.

J. Information Dissemination

- The DOH will provide outreach material for the IPAs/Navigator Contractors to use, such as brochures and fliers.
- IPA/Navigators shall provide information and assist potential enrollees in locations approved by DOH. An emergency room is not an approved location. IPA/Navigators are also prohibited from telephone cold-calling, door-to-door solicitations at the homes of prospective enrollees and offering incentives of any kind to join a public or commercial plan in the NYHBE.
- DOH conducts broad outreach activities on an ongoing basis. DOH will widely advertise available programs. Any material developed by an IPA/Navigator Contractor must be reviewed and approved by the DOH prior to use.

K. IPA/Navigators Follow DOH Appeal/Complaint Process

- The NYHBE will have policies and procedures for potential enrollees to file appeals/complaints. IPA/Navigators will be responsible for informing potential enrollees of their appeals rights.
- Potential enrollees in the Individual Exchange may appeal the following:
 - IAP decisions (e.g., found eligible for QHP with an APTC and CSR reduction, attestation supports Medicaid eligibility).

- Level of APTC and CSR benefit.
- Finding of affordable employer sponsored health insurance or other minimum essential health coverage.
- Denial of special enrollment period.
- Not recognized as member of a Federally Recognized Tribe which results in the denial of a special enrollment period or greater cost-sharing reduction.
- Potential enrollees in the SHOP Exchange may appeal the following:
 - Finding that an employer is not qualified.
 - Finding that a potential enrollee is not a qualified employee.

Information regarding the right to file appeals/complaints will be discussed with all potential enrollees. Information on this subject will also be included in all pre-enrollment materials.

IPA/Navigators will be required to track and report the number and type of appeals to the DOH in a format to be determined.

L. Maintain Confidentiality, Privacy and Security Requirements

- When IPA/Navigators create, collect or use personally identifiable information (“PII”) to perform their obligations under the Program, they may only use or disclose such PII to the extent necessary to carry out such obligations.
- IPA/Navigators and their subcontractors and agents must establish and implement privacy and security standards for the creation, collection and use of PII that are the same as or are more stringent than that of the Exchange privacy and security requirements for PII detailed in 45 CFR 155.260. Such privacy and security standards must be consistent with the following principles:
 - Potential enrollees should be provided with a simple and timely means to access and obtain their PII in a readable form and format;
 - Potential enrollees should be provided with a timely means to dispute the accuracy or integrity of their PII and to have erroneous information corrected;
 - There should be openness and transparency about policies, procedures, and technologies that directly affect potential enrollees and/or their PII;
 - Potential enrollees should be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their PII;

- PII should be created, collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s) under the Program and never used to discriminate;
- Persons and entities should take reasonable steps to ensure that PII is complete, accurate, and up-to-date to the extent necessary for the person's or entity's intended purposes and has not been altered or destroyed in an unauthorized manner;
- PII should be protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure; and
- PII is only used by or disclosed to those authorized to receive or view it.
- The above listed principles should be implemented, and adherence assured, through appropriate monitoring and supervision. Methods should be in place to report and mitigate non-adherence and breaches.
- For the purposes of implementing safeguards for the protection of PII, IPA/Navigators must establish and implement operational, technical, administrative and physical safeguards that are consistent with any applicable laws to ensure:
 - The confidentiality, integrity, and availability of PII created, collected, used, and/or disclosed by IPA/Navigators;
 - PII is only used by or disclosed to those authorized to receive or view it;
 - Return information, as such term is defined by section 6103(b)(2) of the Internal Revenue Code, is kept confidential under section 6103 of the Code;
 - PII is protected against any reasonably anticipated threats or hazards to the confidentiality, integrity, and availability of such information;
 - PII is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law; and
 - PII is securely destroyed or disposed of in an appropriate and reasonable manner and in accordance with retention schedules.
- IPA/Navigators and their subcontractors and agents must monitor, periodically assess, and update the security controls and related system risks to ensure the continued effectiveness of those controls.
- IPA/Navigators and their subcontractors and agents must develop and utilize secure electronic interfaces when sharing PII electronically.

Information obtained by IPA/Navigators, and subcontractors and agents in providing services under the Program may be shared with the NYHBE for the purpose of facilitating eligibility determinations into IAPs, QHPs or other plans (if offered), provided that the potential enrollee consents on the NYHBE enrollment application to the release of his or her personal, financial and any other information needed for eligibility and enrollment. IPA/Navigators shall not use or disclose financial information, social security numbers, other personally identifiable information or health information other than as needed to provide IPA/Navigator Program services as part of the IPA/Navigator Program. The IPA/Navigator shall use appropriate safeguards to prevent any other use or disclosure of such information and shall report any other use or disclosure of such information to DOH. IPA/Navigators shall not maintain any records of financial information, social security numbers, other personally identifiable or health information of the enrollees/potential enrollees to whom they are providing assistance, other than as needed to provide IPA/Navigator Program services as part of the IPA/Navigator Program. IPA/Navigators shall comply with any applicable laws governing the confidentiality of financial information, social security numbers, personally identifiable information and health information, including Medicaid data.

If an Applicant is awarded funding as an IPA/Navigator Contractor, it will be required to:

- Submit to DOH a completed and signed “Certification Regarding State and Federal Confidentiality Requirements for IPA/Navigator Contractors” form found in Attachment 10.
- Maintain a file of completed “Certification Regarding State and Federal Confidentiality Requirements for IPA/Navigator Subcontractors” signed by each IPA/Navigator at the time of hire, and submit copies to DOH.
- Ensure upon termination of the IPA/Navigator Contract with DOH that Program data reporting is complete, and certify that any electronic or paper copies of confidential data collected in connection with the Contract are destroyed.

Under the Health Insurance Portability and Accountability Act (HIPAA), comply with the Federal HIPAA Business Associate Agreement which is Appendix H of the DOH Grant Contract in Attachment 1 of this document. To the extent that successful applicants are facilitating enrollment in State health insurance programs (e.g., Medicaid and Child Health Plus), they must comply with HIPAA as business associates.

IV. Administrative Requirements

A. Issuing Agency

This RFA is issued by the New York State Department of Health (DOH), New York Health Benefit Exchange. The DOH is responsible for the requirements specified herein and for the evaluation of all Applications.

B. Question and Answer Phase:

All responses and requests for information concerning this RFA by a prospective Applicant or an Applicant, or a representative or agent of a prospective Applicant or Applicant, should be directed to the contact listed below. In order for DOH to address questions efficiently, prospective Applicants are requested to send their inquiry in writing by email to the email address below. Inquiries of a technical nature may result in either a written response or a referral to the appropriate individual for a verbal response. **Questions are of a technical nature if they are limited to how to prepare your Application (e.g., formatting) rather than relating to the substance of the Application.** To the extent possible, written questions concerning a specific requirement of the RFA should cite the relevant section of the RFA for which clarification is sought. Questions of this nature will be responded to by the DOH in writing and such questions and answers, as well as any updates and/or modifications to the RFA, will be posted on the Department's public website as listed below, unless the party submitting a question maintains that the question/answer will contain confidential and/or proprietary information.

CONTACT

NAME: Ms. Margaret Silverberg

EMAIL: navrfal3@health.state.ny.us

ADDRESS: New York Health Benefit Exchange
NYS Department of Health
Corning Tower, Suite 2580
Albany, New York 12237

This RFA has been posted on the Department's public website at: <http://www.health.ny.gov/funding/>. Questions and answers, as well as any updates and/or modifications, will also be posted on the Department's website. All such updates will be posted by the date identified on the cover sheet of this RFA, unless notified otherwise.

If prospective Applicants would like to receive notification when updates/modifications are posted (including responses to written questions), please complete and submit a

Letter of Interest form (see Attachment 2). Prospective Applicants may also use the Letter of Interest to request actual (hard copy) documents containing updated information. LDSSs that desire to provide in-person assistance to MAGI applicants should use the Letter of Interest form to notify DOH of such interest.

Submission of a Letter of Interest is not a requirement for submitting an Application.

C. Applicant Conference

An Applicant Conference will **not** be held for this RFA.

D. How to file an Application

Applications must be **received** at the following address by the date and time posted on the cover sheet of this RFA. Late Applications may not be accepted*.

New York Health Benefit Exchange
NYS Department of Health
Attn: Ms. Margaret Silverberg
Corning Tower, Suite 2580
Albany, New York 12237

Applicants shall submit one (1) original, signed Application and three (3) copies. Application packages should be clearly labeled with the name and number of the RFA as listed on the cover of this RFA document. **Applications will not be accepted via fax or e-mail.**

* It is the Applicant's responsibility to ensure that Applications are delivered to the address above prior to the Application Due Date and Time specified on the cover of this RFA. Late Applications due to a documentable delay by the carrier may be considered at the DOH's discretion.

E. THE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO:

1. Reject any or all Applications received in response to this RFA.
2. Withdraw the RFA at any time, at the Department's sole discretion.
3. Make an award under the RFA in whole or in part.
4. Disqualify any Applicant whose conduct and/or Application fails to conform to the requirements of the RFA.
5. Seek clarifications and revisions of Applications.
6. Use Application information obtained through site visits, management interviews and the State's investigation of an Applicant's qualifications, experience, ability or financial standing, and any material or information submitted by the Applicant in

response to DOH's request for clarifying information in the course of evaluation and/or selection under the RFA.

7. Prior to Application opening, amend the RFA to correct errors or oversights, or to supply additional information, as it becomes available.
8. Prior to Application opening, direct Applicants to submit Application modifications addressing subsequent RFA amendments.
9. Change any of the scheduled dates.
10. Waive any RFA requirements that are not material.
11. Award more than one contract resulting from this RFA.
12. Conduct contract negotiations with the next ranked responsible Applicant, should the Department be unsuccessful in negotiating with the selected Applicant.
13. Utilize any and all ideas submitted in the Applications received.
14. Unless otherwise specified in the RFA, every offer is firm and not revocable for a period of 60 days from the Application Due Date.
15. Waive or modify minor irregularities in Applications received after prior notification to the Applicant.
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 Applicant's Application and/or to determine an Applicant's compliance with the requirements of the RFA.
17. Negotiate with successful Applicants within the scope of the RFA in the best interests of the State.
18. Eliminate any mandatory, non-material RFA requirement(s) that cannot be complied with by all Applicants.
19. Awards grants based on geographic or regional considerations to serve the best interests of the State.

F. Term of Contract

Any contract resulting from this RFA will be effective only upon approval by OSC.

It is expected that the IPA/Navigator Contracts will be effective for the period 8/1/2013 through 9/30/2018, contingent on IPA/Navigator Contractor performance and the availability of funding.

G. Payment & Reporting Requirements of Grant Awardees

1. DOH may, at its discretion, make advance payments under the IPA/Navigator Contracts, but only to not-for-profit IPA/Navigator Contractors and in an amount not to exceed 25% percent of the amount of IPA/Navigator Contractor's Year #1 amount. For profit and government contractors may not receive advance payments.

The IPA/Navigator Contractor will be required to submit monthly vouchers and required reports of expenditures to the DOH payment office designated in the IPA/Navigator Contractor's Contract. IPA/Navigator Contractors shall provide complete and accurate billing vouchers to DOH's designated payment office in order to receive payment. Billing vouchers submitted to DOH must contain all information and supporting documentation required by the Contract, DOH and OSC. Payment for vouchers submitted by the IPA/Navigator Contractors shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner of DOH (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. IPA/Navigator Contractors shall comply with OSC's procedures to authorize electronic payments. Authorization forms are available at the OSC's website at www.osc.state.ny.us/epay/index.htm, by email at: epayments@osc.state.ny.us or by telephone at 855-233-8363. IPA/Navigator Contractors acknowledge that they will not receive payment on any vouchers submitted under the Contract if it does not comply with OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Payment of such vouchers by the State (DOH) shall be made in accordance with Article XI-A of the State Finance Law.

2. IPA/Navigator Contractors will be required to submit the following periodic reports:
 - DOH will provided IPA/Navigator Contractors with a progress report outline. Such progress reports must be submitted no later than 30 days following the end of the reporting period;
 - Monthly expenditure report; and
 - Annual equipment inventory.

All payment and reporting requirements will be detailed in the IPA/Navigator Contract.

H. Vendor Identification Number

Effective January 1, 2012, in order to do business with New York State, vendors must have a vendor identification number. As part of the Statewide Financial System (SFS), the Office of the State Comptroller's Bureau of State Expenditures has created a

centralized vendor repository called the New York State Vendor File. In the event of an award and in order to initiate a contract with DOH, vendors must be registered in the New York State Vendor File and have a valid New York State Vendor ID.

If already enrolled in the Vendor File, please include the Vendor Identification number on the Application cover sheet. If not enrolled, to request assignment of a Vendor Identification number, please submit a New York State Office of the State Comptroller Substitute Form W-9, which can be found on-line at: http://www.osc.state.ny.us/vendors/substitute_formw9.pdf or by referencing Attachment 9 (Statewide Vendor File Registration SFS Portal Format).

Additional information concerning the New York State Vendor File can be obtained on-line at: http://www.osc.state.ny.us/vendor_management/index.htm, by contacting the SFS Help Desk at 855-233-8363 or by emailing at helpdesk@sfs.ny.gov.

I. Vendor Responsibility Questionnaire

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

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

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

J. General Specifications

1. By signing the "Application Form" each Applicant attests to its express authority to sign on behalf of the Applicant.
2. IPA/Navigator Contractors must possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of the Contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
3. Submission of an Application indicates the Applicant's acceptance of all conditions and terms contained in this RFA, including the terms and conditions of the

Contract. Any exceptions allowed by DOH during the Question and Answer Phase (Section IV.B.) must be clearly noted in a cover letter attached to the Application.

4. An Applicant may be disqualified from receiving awards if such Applicant or any subsidiary, affiliate, partner, officer, agent or principal thereof, or anyone in its employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
5. Provisions Upon Default
 - a. The services to be performed by the Applicant shall be at all times subject to the direction and control of DOH as to all matters arising in connection with or relating to the Contract.
 - b. In the event that a IPA/Navigator Contractor, through any cause, fails to perform any of the terms, covenants or promises of the Contract, DOH acting for and on behalf of the State, shall thereupon have the right to terminate the Contract by giving notice in writing of the fact and date of such termination to the IPA/Navigator Contractor.
 - c. If, in the judgment of DOH, a IPA/Navigator Contractor acts in such a way which is likely to or does impair or prejudice the interests of the State, DOH acting on behalf of the State, shall thereupon have the right to terminate the Contract by giving notice in writing of the fact and date of such termination to the IPA/Navigator Contractor. In such case the IPA/Navigator Contractor shall receive equitable compensation for such services as shall, in the judgment of DOH, have been satisfactorily performed by the IPA/Navigator Contractor up to the date of the termination of the Contract, which such compensation shall not exceed the total cost incurred for the work which the IPA/Navigator Contractor was engaged in at the time of such termination, subject to audit by OSC.

K. Public Information

Disclosure of information related to this RFA process and any resulting contracts shall be permitted consistent with the laws of the State of New York and specifically the Freedom of Information Law (FOIL) contained in Article 6 of the Public Officers Law. Information constituting trade secrets or information that if disclosed would cause substantial injury to the competitive position of the subject enterprise for purposes of FOIL shall be clearly marked and identified as such by the Applicant upon submission. Determinations regarding disclosure will be made when a request for such information is received by the DOH Records Access Office.

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

IPA/Navigators must comply with the provisions of Appendix M of the RFA and complete the forms referenced therein as attached to the RFA as Attachment 13. Applicants should be aware that the goals set forth therein shall apply only to that portion of their Budget allocated for Other-Than-Personnel costs and only to the extent that such costs are reimbursed with State funds (i.e., 24% of the total amount of the contract award)

M. Appendices

The following will be incorporated as appendices into any contract(s) resulting from this RFA.

APPENDIX A Standard Clauses for All New York State Contracts

APPENDIX A-1 Grant Multi-Year Contract

APPENDIX B The Applicant's Final Approved Detailed Budget

APPENDIX C Payment and Reporting Schedule

APPENDIX D The Applicant's Final Approved Start- Up Work Plan

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

Workers' Compensation, for which one of the following is incorporated into the Contract as **Appendix E-1**:

- **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; OR
- **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR
- **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

Disability Benefits coverage, for which one of the following is incorporated into the Contract as **Appendix E-2**:

- **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;
OR

- **DB-120.1** -- Certificate of Disability Benefits Insurance
OR
- **DB-155** -- Certificate of Disability Benefits Self-Insurance

NOTE: Applicants should not include the Workers' Compensation and Disability Benefits forms with your Application. These documents will be requested as a part of the contracting process should the Applicant receive an award.

APPENDIX H Federal Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Agreement

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

V. Completing the Application

A. Application Content

Respond to each of the statements and questions listed below. Number/letter your narrative to correspond to each element in the order presented. Be specific and complete in your responses. Do not leave any element blank. If an element is not relevant to your organization or Application, indicate such and explain why that is the case.

1. Application Checklist and Cover Sheet

A completed Application Checklist (Attachment 3) and Cover Sheet (Attachment 4) should be included with the Application. The Application Checklist is provided for use of Applicants to ensure that all of the requested information is included with their Application.

2. Program Summary

Applicants should provide a one-page summary of the proposed IPA/Navigator Program. Applicants should briefly describe the target area or Tribe(s) and an identification of the target population to be served, including an estimated number of under and uninsured in the target population that the Applicant expects to serve if selected given the Maximum Award per Borough/County per Year and Maximum Per County Add-On limits set forth in Section V.C of the RFA. (Please see Attachment 11- Urban Institute Report for population information by region. The report includes demographic information on the population that is currently uninsured and is expected to become insured at full ACA implementation. The report does not include the entire population that is expected to enroll in coverage through the Exchange.) The Applicant should present a broad overview of education and enrollment assistance strategies, identify the types of sites to be used by it and its subcontractor(s), if applicable, and describe how it will manage each step of the process from outreach through enrollment assistance to submission of an enrollment application to the NYHBE.

3. Service Area

Applicants should describe the target area(s) or Tribe(s) they propose to serve. The Application should include the geographic scope of activities, a description of the size and demographics of the target population, as well as the number of potential enrollees that the Applicant expects to successfully enroll or renew in a health plan given the Maximum Award per Federally Recognized Tribe/Urban Indian Organization or Borough/County per Year and Per County Add-On limits set forth in Section V.C of the RFA. Applicants that plan on using subcontractors should provide this information for each subcontractor.

Additionally, the following should be included:

- Applicants (and their subcontractors) should have a known presence in the community. Applicants should demonstrate how they (and their subcontractors) are a resource to their community.
- A description of the community and populations that will be targeted, including the cultural and language characteristics of the area.
- An explanation how the Applicant’s participation in the IPA/Navigator Program will address an unmet community need and why the Applicant is qualified to provide IPA/Navigator services.

4. Applicant Organization

The following information should be provided regarding the Applicant:

- The organization’s mission, organizational structure, the services the organization provides and the role it will play in the Program.
- In order to qualify as a “community and consumer-focused nonprofit” as described in 45 CFR 155.210(c)(2)(i), Applicants must demonstrate their experience serving community members and consumers. Applicants indicating that they are “community and consumer-focused nonprofits” must describe in an addendum to their Application of no more than one page: 1) their commitment to a particular community or communities; and 2) their experience advocating for consumers in a community. Community based non-profit organizations that do not have consumer-specific experience are eligible to apply for the IPA/Navigator Program, but do not qualify as a “community and consumer-focused nonprofit.” If DOH deems that an Applicant has inappropriately classified itself as a “community and consumer-focused nonprofit,” DOH will reclassify the Applicant.
- In order to qualify as a Federally Recognized Tribe, Applicants must attest that they are recognized as such by the Bureau of Indian Affairs and published in the Federal Register, 77 FR 47868 (Aug 10, 2012). If DOH deems that an Applicant has inappropriately classified itself as a Federally Recognized Tribe, DOH will reclassify the Applicant.
- In order to qualify as an Urban Indian Organization, Applicants must attest to their compliance with the Indian Health Care Improvement Act. 25 U.S.C. 1603(29). If DOH deems that an Applicant has inappropriately classified itself as an Urban Indian Organization, DOH will reclassify the Applicant.
- Health care providers must describe their compliance with each of the provider-specific eligibility requirements described in Section II(A)(1) in an addendum of no more than one page. DOH will disqualify health care providers that do not meet the health care provider-specific eligibility requirements.

- Current and past experience as a State contractor, including funds received and services provided (during the last five years) and the organization's compliance with contractual requirements including vouchering, reporting and responsiveness to the entity providing the funding. Applicants with current and past experience as a DOH contractor should also describe their process for responding to inquiries or requests for information from DOH.
- A statement demonstrating the support of the Applicant's board of directors, if applicable, to the Program's success and the organization's commitment to the community and the target population.
- Any Applicant using a subcontractor(s), must provide letters of commitment from each subcontractor. Such letters must include a statement demonstrating the support of the Applicant's board of directors and should also describe the history of the Applicant's working relationship with the subcontractor(s). If an Applicant does not have a history of working with the a proposed subcontractor(s), the Applicant should describe the steps that will be taken to quickly establish such relationships.
- Applicants must demonstrate the ability to resolve temporary operational problems (such as an unexpected support staff shortage or a physical site problem) through overall contractor support and collaboration. Applicants should provide an example, based on past experience, that demonstrates an atmosphere of such internal collaboration and support.
- Applicants should describe their ability to comply with timelines for voucher submissions and budget modifications. During the Contract period, vouchers should be submitted monthly to DOH 30 days after the end of the reporting period. Proposed budget modifications must be submitted to DOH not less than 30 days prior to implementation and approved prospectively. At no time will retroactive budget modifications be considered.

5. Enrollment Strategy and Experience

Provide an explanation how the Applicant proposes to deliver Program services to potential enrollees, including its proposed strategy for enrollment in public programs and enrollment assistance for the Exchange including:

- Statement indicating that the Applicant and its subcontractors will serve all potential enrollees (individuals, small businesses and small business employees) in the Tribe(s) or geographic area that it proposes to serve.
- The approaches that will be undertaken to reach potential enrollees. In particular, Applicants should identify strategies that will be implemented to reach vulnerable and hard to reach populations. If an Applicant is using different strategies to reach each segment of potential enrollees (individuals, small

business and small business employees), the Applicant must highlight the differences between its enrollment strategies.

- The number of individuals that the Applicant proposes will be employed by the Applicant and by its subcontractor(s), if applicable, to function as IPAs/Navigators, and justification for that number. Provide the number of program, support and other staff that the Applicant proposes to employ and their functions. Discuss all employees' qualifications, prior experience working with target population and language capabilities.
- Applicants should describe, for each subcontractor, their prior experience working with the subcontractor and why, based on their experience, they believe the subcontractor will successfully enroll potential enrollees in the health insurance options available through the Exchange.
- Give the estimated number of enrollee applications, in total and broken down by county/borough, the Applicant proposes will be submitted per month to the Exchange. Explain how the estimate was derived. Applicants, where possible, should base their projections on prior experience assisting their target population in applying for benefits including health insurance and any other means tested program.
- The Applicant's current or planned internal program procedures and timeframes for handling enrollment applications including wait times for appointments, strategies to minimize "no shows" (such as reminder postcards or phone calls the day in advance), completion of enrollment applications, and submission of enrollment applications to the Exchange.
 - Applicants with current or recent enrollment assistance contracts should provide details on their current or recent enrollment assistance programs.
 - Applicants without prior DOH enrollment assistance contracts should present information based on comparable activity which demonstrates promptness in customer assistance and an ability to handle multi-step processing efficiently.
- A statement indicating that the Applicant and its subcontractor(s), if any, staff performing IPA/Navigator Program services will present potential enrollees with unbiased information and assistance for plan selection.
- A statement indicating how the Applicant and its subcontractor(s), if any staff performing IPA/Navigator Program will inform potential enrollees of their appeals rights as described in Section III.K of this RFA.
- A statement that the Applicant and its subcontractor(s), if any staff performing IPA/Navigator Program will complete and comply with any standard operating procedures or protocols for the NYHBE.

6. Identification of Proposed Locations and Site Schedules

- A detailed description of the potential locations where IPA/Navigator Program services will be provided and how these locations will enhance accessibility for enrollment assistance in the proposed target area, including the days, hours and language capabilities during which IPA/Navigators will be available at each site. Describe what languages will be spoken at each location and how those locations are designed to reach the intended populations. Describe what accommodations are available for providing IPA/Navigator services to disabled individuals. During the Contract term, IPA/Navigator Contractors will be required to update the list as sites or times change. If approved by DOH, the IPA/Navigator Contractors may offer IPA/Navigator services at additional sites not provided on the list, or if circumstances warrant, may modify the previously approved sites as needed.
- A schedule of expected days and hours of operation including weekend and evening hours for each location and how this schedule supports the Applicant's proposed number of enrollment applications to be submitted per month.
- In compliance with the specifications in Section II(A)(3), a detailed description of the technology infrastructure available at each location including the number of computer terminals available for use, the type of internet connection (dial up, high speed, or other), type(s) of web browser used to connect to the NYHBE online web portal, and scanning and printing capability.
- A statement indicating that the Applicant will update sites in the DOH IPA/Navigator Program site directory on a real time basis.
- A completed form listing the proposed Locations and Site Schedules form (Attachment 12) should be included with the Application.
- Provide written assurance to comply with applicable Americans with Disabilities Act (ADA) standards to assure that IPA/Navigator sites, services, programs, and activities are readily accessible to and usable by individuals with disabilities, including but not limited to, people with visual, auditory, cognitive or mobility disabilities. IPA/Navigator Contractors may not discriminate against an individual with a disability, as defined in Title II of the ADA (42USC §12131 - 12134 and the regulations contained in 28 CFR Part 35) and section 504 of the Rehabilitation Act of 1973, in providing services, programs, or activities.

7. Conflicts of Interest

Applicants, as an addendum to their Application, must provide the following information:

- A statement attesting that the Applicant and its subcontractors are none of the entities prohibited from serving as an IPA/Navigator:
 - Insurers and their subsidiaries.
 - Provider entities (including, but not limited to, hospitals, clinics, and physician practices) that are directly or indirectly **owned by**, or exclusively contract with, a single insurer or its subsidiaries.
 - Provider entities (including, but not limited to, hospitals, clinics, and physician practices) that directly or indirectly **own** a single insurer or its subsidiaries.
 - Associations and their subsidiaries that include members of, or lobby on behalf of, the insurance industry
 - Entities receiving direct or indirect consideration from insurers in connection with the enrollment of any individuals or employees in a health plan or supplementary plan.
 - Brokers or agents that opt to serve as IPA/Navigators may not receive direct or indirect compensation or other consideration from health insurers or their subsidiaries. Such consideration includes, but is not limited to, commissions for renewals, pension income, and other sources of income from health insurers.

- Applicants and their subcontractors must either: 1) attest that they do not receive direct or indirect consideration from a health insurer that is not in connection with enrollment in a health plan or supplementary plan; or 2) provide the monetary or other value of such consideration and the percentage of total revenue that comes from such sources, the terms and conditions for receiving such consideration and a plan to ensure that this consideration will not pose a conflict of interest for the entity to serve as an IPA/Navigator. The Applicant will be disqualified if DOH deems the conflict of interest mitigation plan to be insufficient.

- Applicants and their subcontractors must either: 1) attest that they do not have an ownership stake or other investments in a health or supplementary insurer or its subsidiaries; or 2) provide an itemized list of such investments, the monetary value of such investments, the percentage of the total investment portfolio dedicated to such investments, and a plan to ensure that this investment will not pose a conflict of interest for the entity to serve as an IPA/Navigator. The Applicant will be disqualified if DOH deems the conflict of interest mitigation plan to be insufficient.

- A statement indicating how the Applicant and its subcontractors will ensure that employees providing IPA/Navigator services will adhere to the same conflict of interest standards described in the preceding three paragraphs. The Applicant will be disqualified if DOH deems the conflict of interest mitigation plan to be insufficient.
- Applicants should also indicate if their employees that provide IPA/Navigator services or their subcontractors' employees that provide IPA/Navigator services have any immediate family members who are employed by the following entities:
 - Insurers or their subsidiaries.
 - Provider entities (including, but not limited to, hospitals, clinics, and physician practices) that are directly or indirectly owned by, or exclusively contract with, a single insurer or its subsidiaries.
 - Provider entities (including, but not limited to, hospitals, clinics, and physician practices) that are directly or indirectly own a single insurer or its subsidiaries.
 - Associations and their subsidiaries that include members of, or lobby on behalf of, the insurance industry.
 - Entities receiving direct or indirect consideration from insurers in connection with the enrollment of any individuals or employees in a health plan or supplementary plan.
 - Broker or agent entities that enroll individuals and/or small businesses in health insurance products.

Awardees will be expected to update this information annually and as new IPA/Navigator staff are hired.

- DOH reserves the right to require awardees to disclose potential conflicts of interest to consumers. Applicants should include a statement indicating how they would disclose potential conflicts of interest to consumers.
- DOH will monitor IPA/Navigator assisted enrollment. Contracts with IPA/Navigators will permit audits by DOH and other authorized entities.

8. Quality Assurance

- A proposed schedule of frequent and regular communication between the Applicant and its subcontractor(s), if applicable, and with staff providing IPA/Navigator services.

- A plan for monitoring the number of enrollee applications facilitated by IPA/Navigator staff and, if applicable, its subcontractor(s) staff. This should include a plan for correcting non-and under-performance.
- A statement demonstrating that the Applicant will not fund non- or under-performing subcontractors at the original agreed upon amount. Also, include a description of how subcontracting arrangements would be adjusted.

9. Training

- A statement demonstrating that IPA/Navigator staff will undergo training and adhere to the official DOH IPA/Navigator Program training curriculum.
- A plan to provide ongoing training and technical assistance to all IPA/Navigator staff, including regularly scheduled meetings and in-service topics. This information should include the process for training new IPA/Navigator staff.

10. Privacy and Security

A statement demonstrating that if awarded funding, the Applicant agrees to comply with the privacy and security standards described in Section III (L). Failure to agree to the privacy and security standards described in Section III (L) may result in disqualification.

11. Readiness/Start-Up Work plan

Include a readiness Work Plan using the form in Attachment 7. DOH intends to fund Applicants that can begin providing IPA/Navigator Program services no later than October 1, 2013. Applicants should include a statement that, if awarded funding, the Applicant will sign and submit the IPA/Navigator Contract to DOH within 30 days of contract receipt (refer to Attachment 1 for a copy of DOH's boilerplate Multi-Year Grants Contract). The Applicant should describe the process of how it will be able to execute its Contract within 30 days of notice of selection by the DOH. If it is unlikely that an Applicant will be able to meet this timeframe, the Applicant should explain the circumstances creating this delay, and define the expected amount of time required for completion of the contract process. Applicants should discuss their past compliance with such DOH requirements, including reasons for failure to comply. The Start-Up Work Plan form lists the major activities and expected outcomes/deliverables. The Applicant should include timeframes and responsible parties. The Applicant may list additional activities and deliverables. The Start-Up Work Plan should provide the timeframes in weeks and months, e.g., Week One, Month One, rather than list specific dates and months.

12. Vendor Responsibility Attestation

Include a Vendor Responsibility Attestation form (Attachment 8).

13. Budget and Justification

DOH is making available up to approximately \$27.2 million per year, for up to five years for the delivery of IPA/Navigator Program services with an additional approximately \$4.5 million available to cover start-up costs, contingent on funding availability, to organizations to support IPA/Navigator activities (Year 1 shall total approximately \$31.8 million). The total to be made available over the 62 months covered by the awards made under this RFA will be approximately \$140.6 million).

Federally Recognized Tribes and Urban Indian Organizations: total of \$675,000 available per year (Year 1 shall total approximately \$787,500).

The total to be made available over the 62 months covered by the awards made under this RFA will be approximately \$3.5 million to Federally Recognized Tribes and Urban Indian Organizations. The maximum award for each Federally Recognized Tribes and each Urban Indian Organizations in New York State is \$75,000 per tribe/organization per year, excepting Year 1 for which the maximum award will be \$87,500.

All Other Types of Eligible Entities: total of approximately \$26.5 million available per year (Year 1 shall total approximately \$31 million).

The total to be made available over the 62 months covered by the awards made under this RFA will be approximately \$137.1 million to non- Federally Recognized Tribes and non-Urban Indian Organizations. The maximum award for each awardee per county/borough is listed in Table 1. Applicants can apply to provide services in a single county/borough or in multiple counties/borough. The maximum base award for Applicants applying to serve only one county/borough is listed in Table 1 below, under the column “Maximum Award per Borough/County per Year”. Applicants proposing to serve more than one county/borough may receive an award up to the maximum amount listed in Table 1 under the column “Maximum Per County Add-On” for each additional county to be served. For example, if the applicant proposes to serve Albany, Schenectady, and Rensselaer counties, the base award for Albany County is \$225,000 plus an additional \$90,000 for Schenectady and another \$90,000 for Rensselaer making the total maximum award to serve all three counties \$405,000.

For Applicants that are other than a Federally Recognized Tribe or an Urban Indian Organization, only one budget for each Applicant will be evaluated regardless of how many counties the Applicant proposes to serve. The budget justification should identify the costs that are specific to a particular county/borough. For example, if there are certain sites or IPA/Navigators dedicated to a particular county, that information should be included in the budget justification.

Budget Guidance for All Applicants

Applicants should present budgets that are fiscally sound, cost effective and programmatically responsible, and which conform with the pricing instructions set

forth in the RFA and do **not** exceed the Maximum Award Per Borough/County Per Year and if applicable, the Per County Add On amounts provided in Table 1 of Section V.C of this RFA. While administrative costs should be adequate to support the IPA/Navigator Program, they cannot be excessive in proportion to the amount of funding dedicated to direct IPA/Navigator activity and, in accordance with Executive Order 38, (“Limits on State Funded Administrative Costs and Executive Compensation”) may not exceed 15% of the total budget.

The vast majority of personnel funding should be devoted to IPA/Navigators. Non-personnel service funds should be used for direct support of the Program. The Applicant should describe any organizational governance which dictates personnel expenditures (e.g. governmental wage rates, union contracts, salary is determined or limited by an organization wide rate). Applicants should discuss how it will address future COLAs and fringe benefit rate increases in an environment of level funding.

Applicants should submit proposed budgets with their Applications using the form Attachment 5 and to the extent that the Applicant is proposing to utilize subcontractors; Attachment 6. All Applicants should submit each proposed cost by a specific line item that also includes an attached written justification for each proposed cost.

Proposed budgets should include only allowable costs. To assist applicants in their budget preparation, we are providing the following guidelines:

Personnel Services

The majority of the funds should be allocated to personnel services, primarily to support IPA/Navigators.

Non-Personnel Services

- Budgets may not include an overhead/indirect rate.
- Rent, if any, should be within fair market value.
- Items such as equipment, utilities, travel, office supplies, printing, photocopying, postage, telephone, training, conferences, audit, and insurance, if any, should be itemized and justified. Explanation should be provided as to how the cost was calculated and how each item is essential to the operation of the IPA/Navigator Program. Non-personnel items that cannot be justified as integral to the operation of the IPA/Navigator Program will not be allowed. Travel costs will only be permitted for DOH sponsored meetings and for delivering IPA/Navigator services. Reimbursement for travel costs must be made in accordance with New York State travel guidelines at <http://www.osc.state.ny.us/agencies/travel/travel.htm>.

- Budgets should include the costs for laptops, tablets, scanners, internet access and any other equipment that will be necessary for submission of enrollee applications to the on-line web portal through the NYSHBE, to the extent that the Applicant needs to acquire such items.
- Budgets may include marketing costs, but may not include expenses for other outreach activities. Marketing costs must be itemized and justified.
- If subcontractors are to be utilized, a proposed budget should be provided for each subcontractor, itemizing all proposed expenses as described above. The subcontractor form in Attachment 6 should be completed for each subcontractor.
- The DOH may, if funding is available, provide successful not-for-profit Applicants with an advance payment up to 25% of the approved Year 1 amount in the IPA/Navigator Contract. Terms for repayment of the advance will be included in the Contract. Please note that additional advance payments will not be available to IPA/Navigators in years 2 through 5 of the IPA/Navigator Contract.

a) IPA/Navigator Applicant Budget (See Attachment 5)

i. Personnel Services

This section should list all personnel proposed for the IPA/Navigator Program. This should include each individual's title, annual salary, the percentage of a full time equivalent (FTE) for each position, and, the dollars proposed for the position.

ii. Non-Personnel Services

This section should list all proposed non-personnel services. As stated in the budget guidelines above, items such as equipment, utilities, travel, office supplies, printing, photocopying, postage, telephone, training, conferences, audit, insurance should be listed separately.

iii. Subcontractor(s)

If an Applicant proposes subcontractor(s), it should include a total proposed budget amount for each subcontractor.

b) Geographic Scope for entities other than Federally Recognized Tribes and Urban Indian Organizations

Applicants other than Federally Recognized Tribes and Urban Indian Organizations can apply to provide IPA/Navigator services in a single borough/county or in multiple boroughs/counties. Consideration will be given to agencies that can achieve efficiency in service delivery by providing

IPA/Navigator services to multiple boroughs/counties. Agencies proposing to provide IPA/Navigator services in multiple boroughs/counties should describe how they will achieve this efficiency.

c) Subcontractor Budget

For each proposed subcontractor, a detailed proposed budget should be submitted using Attachment 6 following the budget guidelines described above.

d) Budget Justification

Every line item listed in the Applicant's, and its subcontractor(s)', budget should be justified. The line item written justification should explain how the cost was calculated and detail why it is essential to operating an IPA/Navigator Program.

ADDITIONAL SUBMISSIONS TO DOH PRIOR TO CONTRACT APPROVAL

Prior to final Contract approval, selected Applicants will be required to submit:

- Signed "Certification Regarding State and Federal Confidentiality Requirements for IPA/Navigator Contractors and Subcontractors".
- Final IPA/Navigator Program Work Plan.
- Final Budget and Justification.
- Final IPA/Navigator location and site schedule (county/borough, name and address of site, languages spoken, and days and times).

B. Application Format

ALL APPLICATIONS SHOULD CONFORM TO THE FORMAT PRESCRIBED BELOW.

Applications for single organizations may not exceed sixteen (16) double-spaced pages. Up to an additional half-page will be permitted for each subcontractor. Applicants must use 12-pitch type font or larger with one-inch margins on all sides. Pages should be numbered consecutively, including all attachments. The Application Checklist, Application Cover Sheet, Program Summary, Work Plan, Location and Site Schedule, Budget and Budget Justification, M/WBE Procurement Forms, required addendums, as applicable and all attachments are **not included** in the sixteen page limitation. Please submit only requested information in attachments and do not add attachments that are not requested.

Any cost incurred in response to this RFA is the obligation of the Applicant and not the responsibility of the DOH.

1. Scoring

The point value assigned to each Section of the Application, as listed in the chart below, is an indication of the relative weight that will be given to each Section when scoring Applications.

Criteria	Maximum Score (Points)
1. Application Checklist and Cover Sheet	Not Scored
2. Program Summary	Not Scored
3. Service Area	5
4. Applicant Organization	15
5. Enrollment Strategy and Experience	30
6. Proposed Locations and Site Schedules	10
7. Quality Assurance	7
8. Training	7
9. Readiness/Work Plan	6
10. Budget and Budget Justification	20
Total	100

C. Review & Award Process

Applications, received by the Application Due Date and Time posted on the cover sheet of this RFA, meeting the guidelines set forth above will be reviewed and evaluated competitively by the DOH and such other state agency staff as the DOH deems appropriate.

Applications will be reviewed based on the criteria included in this RFA and each Section of the Application will be reviewed based on the criteria and scoring described in this Section V.B of the RFA. Applications failing to provide all response requirements may be removed from consideration.

Award Process for Federally Recognized Tribes and Urban Indian Organizations

Up to \$3,487,500 will be awarded to Federally Recognized Tribes and Urban Indian Organizations over the 62 month term of the resultant contracts (\$787,500 for Year 1 and \$675,000 for years 2 through 5). Each Federally Recognized Tribes and each Urban Indian Organization in New York State that submits a complete Application will be awarded up to \$387,500 for the 62 month term of the Contract (\$87,500 for Year 1 and \$75,000 per year for years 2 through 5).

In the event that there are funds left over from the funding pool for Federally Recognized Tribes and Urban Indian Organizations, DOH reserves the right to distribute

the remaining funds amongst the other types of entities eligible to serve as IPA/Navigators. Any such funds will be split equally between the New York City region and the Upstate and Long Island region and will be awarded according to the processes described below.

Award Process: For All Other Types of Entities - Upstate and Long Island

Approximately \$13.25 million per year will be awarded to non- Federally Recognized Tribes/Urban Indian Organizations eligible entities on a per county basis. DOH will rank Applications by county and award funding to the highest scoring proposal in each county. In the event of a tie score, for award purposes, the Applicant who scored highest on their Enrollment Strategy and Experience will receive the award.

Applicants should submit one budget for the entire Program, regardless of how many counties they propose to serve. Specific budgets for each county are not required. The budget justification should identify any costs that are specific to a particular county. For example, if there are certain sites or IPA/Navigators dedicated to a particular county, that information should be included in the budget justification.

If additional funds are available, funds will be awarded in the counties with the highest number of uninsured (ranked from the county with the highest uninsured to the county with the fewest uninsured) to the Applicant with the second highest score in each county. If this award is made to an Applicant providing services in this county only, up to the Maximum Award Per County Per Year amount will be made. If this award is made to an Applicant selected to provide services in another county(ies), up to the Per County Add On amount will be awarded.

If the DOH does not receive an Application to provide services for a particular county, DOH may request that the Applicant with the highest score in a contiguous county expand its coverage to this additional area. Additional funding will be provided in accordance with the Per County Add On amount as found in the table below. If an Applicant does not agree to add to its service area, the next highest scoring Applicant in a contiguous county will be contacted.

In the event that there are funds left over, DOH reserves the right to distribute those remaining funds in New York City.

Award Process: For All Other Types of Entities - New York City

Approximately \$13.25 million available per year will be awarded to eligible entities serving New York City. In New York City, initially, all Applications will be ranked according to score by borough. The two highest scoring Applicants in each of the five boroughs will receive funding in accordance with funding amounts set forth in the table below. In the event that a satisfactory proposal is not received for a particular borough, DOH may request that the Applicant with the highest scoring proposal in a contiguous

borough expand its coverage to this additional area with additional funding provided in accordance with the Per County Add On amount as found in the table below.

Once two awards have been made in each of the five boroughs, all remaining Applications will be ranked according to score, regardless of the borough to be served. Subsequent awards will be made according to score until available funding is exhausted. In the event of a tie scores, the Applicant who scored the best on their Enrollment Strategy and Experience will receive the award.

TABLE 1

County/Borough	Maximum Award Per Borough/County Per Year*	Maximum Per County Add On*
Allegany, Cayuga, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware Genesee, Herkimer, Jefferson, Lewis, Livingston, Madison, Ontario, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, Steuben, St. Lawrence, Tioga, Tompkins, Wayne, Wyoming, and Yates	\$175,000	\$80,000
Albany, Broome, Clinton, Columbia, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Niagara, Oneida, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Sullivan, Ulster, Warren, and Washington	\$225,000	\$90,000
Erie, Monroe, Onondaga, Orange, and Westchester	\$300,000	\$100,000
Bronx, Kings, Queens, New York, Richmond, Nassau, Suffolk ²	\$500,000	\$120,000

* This Table 1 represents the maximum allowed award and per county add on for 12 months of Program services. In Year #1 of the contract, additional funds will be given to cover Start-Up costs incurred by the Contractor during the period 8/1/2013 – 9/30/2013. The value of said funds available for Start-Up activities shall equal 2/12ths of the Maximum Award Per Borough/County Per Year and Maximum Per County Add On amounts as set forth in Table 1 (e.g., During Year #1, the Maximum Award Per Borough/County Per Year amount for Allegany County would be \$ 204,167 and the Maximum Per County Add On for Allegany County would be

2. Due to the geographic proximity of Nassau and Suffolk counties, it is the expectation that an Applicant proposing to cover either Nassau or Suffolk county will have the capacity to serve consumers that live in the other county

\$93,333.)

Additional Funds Distribution

If additional funds become available as a result of the discontinuance of funding non-performing IPA/Navigators, the amount of monies available for award is increased and/or the full \$27.2 million is not awarded annually, DOH reserves the right to disperse remaining funds annually, beginning in Year 2 of the IPA/Navigator Program. The 10 IPA/Navigator Contractors with the highest enrollment rates (based on the average number of enrollment applications processed per FTE) will be eligible to receive these funds. DOH will inform said IPA/Navigator Contractors of the dollar amounts available for supplemental distribution. Each such IPA/Navigator Contractor must submit a written plan indicating how it would use additional funds to expand the scope of its activities and increase its productivity. Funds will be disbursed to an IPA/Navigator Contractor, if DOH approves the IPA/Navigator Contractor's plan.

Additional Information about Awards

DOH will not fund activities that are duplicative of efforts funded through other grant programs or resources.

Funds under this RFA are intended to supplement, enhance and expand but not supplant existing resources and services aimed at helping consumers apply for, enroll in, or maintain insurance coverage.

In the event that more money is awarded than is available, funding requests will be reduced by equally across all successful Applicants. DOH reserves the right to revise all award amounts as necessary due to changes in the availability of funding.

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

In the event unsuccessful Applicants wish to protest the award resulting from this RFA, since the DOH does not have established protest procedures, Applicants should follow the protest procedures established by OSC. These procedures can be found on the OSC website at <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/> in Section 17 "Protest procedures of Chapter XI "Procurement and Contract Management"

Applicants agree that all state funds dispersed under this RFA will, if applicable to them, be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with Executive Order 38, ("Limits on State Funded Administrative Costs and Executive Compensation"), signed in 2012.

VI. Attachments/Appendices

Attachments:

Attachment 1 Grant Multi-Year Contract

Attachment 2 Letter of Interest

Attachment 3 Application Checklist

Attachment 4 Application Coversheet

Attachment 5 Applicant Budget Form

Attachment 6 Subcontractor Budget Format

Attachment 7 Work Plan Format

Attachment 8 Vendor Responsibility Attestation

Attachment 9 NYS Office of the State Comptroller Substitute W-9

*Attachment 10 Certification Regarding State and Federal Confidentiality Requirements for
IPA/Navigator Subcontractors*

Attachment 11 Urban Institute Report

Attachment 12 Locations and Site Schedule

Attachment 13 M/WBE Procurement Forms

Appendices (Enclosed with/as part of RFA):

*Appendix H Federal Health Insurance Portability and Accountability Act (HIPAA) Business
Associate Agreement*

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

Appendix H Federal Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement

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

- E. Business Associate agrees to provide access, at the request of Covered Program, and in the time and manner designated by Covered Program, to Protected Health Information in a Designated Record Set, to Covered Program in order for Covered Program to comply with 45 CFR § 164.524.
 - F. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Program directs in order for Covered Program to comply with 45 CFR § 164.526.
 - G. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528; and Business Associate agrees to provide to Covered Program, in time and manner designated by Covered Program, information collected in accordance with this AGREEMENT, to permit Covered Program to comply with 45 CFR § 164.528.
 - H. Business Associate agrees, to the extent the Business Associate is to carry out Covered Program's obligation under 45 CFR Part 164, Subpart E, to comply with the requirements of 45 CFR Part 164, Subpart E that apply to Covered Program in the performance of such obligation.
 - I. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.
- III. Permitted Uses and Disclosures by Business Associate
- A. Except as otherwise limited in this AGREEMENT, Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities, or services for, or on behalf of, Covered Program as specified in this AGREEMENT.
 - B. Business Associate may use Protected Health Information for the proper management and administration of Business Associate.
 - C. Business Associate may disclose Protected Health Information as Required By Law.
- IV. Term and Termination
- A. This AGREEMENT shall be effective for the term as specified on the cover page of this AGREEMENT, after which time all of the Protected Health Information provided by Covered Program to Business Associate, or created or received by Business Associate on behalf of Covered Program, shall be destroyed or returned to Covered Program; provided that, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Appendix H of this AGREEMENT.
 - B. Termination for Cause. Upon Covered Program's knowledge of a material breach by Business Associate, Covered Program may provide an opportunity for Business Associate to cure the breach and end the violation or may terminate this AGREEMENT if Business Associate does not cure the breach and end the violation

within the time specified by Covered Program, or Covered Program may immediately terminate this AGREEMENT if Business Associate has breached a material term of this AGREEMENT and cure is not possible.

C. Effect of Termination.

1. Except as provided in paragraph (c)(2) below, upon termination of this AGREEMENT, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Program, or created or received by Business Associate on behalf of Covered Program. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
2. In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Program notification of the conditions that make return or destruction infeasible. Upon mutual agreement of Business Associate and Covered Program that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this AGREEMENT to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

V. Violations

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

VI. Miscellaneous

- A. Regulatory References. A reference in this AGREEMENT to a section in the Code of Federal Regulations means the section as in effect or as amended, and for which compliance is required.
- B. Amendment. Business Associate and Covered Program agree to take such action as is necessary to amend this AGREEMENT from time to time as is necessary for Covered Program to comply with the requirements of HIPAA, HITECH and 45 CFR Parts 160 and 164.

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

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

I. General Provisions

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

II. Contract Goals

- A. For purposes of this procurement, the New York State Department of Health hereby establishes an overall goal of 20% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, 10% for Minority-Owned Business Enterprises (“MBE”) participation and 10% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address:
<http://www.esd.ny.gov/mwbe.html>

Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss

additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Department of Health for liquidated or other appropriate damages, as set forth herein.

III. **Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Contractor shall submit an EEO policy statement to the New York State Department of Health within seventy two (72) hours after the date of the notice by New York State Department of Health to award the Contract to the Contractor.
 3. If Contractor or Subcontractor does not have an existing EEO policy statement, the New York State Department of Health may provide the Contractor or Subcontractor a model statement (see Form #5 - Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 4. The Contractor’s EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded

equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

- c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Form #4 - Staffing Plan

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

D. Form #6 - Workforce Employment Utilization Report ("Workforce Report")

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the New York State Department of Health of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital

status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

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

V. Waivers

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

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form #3) to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.

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

- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.