



The Culture of Care

ERIE COUNTY MEDICAL CENTER CORPORATION

REQUEST FOR PROPOSALS

SELF-INSURED WORKERS COMPENSATION PROGRAM THIRD PARTY ADMINISTRATOR

NOVEMBER 23, 2016

RFP # 21618

The deadline for submission of proposals is **TUESDAY, DECEMBER 16, 2016 at 11 a.m. EST.** Submit one (1) sealed paper copy and one (1) electronic copy (on flash drive or CD-ROM) of the proposal to:

Erie County Medical Center Corporation
Attention: Sarina M. Rohloff
462 Grider Street - Room G-140
Buffalo, New York 14215

LATE OR INCOMPLETE BIDS WILL NOT BE ACCEPTED

Mark in left hand corner of envelope:

RFP # 21618

Due: December 15, 2016

Submitted by: _____

MANDATORY PRE-BID CONFERENCE TO BE HELD

THURSDAY, DECEMBER 1, 2016 AT 2PM EST.

VIA TOLL FREE TELEPHONE CONFERENCE BRIDGE: 1-855-241-2663

Conference ID: 66990240

In accordance with State Finance Law Sections 139-j and 139-k, the designated contact for this RFP is listed below. All questions regarding this RFP must be submitted in writing to the designated contact within the timeframes set forth in the RFP Schedule located at Section 3 of this RFP. Copies of questions and responses will be issued to all respondents as an Addendum to this RFP as set forth in the RFP Schedule.

Designated contact: Sarina M. Rohloff, RFP/IFB Coordinator (Srohloff@ecmc.edu)

1. BACKGROUND

- 1.1 Erie County Medical Center Corporation (“ECMCC”), located in Buffalo, New York, is a public benefit corporation, created by state law on July 22, 2003. ECMCC previously operated as a department of the County of Erie, New York.
- 1.2 ECMCC has 550 inpatient acute, psychiatric, rehabilitation, and alcohol rehabilitation beds. ECMCC has more than 40 outpatient specialty care clinics with both on-site and off-site locations. In addition, ECMCC operates Terrace View, a skilled nursing facility with 390 beds.
- 1.3 As a regional Trauma Center, ECMCC brings a special expertise and a high level of medical and surgical skill to every patient care department in the Hospital, from the Burn Treatment Center to the Spinal Cord Injury Unit to the 24/7 Angioplasty Program.
- 1.4 As the medical emergency response system for the entire county, ECMCC has one of the largest emergency departments in Western New York, with 29 exam rooms, including four for trauma, and a “fast track” program available for less critical emergencies.
- 1.5 ECMCC’s Regional Burn Treatment Center is the only unit of its kind in Western New York. With 24 hour burn care by a specially trained burn healthcare team, extensive rehabilitation programs, and comprehensive psychosocial support, the Burn Center is an integral part of ECMCC’s trauma services.
- 1.6 ECMCC is affiliated with the State University of New York at Buffalo and is recognized as a major teaching hospital in Western New York.

2. RESERVATION OF RIGHTS:

- 2.1 ECMCC reserves the right to qualify multiple respondents.
- 2.2 ECMCC reserves the right to reject any and all proposals submitted in response to this Request for Proposals (“RFP”).
- 2.3 ECMCC reserves the right to terminate this RFP process at any time.
- 2.4 ECMCC reserves the right to waive any non-conformity with the requirements of this RFP.
- 2.5 ECMCC reserves the right to seek clarification from a respondent at any time throughout the RFP process for the purpose of resolving ambiguities or questioning information presented in the proposal.
- 2.6 ECMCC reserves the right to apportion the award among one or more respondents.

3. RFP SCHEDULE:

RFP Issued:	Wednesday, November 23, 2016
Mandatory Pre-Proposal Conference:	Thursday, December 1, 2016
Deadline for Questions:	Friday, December 2, 2016
Notification of Intent to Submit:	Friday, December 2, 2016
Answers Issued by Addendum:	Friday, December 9, 2016
Proposals Due:	Friday, December 16, 2016
Contract Award:	TBA

MANDATORY PRE-PROPOSAL CONFERENCE CALL:

A mandatory pre-proposal conference is scheduled for **Thursday, December 1, 2016 at 2 p.m.** This conference call can be accessed by dialing 1-855-241-2663, Conference ID 66990240. The purpose of this call is to provide an overview of the RFP and M/WBE requirements and permit respondents an opportunity to ask general RFP policy and procedures questions. Any content-specific questions however must be submitted in writing by **Friday, December 2, 2016** to Sarina M. Rohloff at Srohloff@ecmc.edu. **Participation in the pre-proposal conference call is a material requirement of this RFP. A “roll call” of potential respondents will be conducted at the end of the call. Proposals will only be accepted from respondents who participated in the pre-proposal conference call and confirmed attendance during the roll call. All other proposals will be deemed non-responsive and returned to sender unopened.**

4. SCOPE OF SERVICES/SPECIFICATIONS:

INTRODUCTION

ECMCC is issuing an RFP seeking proposals from qualified vendors to provide all activities related to claims management in collaboration with ECMCC’s internal process for its Workers Compensation Self-Insurance Program.

TERMS OF AGREEMENT

The service agreement resulting from this RFP shall be effective on March 31, 2017 and shall run for three (3) years.

MINIMUM QUALIFICATIONS

The successful respondent must be knowledgeable with respect to New York State Workers Compensation laws and regulations. The company and its employees working with ECMCC must be licensed and qualified to administer Workers’ Compensation claims as required by New York State. The company must be currently providing adjusting services for self-funded Workers Compensation programs and must have a New York presence. The successful company must have a minimum of five (5) years’ experience with administration of self-funded Workers Compensation programs. Experience with municipalities and in the healthcare/hospital industry will be given

special consideration. The successful applicant must have the capabilities of providing online access by employer and employee to client claims.

FIRM'S INFORMATION REQUESTED

The following are expectations of the successful applicant and responses to each item should be submitted with each proposal:

1. Executive Summary and Third Party Administrator ("TPA") Company Overview

- a. Provide a brief statement of your company's third party administrator experience and qualifications to meet the requirements of this proposal, including a list of current clients. Include a brief description of your company, number of years in business providing TPA services, number of employees (full or part time), number of claim adjusters and claim support personnel, corporate headquarter location and location of the claim office that would be assigned to ECMCC. The successful applicant must be capable of providing local representation at meetings in Buffalo, NY with ECMCC as requested.
- b. Confirm your company is a recognized claims administrator of self-insured Workers' Compensation programs and is licensed to do such business in New York.
- c. Provide information on the circumstances and status of any disciplinary action taken or pending against your company during the last 3 years by any state regulatory bodies or professional organizations.
- d. Describe your policy regarding penalties resulting from your company's failure to perform according to the New York State Workers' Compensation Board. Please confirm that in these circumstances where any overpayments or penalties are incurred ECMCC is provided with an explanation and documentation on how ECMCC will be reimbursed and the file credited for those penalties that are not caused by employer error.
- e. Provide three (3) references with similar operations with dates of service, clients name and contact information.
- f. Provide your company's experience modification rate for the past three (3) years.
- g. Identify services, if any, you intend to subcontract to others and identify the proposed sub-contractors including names, phone numbers, and qualifications.
- h. Provide an update on any status relative to your company regarding any recent acquisitions/mergers within the last 5 years.
- i. Provide a sample claims services contract and a copy of your company's best claim practices.
- j. Provide proof of insurance as required in the attached Exhibit ____.
- k. Provide Proof of Fidelity Bond with a limit of at least five hundred thousand dollars (\$500,000).
- l. Confirm your company will assume responsibility for payment of any fines, penalties or costs, including legal fees imposed by any regulatory body, agency or third party resulting from errors, omissions, or non-compliance. Describe your company's history in the past five years of penalties and identify the

number of penalties received in each of the past five years for late payment of awards.

- m. Describe your plan for assignment of adjusters to ECMCC; in other words, do you intend to have dedicated adjusters, how many adjusters will be assigned to ECMCC, etc.
- n. Provide a proposed transition plan and implementation time table.

2. Account Management

A claims account manager must be assigned to ECMCC. Confirm this would occur under your service agreement and that such individual will be responsible for the following factors:

- a. Service Agreement Administration.
- b. Trouble shooting and providing effective solutions to resolve problems with the service agreement and/or services.
- c. Identify key outcome based measurements that are tracked and deliver program improvements and cost reduction results.
- d. Monitor claim trends and audit claim handling procedures to ensure a high level of customer service.
- e. Host monthly telephonic claim reviews with participation of the claims adjuster(s) and, as needed, defense attorneys and nurse case managers. Status updates are due one week prior to the review.
- f. Host up to four in person claim reviews per year with participation of the claim adjuster(s) and, as needed, defense attorneys and nurse case managers. Status reports are due one week prior to the review.
- g. Coordinate semi-annual management meeting to present service performance metrics, benchmarking, and claim trending/loss analysis reports.
- h. Participate and collaborate in the return to work program, safe patient handling program, ergonomics program, and workplace violence prevention program if requested.

3. Claims Administration Requirements and Expectations

Confirm the following will be satisfied under your service agreement:

- a. TPA must perform all services required to supervise and administer a self-insured workers' compensation program for ECMCC.
- b. TPA must provide a toll free telephone number for ECMCC and claimants.
- c. TPA will process all claims, including but not limited to investigation, reserving and payment, filing reports, negotiating and settling of claims for amount pre-approved by ECMCC.
- d. TPA is required to provide appropriate forms for filing reports of injury. If filing via an 800 number or if electronic filing is an option, this should be clearly specified in the proposal. If electronic filing, please indicate if an Employers Report of Accident (C-2F) can be printed at ECMCC. Please confirm this expectation can be met.
- e. TPA shall provide all printed Workers' Compensation forms which ECMCC may require, (Report of Injury, authorization forms, benefit letters, delay/denial

- letters, etc.). Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
- f. Provide evidence of an appropriate system for filing first reports of injury and complying with the NYS WCB e-filing requirements.
 - g. TPA will be required to respond to any questions or inquiries by ECMCC or claimants within one business day. Please confirm this expectation can be met.
 - h. Contact with ECMCC, claimant and medical provider must be made within 24 hours of receipt of all lost time claims. If initial contact is unsuccessful, daily follow-up is required for the next three business days.
 - i. TPA will conduct initial investigation to be completed within 14 days from day of receipt of the claim and, if needed, further investigation completed within 30 days or as soon as all the facts of the case can be reasonably gathered. Please confirm this expectation can be met.
 - j. Initial plan of action must be clearly documented in the claim file within 14 days from receipt of the claim and updated every 30-60 days. Supervisory reviews must be documented at a minimum of every 90 days. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - k. Initial estimate of reserves established within 14 days of receipt of the claim. Adjusters must document the basis for each reserve calculation. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - l. ECMCC shall be notified of all reserve increases of \$10,000 or more. The rationale for the reserves as well as the plan of action, mitigation strategy and current status of the claim must be provided.
 - m. Adjuster's notes should include but are not limited to: comments regarding exposure, disposition plan for claim closure, financial transactions, supervisor's notes, and any other relevant claim information. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - n. Prior to the denial of compensability of any claim, the adjuster must discuss the case with ECMCC for mutual agreement. Please confirm this expectation can be met.
 - o. TPA must notify ECMCC within 3 days when any previously closed claim is reopened and provide rationale for the reopening. Please confirm this expectation can be met.
 - p. Claim adjuster must notify ECMCC when return to work letters are sent to claimant, anytime there are changes to the claimant's work restrictions and at the time of any permanent work restrictions. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - q. TPA must document Transitional/modified duty in the claim file and should include the medical diagnosis, work restrictions, and estimated duration of the disability. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - r. Documented follow up to the treating physician(s) is required no later than every 30 days prior to MMI status. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - s. Adjuster will notify ECMCC of any legal or administrative actions that affect their claims including: appeals, pre notification of depositions, pretrial or

- workers' compensation board hearing. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
- t. ECMCC will have final approval for all outside case management services utilized, including but not limited to defense attorneys, nurse case managers, vocational experts and investigative firms. Please confirm this expectation can be met.
 - u. Request for surveillance must be discussed and approved by ECMCC. Please confirm this expectation can be met.
 - v. On all settlements, including 0% PD and future medical, TPA will first submit a settlement authorization request to ECMCC for approval. Please confirm this expectation can be met.
 - w. TPA will represent ECMCC at workers' compensation hearings. Please confirm this expectation can be met and include the expense, if any, in your rates.
 - x. TPA will be responsible to review medical provider bills for appropriateness of fees charged. This includes timely review of medical bills and payment of medical bills per the New York State Medical Fee Schedule assessments per the Health Care Reform Act (HCRA) of 1996 and 2000 and any subsequent laws and regulations that become effective. Please confirm this expectation can be met.
 - y. TPA shall ensure a smooth integration and administration of existing provider's program.
 - z. TPA shall acknowledge that all claim records and claim files shall be the property of ECMCC. TPA shall be responsible for providing claim data to ECMCC upon request. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - aa. TPA shall manage and administer requirements of the Medicare, Medicaid, and SCHIP Extension Act of 2007 in collaboration with ECMCC human resources and assigned legal counsel. Please confirm this expectation can be met.
 - bb. TPA will be responsible for review of New York State Workers' Compensation Board Assessments and payment of same if requested by ECMCC. Please confirm this expectation can be met.
 - cc. There will be an expectation of timely recognition, pursuit of, and collection of, all potential sources of recovery including but not limited to, second injury fund, stale case, no fault loss transfer and third party tort actions without surcharges or percentage of savings fees. The ability to capture these in the TPA software system is required. Please confirm this expectation can be met and how documentation can be accessed by ECMCC.
 - dd. There will be an expectation of timely review and monitoring of medical status of employee utilizing medical treatment guidelines as appropriate. Must further be capable of ability to provide for timely medical examinations where necessary to determine degree of disability as well as ability to return to work with vendors mutually agreed upon with ECMCC. Please confirm this expectation can be met.
 - ee. TPA will be responsible for coordination of claims payment procedures including structure of checking accounts, fund replenishment procedures and limitation on payments. There must be ability to produce an audit opinion letter regarding internal control structure in managing accounts as requested. Please

- confirm this expectation can be met and how documentation can be accessed by ECMCC.
- ff. TPA must agree to work collaboratively with ECMCC Human Resources in their efforts to coordinate medical treatment with existing ECMCC rehabilitation or medical providers with high quality willing to provide care in a timely fashion with the ultimate goal of returning the employee to work. Please confirm this expectation can be met
 - gg. There will be a requirement of weekly check register detailing expenditures. This will be emailed to a designated employee of ECMCC. Please confirm this expectation can be met and how documentation can be accessed by ECMCC

4. Litigation Management

- a. ECMCC reserves the right to select counsel. All defense counsel referrals need prior approval from ECMCC. Please confirm this expectation can be met.
- b. Describe what procedures you have in place to audit the effectiveness of legal counsel on the outcome of claims.
- c. On post 2007 Legislation cases, TPA will be required to pursue in a timely and aggressive manner, all means to bring cases to closure or establishment of “caps.” Please confirm this expectation can be met.
- d. TPA will be required to represent, in collaboration with ECMCC, at all Workers Compensation Board hearings and other administrative procedures involving individual claims of ECMCC’s employees. Please confirm this expectation can be met.
- e. TPA will be responsible for arranging for legal counsel where necessary, in individual cases. Use and selection of counsel will be completed by ECMCC through the Office of General Counsel. Please confirm this expectation can be met.
- f. TPA will be responsible for settlement of claims promptly and in the best interest of ECMCC. Please confirm this expectation can be met.
- g. TPA will be required to submit any proposed settlement to ECMCC or their Representative for approval prior to settlement offer. Please confirm this expectation can be met.
- h. TPA will be required to provide evidence of supervisory review of all files prior to the files being transferred to legal counsel for Workers’ Compensation Hearings. Any file transferred to legal counsel will be accompanied by direction to counsel for handling at such hearing(s). Please confirm this expectation can be met and how documentation can be accessed by ECMCC.

5. Nurse Case Management

- a. Pre authorization by ECMCC is required on all nurse case management assignments.
- b. Nurse case manager’s action plans and notes will be documented in the claim file, and as appropriate, NCM’s will participate in claim reviews or when consultation is requested.

6. Claim Staffing Expectations and Claim Handling Philosophies

- a. TPA will be required to provide a dedicated claims team. Adjusters must have at least 5 years of technical claim adjusting experience within New York. Please identify proposed staff members who would be assigned to ECMCC and submit statements or resumes detailing their qualifications and experience.
- b. Describe the caseloads of your medical only and indemnity adjusters. Indemnity adjusters working on ECMCC claims shall have caseloads capped at 150 claims. Please confirm this expectation can be met.
- c. If workloads increase over the life of the Service Agreement, propose how your company would meet the increased staffing needs.
- d. Disclose the turnover ratio in the last three years of your management team and claim adjusters.
- e. Describe your new hire orientation and ongoing training for claim adjusters, support personnel, and management team regarding legislative changes and current industry trends.
- f. Describe if you employ board certified physicians or vocational rehabilitation specialists. If so, please describe how they support the claim adjusters.
- g. Detail what percentage of claims (separated by medical only and indemnity) adjusters close within one year, 2 years, and beyond 2 years.
- h. Explain how often do adjusters maintain contact with the claimants throughout the duration of the claim and what adjusters standard method of communication with claimants is.
- i. Describe how your adjusters identify and manage fraudulent charges.
- j. Describe how your adjusters provide timely payment of benefits as mandated and the levels of authority for decision making payments and settlements.
- k. Describe your company's reserving philosophy, including timeliness in establishing initial and subsequent reserves and on legacy takeover claims as well as supervisory review and approval process.
- l. Describe how your adjusters pursue early return to work and assist with the provisions of reasonable accommodations.
- m. Provide a sample of an adjusters claim status report.
- n. When overpayments are made or made to the wrong provider or claimant, describe your procedure for reconciliation. Describe your process for detecting duplicate medical bills.
- o. Provide a description of your utilization review process and procedures.

7. Special Handling Instructions

- a. A customized claims service instructions is required that includes claim handling best practices and any specific service requirements of ECMCC. Please confirm this expectation can be met, describe how the special handling instructions would be communicated to the claims team assigned to ECMCC, and provide a sample special handling instructions agreement.

8. Claims Management Information System

The TPA's Information System must have the following abilities:

- a. Internet based claims system with access 24 hours a day, 7 days a week to view claim adjuster and supervisor notes along with all documents, ability to generate

loss runs in Excel on a scheduled basis and run other pre-scheduled or adhoc loss management/claim reports. Please confirm this expectation can be met.

- b. Please provide sample loss run reports. These samples should include routine loss runs which should be divided by loss year, further subdivided by entity, and potentially subdivided further by department, shift, and/or occupation. Your software must have the capability of capturing claim data for each individual year with no limit on number of individual years to be captured. Please confirm this expectation can be met.
- c. Loss data will be required to be reported to ECMCC on the 10th day following the end of each month. Please confirm this expectation can be met.
- d. Ability to export claim data into various Microsoft products (word, PowerPoint, excel). Please confirm this expectation can be met.
- e. TPA system must be able to interface with ECMCC's system to avoid duplicate entry. The successful applicant shall be responsible for all costs of interfacing its system with ECMCC's claim management system. Please confirm this expectation can be met.
- f. TPA should be able to provide technical support for questions, problems, or development of customized reporting (for example, OSHA 300 and 300a. etc.). Please confirm this expectation can be met.
- g. TPA system should be capable of importing prior loss data into single database. Please confirm this expectation can be met.
- h. TPA system must have the ability to provide a detailed dashboard of all medical and financial statistics that would assist in managing ECMCC claims. Please confirm this expectation can be met.
- i. TPA should have a quality control program to ensure data integrity and claimant confidentiality. Please describe the programs in place.
- j. TPA system should have the ability to scan and upload documentation. Please confirm this expectation can be met.
- k. Please provide documentation of security systems in place for TPA software and email programs.
- l. Please describe what the last release/update was to claim management system and any upgrades that were made.
- m. Please describe any planned enhancements for claim management system.
- n. Describe your data back-up provisions and disaster recovery plan regarding the continuation of your claims management information system.
- o. Provide a list of data elements you capture and indicate which data elements are available in reportable form.
- p. Describe in detail and provide samples what standard reports are provided within your service fee.
- q. Describe any types of customized reports available, fees charged for these reports, and provide samples.
- r. Describe how your system tracks return to work data including modified duty days.
- s. Describe your process for data transmittal at the end of the service agreement period including format for data to be provided to ECMCC and conversion assistance when converting data to a new TPA. If the files remain, please comment if system access will continue as well as the same level of service (for example claim reviews). Include any fees charged for these services.

- t. Describe what system notifications that can/may be communicated or generated by ECMCC.
- u. Describe if there are any additional charges for system upgrades including updates required by changes in laws and regulations.
- v. System must be capable of providing data and completing any forms requested by the State of New York Workers' Compensation Board, Department of Health and/or any other State or Federal agency. Please confirm this expectation can be met.
- w. System must be capable of capturing accurate data and filing any report needed on behalf of ECMCC at end of each calendar year with federal and state agencies. Must be able to file data in a timely manner as dictated by state or federal law. This includes but is not limited to document(s) GA 1.6, 1099's etc. The format of these reports will be dictated by either the member(s) or the law as to whether the filing(s) will be in paper or electronic format. Please confirm this expectation can be met.
- x. The successful applicant will be responsible for confidentiality and protection of all data and shall describe in detail all data protection systems and procedures. Please confirm this expectation can be met.
- y. Claim data must be real-time or uploaded every 24 hours. Please confirm this expectation can be met.
- z. Describe the ability and process of uploading legacy claims into your system in the event you take over existing claims from the current TPA.

9. Pricing

- a. Provide a cost proposal that includes a summary of all fees detailing services related to such fees, including full disclosure of sub-contractor fees associated with claim services to be provided through TPA.
- b. Provide pricing for both life of claim and life of service agreement.
- c. Describe any charges related to state, board, and legal reporting requirements.
- d. Include any pricing changes over the course of the service agreement.
- e. The payment basis provided below is preferred, but other arrangements would be considered. To aid in the equal comparison of all responders, please provide your proposed costs in the section below. Any additional information or proposed payments options may be included. The contract period will start on March 31, 2017 and end on March 30, 2020.

Preferred Response to Pricing

Workers' Compensation Medical Only Files

Year 1 _____

Year 2 _____

Year 3 _____

Workers' Compensation Lost Time/Indemnity Files

Year 1 _____

Year 2 _____

Year 3 _____

If you will offer a fixed (flat fee) annual contract proposal, please specify charge.

Annual Fee Year 1 _____

Annual Fee Year 2 _____

Annual Fee Year 3 _____

Medical Bill Review Fees

Per Bill _____

Per Line _____

Annual Flat Fee

Year 1 _____

Year 2 _____

Year 3 _____

Nurse Case Management Services Hourly Rate

Year 1 _____

Year 2 _____

Year 3 _____

Fee for On-Line Access to Claims Data, if applicable.

Year 1 _____

Year 2 _____

Year 3 _____

Full computer conversion of data and review of files (uploading current TPA data)

One Time Fee (please detail all fees that will be charged) _____

Legacy Claims (takeover of current TPA files)

One Time Fee _____

Exit Fee

All Inclusive Fee _____

OSHA Reporting

Year 1 _____

Year 2 _____

Year 3 _____

Describe and demonstrate the capabilities and cost savings comparative of your managed care/medical cost containment program including, but not limited to; case management services, prescription drug utilization program, managed care/preferred provider or other provider networks, utilization review and bill reviews. Indicate which services are owned by your company and which services you use sub-contractors. If services are sub-contracted out, disclose any commissions and/or any other type of compensation you receive from the sub-contractors.

5. PROPOSAL REQUIREMENTS:

5.1 Proposals must include the following information in addition to the information required in Section 4:

- 5.1.1 Disclose whether respondent has ever had a contract terminated and if so, provide a detailed explanation of the contract and circumstances surrounding termination.
- 5.1.2 Disclose whether any shareholder, director, officer or employee is currently employed by ECMCC, or was an employee of ECMCC during the two (2) year period preceding the date of the proposal, and if any shareholder, director, officer or employee is a member of any governing board of ECMCC or its affiliates.
- 5.1.3 Disclose any other areas that may be a potential conflict of interest.
- 5.1.4 Describe all contracts, affiliations, referral arrangements or other business relationships the respondent has with any hospital, health care system or health care provider with offices or facilities in Western New York.

5.2 The following forms must be submitted with each proposal:

- 5.2.1 M/WBE Utilization Plan - Form MWBE 100 (Exhibit A-1) (see Section 7 below).

- 5.2.2 Respondent Data Form (Exhibit B).
- 5.2.3 Non-Collusive Bidding Certification (Exhibit C).
- 5.2.4 Disclosure, Affirmation and Certification in accordance with State Finance Law §§ 139-j and 139-k (Exhibit D).
- 5.2.5 Not-for-profit budget form (Exhibit E) (note this form is only required if the respondent is a not-for-profit corporation).
- 5.2.6 Diversity Practices Questionnaire (Exhibit F) (see Section 7 below)

6. EVALUATION CRITERIA:

- 6.1 Efficiency and user ease of software platform – 35 points
- 6.2 Meeting all Other Proposal Service Requirements – 30 points
- 6.3 Demonstrated Client Service Commitment to Partnership – 10 points
- 6.4 Pricing – 10 points
- 6.5 Quality of References 10 points
- 6.6 Diversity Practices- 5 points

7. M/WBE REQUIREMENTS AND DIVERSITY PRACTICES:

- 7.1 Equal Opportunity and Minority/Women-Owned Business Enterprise Utilization. ECMCC is committed to promote equality of economic opportunity for minority group members and women, and the facilitation of minority and women-owned business enterprise (“MWBE”) participation. In accordance with Article 15-A of the New York State Executive Law and the regulations set forth at 5 NYCRR Parts 140-144, by submitting a proposal, the respondent agrees to be bound by the provisions set forth in Exhibit A to this RFP.
- 7.2 M/WBE Utilization Plan. If Exhibit A reflects that M/WBE participation goals apply to this RFP, Respondents are required to submit an M/WBE Utilization Plan (see Exhibit A-1) with their proposal in accordance with 5 NYCRR 142.6(a). The M/WBE Utilization Plan should list each NYS Certified M/WBE the respondent intends to utilize to perform the contract, a description of the scope of work to be performed by each M/WBE, and the estimated or, if known, actual dollar amounts to be paid to each M/WBE. Respondents shall utilize M/WBEs as subcontractors, subconsultants, suppliers, and/or enter into joint venture or teaming agreements with M/WBEs in order to comply with the M/WBE utilization requirements set forth in Exhibit A.
- 7.3 M/WBE Respondents. In the event that a respondent is a certified M/WBE, the respondent must nevertheless utilize at least one other MBE or WBE firm to satisfy the total M/WBE goals of the RFP. For example, if the respondent is a certified MBE, the

respondent must engage WBE participation to satisfy the MBE portion of the goal. If the respondent is a WBE, the respondent must engage MBE participation in order to satisfy the WBE portion of the goal.

- 7.4 Excluded Contracts. Certain procurements are excluded from M/WBE participation. The goals for each RFP are reflected in Exhibit A of this RFP. In the event that Exhibit A reflects a zero percent (0%) utilization goal applicable to this RFP, the RFP is for an expenditure that is excluded from ECMCC's M/WBE program and respondents are not required to submit an MWBE Utilization Plan. However, under all circumstances, respondents are encouraged to solicit MWBE utilization and to submit an M/WBE Goal Plan, and ECMCC may consider respondent's proposed M/WBE utilization in determining which proposal represents the best value to ECMCC.

- 7.5 Not-for-profit respondents. Any services that are self-performed by a not-for-profit respondent (i.e., services not procured in the open market) in response to this RFP, as well as any personal services, rent, and utilities costs related to this procurement, are exempt from the M/WBE goals that have been assigned to this procurement. After exempting personal services, rent, utilities and self-performance, M/WBE goals will still attach to the entire remainder of the funds of the procurement.

(For example, if the respondent's proposal for this procurement is \$100,000, and \$80,000 of this amount is comprised of personal services, rent, utilities and self-performance by the not-for-profit, then the remaining \$20,000 would still be subject to the M/WBE goals assigned in this contract.)

This exception applies solely to not-for-profit respondents. For the purposes of calculating which funds shall still be subject to M/WBE requirements, all not-for-profit respondents should fill out and return the attached Exhibit E.

Respondents who are for-profit organizations are still required to apply the M/WBE goals to the full amount of this procurement in their proposals. Please note that all parties are still responsible for submitting utilization plans (as detailed in Exhibits A and A-1) with their proposals that cover all services that are not exempt as described in the above.

- 7.6 Diversity practices Diversity practices are the efforts of contractors to include New York State-certified M/WBE's in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with MWBEs. Pursuant to New York State Executive Law Article 15-A, ECMCC has determined that the assessment of the diversity practices of respondents to this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement are required to fill out and return the questionnaire attached to this RFP as Exhibit F as part of their response. This questionnaire is intended to determine the overall diversity practices of respondents, regardless of specific M/WBE participation in this procurement.

8. GENERAL INSTRUCTIONS TO RESPONDENTS:

- 8.1 **The proposal** must be submitted following the outline format of the RFP (i.e. answer questions and submit requirements in the same order and under the same heading as the outline), or the response will not be considered. The response must be typed and original

autograph signatures in ink are required. Facsimile or rubber stamp signatures will not be accepted.

- 8.2 **Any change in wording or interlineations by a respondent of the inquiry** as published by ECMCC shall be reason to reject the proposal of such respondent, or in the event that such change in the RFP is not discovered prior to entering into a contract, to void any contract entered into pursuant to such RFP.
- 8.3 **For the purpose of determining which respondent is the lowest qualified responsible vendor**, it shall be the obligation of all respondents to present information and documentation to ECMCC to establish that the respondent possesses sufficient capital resources, skill, judgment and experience to perform the work or deliver the material, as per the RFP scope of services and specifications. ECMCC does not obligate itself to accept the lowest or any other proposal.
- 8.4 **Failure to perform** or meet delivery schedules as per the accepted proposal may result in legal action by ECMCC to recover damages.
- 8.5 **No taxes are to be billed to ECMCC.** Proposals shall not include any Federal, State or local excise, sales, transportation or other tax, unless Federal or State law specifically levies such tax on purchases made by a political subdivision. The ECMCC purchase order is an exemption certificate. Any applicable taxes from which ECMCC is not exempt shall be listed separately as cost elements and added into the total net price.
- 8.6 **The successful respondent may not assign, transfer, convey, sublet or otherwise dispose** of any contract awarded pursuant to this RFP, or respondent's, right, title, or interest therein, or respondent's power to execute such contract, to any other person or corporation without ECMCC's prior written consent. An assignment or transfer without ECMCC's prior written consent shall revoke and annul such contract, and ECMCC shall be relieved and discharged from any and all liability and obligations under such contract to the contractor, and to the person or corporation to which the contract has been assigned, transferred, conveyed, sublet or otherwise disposed of, and the contractor, and his assignees, transferees or sublessees shall forfeit and lose all moneys earned under such contract, except so much as may be required to pay his employees. The provisions of this section shall not hinder, prevent, or affect an assignment by any such contractor for the benefit of his creditors made pursuant to the laws of the State of New York.
- 8.7 **The successful respondent shall comply with all laws, rules, regulations and ordinances** of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to its performance under this contract.
- 8.8 **Insurance** shall be procured by the successful respondent before commencing work and no later than fourteen (14) days after notice of award, which insurance shall be maintained without interruption for the duration of the Contract in the kinds and amounts specified by ECMCC. If the insurance is not provided in acceptable form within this period of time, then the Director of Purchasing may declare the vendor non-responsible and award the contract to the next lowest responsible vendor. Certificates of insurance shall be furnished by the successful respondent in conformity with the ECMCC Standard Insurance Certificate.
- 8.9 **Any cash discount** which is part of a proposal will be considered as a reduction in price in determining the award of the proposal.

- 8.10 **ECMCC may, as the need arises, through the Director of Purchasing, order changes** in the work through additions, deletions or modifications without invalidating the contract. Compensation, as it may be affected by any change, shall be adjusted by agreement between the contractor and ECMCC through the Director of Purchasing.
- 8.11 **Any additional information** which the respondent desires to add to the response shall be attached to and submitted with the formal sealed response on a separate sheet of paper.
- 8.12 **The successful respondent** to whom a contract is awarded shall defend, hold harmless and indemnify ECMCC and its agents and employees from and against all claims, damages, losses or causes of action arising out of or resulting from such vendor's performance pursuant to such contract.
- 8.13 **All contractors** who will perform services at any of ECMCC facilities must be credentialed through ECMCC's chosen credentialing service at contractor's expense.
- 8.14 **The proposal is firm and irrevocable for a period of 60 days** from the date and time of the proposal opening. If a contract is not awarded within the 60 day period, a respondent to whom the contract has not been awarded may withdraw his proposal by serving written notice of his intention to do so upon the ECMCC Purchasing Department.
- 8.15 **Prices charged to ECMCC** are to be no higher than those offered to any other governmental or commercial consumer. If respondent's organization has a New York State or a Federal GSA contract for any of the items covered in this RFP or any similar items, respondent shall so indicate in its proposal and supply a copy of such contract within five (5) days of a request by ECMCC.
- 8.16 **Price is firm.** The unit prices shall remain firm, and any other pricing, quote or charges in the proposal shall also remain firm, for delivery of the equipment, material, work or services described in this RFP. No cost increase not covered in the proposal shall be charged for any reason whatsoever unless agreed upon by ECMCC.
- 8.17 **Extension of price protection.** Any contract entered into pursuant to this RFP to supply the ECMCC requirements of goods and/or services for a definite period of time as stated in the attached specifications may be extended for not more than two (2) successive periods of equal length at the same proposal price upon the mutual agreement of the successful respondent and ECMCC. All extensions shall be submitted in writing and shall have prior approval by the ECMCC Director of Purchasing.
- 8.18 **In executing this proposal,** the respondent affirms that all of the requirements of the specifications are understood and accepted by the respondent, and that the prices quoted include all required materials and services. The undersigned has checked all of the proposal figures and understands that ECMCC will not be responsible for any errors or omissions on the part of the undersigned in preparing the proposal. Mistakes or errors in the estimates, calculations or preparation of the proposal shall not be grounds for the withdrawal or correction of the proposal or proposal security.
- 8.19 **The following executory clause shall be a part of any agreement entered into pursuant to this RFP:**

It is understood by the parties that this agreement shall be executory only to the extent of the monies available to the Erie County Medical Center Corporation and appropriated therefore, and no liability on account thereof shall be incurred by the Erie County Medical Center Corporation beyond the monies available and appropriated for the purpose thereof. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract.

- 8.20 **Restrictions on contact during the RFP process.** Pursuant to State Finance Law Sections 139-j and 139-k, this RFP includes and imposes certain restrictions on communication between respondents and ECMCC during the procurement process. A respondent is restricted from making contacts from the date the RFP is issued through the final award and approval of the procurement contract by ECMCC (the "Restricted Period"). During the Restricted Period, respondents may only contact the designated contact regarding this RFP. The designated contact is identified on the cover page of this RFP. Respondents are responsible for reviewing ECMCC's Procurement Disclosure Policy and complying with State Finance Law Sections 139-j and 139-k. Directors, officer and employees of ECMCC are required to record certain information when contacted during the Restricted Period. A review of whether such contacts were permissible contacts will be considered in connection with any determination of responsibility of the respondent. Failure of any respondent to timely certify or to disclose accurate and complete information or the submission of any intentionally false or intentionally incomplete certification may result in the rejection of the contract award or if such contract has been executed, then the immediate termination of the contract. Violations may result in debarment of the respondent from proposing on or obtaining governmental procurement contracts in the State of New York.
- 8.21 **Freedom of Information Law.** During the evaluation process, the content of each RFP will be held in confidence and details of any RFP will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the proposal contains any such trade secrets or other confidential or proprietary information, the respondent must submit a request to exempt such information from disclosure. Such request must be in writing, must state the reasons why the information should be exempt from disclosure and must be provided at the time of submission of the subject information. Requests for exemption of the entire contents of a proposal from disclosure have generally not been found to be meritorious and are discouraged. Respondents must limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the respondent's competitive position. ECMCC assumes no responsibility for disclosure of unmarked data for any purpose. ECMCC will review such designations in making its determination whether disclosure is required, which determination shall be binding on the respondent.

EXHIBIT A

ERIE COUNTY MEDICAL CENTER CORPORATION MWBE AND EEO PROGRAM REQUIREMENTS

I. General Provisions

- A. ECMCC 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 agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the ECMCC, to fully comply and cooperate with ECMCC 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 New York State 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 Contract, ECMCC hereby establishes an overall goal of 30% for Minority and Women-Owned Business Enterprises (“MWBE”), comprised of specific goals of 20% for Minority-Owned Business Enterprises (“MBE”) participation and 10% for Women-Owned Business Enterprises (“WBE”) participation.
- 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:

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

Additionally, Contractor is encouraged to contact ECMCC’s MWBE Coordinator at (716) 898-4947 and the Division of Minority and Woman Business Development at (518) 292-5250, (212) 803-2414, or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.

- 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

EXHIBIT A

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 ECMCC 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 ECMCC within forty-eight (48) hours after the date of the notice by ECMCC to award the Contract to the Contractor.
 - 3. If Contractor does not have an existing EEO policy statement, Contractor may adopt the attached model statement (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

EXHIBIT A

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. 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. 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 ECMCC 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

EXHIBIT A

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 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, ECMCC shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

- A. 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, ECMCC shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- B. If the ECMCC, 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, ECMCC 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 to ECMCC 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 ECMCC 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 ECMCC 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

EXHIBIT A

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 ECMCC, Contractor shall pay such liquidated damages to ECMCC within sixty (60) days after they are assessed by ECMCC 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 ECMCC.

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

M/WBE AND EEO POLICY STATEMENT

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

M/WBE

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

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) 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.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2_____

By _____

Print: _____ Title: _____

EXHIBIT A-1

M/WBE UTILIZATION PLAN

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

Offeror's Name:
Address:
City, State, Zip Code:
Telephone No.:
Authorized Representative:

Federal Identification No.:
Location of Work: _____
RFP or Bid No.:
M/WBE Goals in the Contract: 30%
MBE Goals in the Contract: 20%
WBE Goals in the Contract: 10%

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
1.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
2.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
3.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
4.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
5.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
6.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
7.	NYS ESD CERTIFIED			

	<input type="checkbox"/> MBE <input type="checkbox"/> WBE			
8.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
9.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).				
PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type): SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.		TELEPHONE NO.:		EMAIL ADDRESS:
		FOR ECMCC M/WBE USE ONLY		
		REVIEWED BY:		DATE:
		UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ Contract No.: _____ Project No. (if applicable): _____ Contract Award Date: _____ Estimated Date of Completion: _____ Amount Obligated Under the Contract: _____ Description of Work: _____ NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		

EXHIBIT B
RESPONDENT DATA

To facilitate correct drawing and execution of a contract for services, respondents shall supply full information concerning legal status:

Firm Name: _____

Any trade name or assumed name ("d/b/a"): _____

Address of principal office:

Street: _____

City: _____ State: _____

Zip: _____ Phone: _____

Check one:

- ☐ CORPORATION
- ☐ LIMITED LIABILITY COMPANY
- ☐ PARTNERSHIP
- ☐ INDIVIDUAL

Formed under the laws of the state of: _____.

If a foreign entity, state whether authorized to do business in the State of New York:

- ☐ YES
- ☐ NO

Is respondent a New York State certified minority-owned or women-owned business enterprise listed in the online State Directory? (If so, please provide a copy of the NYS Certificate with proposal).

- ☐ YES
- ☐ NO

Address of Local Office:

Street: _____

City: _____ State: _____

Zip: _____ Phone: _____

Names and addresses of all directors and officers (or managers if an LLC):

Names and percentage ownership interest of all shareholders, partners, or members:

EXHIBIT C
NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other respondent or with any competitor;
- 2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the respondent and will not knowingly be disclosed by the respondent prior to opening, directly or indirectly, to any other respondent or to any competitor; and
- 3) No attempt has been made or will be made by the respondent to induce any other person, partnership, limited liability company or corporation to submit or not to submit a proposal for the purpose of restricting competition.

NOTICE

(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

Affirmed under penalty of perjury this ____ day of _____, 20____.

Authorized Signature

Print Name and Title

EXHIBIT D
STATE FINANCE LAW §§ 139-J AND 139-K
DISCLOSURE, AFFIRMATION AND CERTIFICATION

I. Contractor Disclosure of Findings of Non-Responsibility and Prior Contract
Terminations or Withholdings under State Finance Law §139-j:

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

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

No

Yes

If yes, please answer the next questions:

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

No

Yes

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

No

Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

No

Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Contractor certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

II. Contractor Affirmation Relating to Procedures Governing Permissible Contacts:

Contractor affirms that it understands and agrees to comply with the procedures of Erie County Medical Center Corporation relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

Date: _____ By: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

EXHIBIT E

NOT-FOR-PROFIT M/WBE BUDGET FORM



Any services that are self-performed by a not-for-profit respondent (i.e., services not procured in the open market) in response to this RFP, RFQ, or IFB, as well as any personal services, rent, and utilities costs related to this procurement, are exempt from the M/WBE goals that have been assigned to this procurement. After exempting personal services, rent, utilities and self-performance, M/WBE goals will still attach to the entire remainder of the funds of the procurement.

(For example, if the respondent's proposal for this procurement is \$100,000, and \$80,000 of this amount is comprised of personal services, rent, utilities and self-performance by the not-for-profit, then the remaining \$20,000 would still be subject to the M/WBE goals assigned to this procurement.)

This exception applies solely to not-for-profit respondents. Respondents who are for-profit organizations are still required to apply the M/WBE goals to the full amount of this procurement in their proposals. All parties are still responsible for submitting utilization plans (as detailed in Exhibits A and A-1) with their proposals that cover all services that are not exempt as described in the above.

The following chart is required to be submitted by all not-for-profit respondents. Each respondent must provide a breakdown of their entire proposed budget for the procurement. If you are not a not-for-profit entity, you do not have to complete this form.

Respondent name: _____

Proposed budget for work	
1 Personal services	\$ _____
2 Rent	\$ _____
3 Utilities	\$ _____
4 Self-performance	\$ _____
5 Other expenses <i>(Please provide line item descriptions; add additional sheets as necessary)</i>	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
6 Add the sum of Section 5. <i>(These funds <u>will</u> be subject to M/WBE requirements)</i>	\$ _____
7 Add the sum of Sections 1-4. <i>(These funds <u>will not</u> be subject to M/WBE requirements)</i>	\$ _____
Add the sum of sections 6 and 7. <i>(This number reflects the <u>total proposed budget</u> for the project.)</i>	\$ _____

RESPONDENT SIGNATURE

Signature of preparer

Date

Name of organization

Title of signatory

ERIE COUNTY MEDICAL CENTER CORPORATION
DIVERSITY PRACTICES ASSESSMENT QUESTIONNAIRE

I. Demographic profiles

- [illegible]

2. Please fill out the following demographic profile specifically as it relates to proposed staff assigned to work with ECMCC on the project that is the subject of the RFP. **(Potential Points – 5 Points)**

[illegible]

EXHIBIT F

Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
Total															

II. Firm activity

3. Does your Company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? **(Potential Points – 10 Points)**

☐ Yes

☐ No

If yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

4. Is your Company's CEO and/or Chief Procurement Officer ("CPO") committed to and engaged in the process of diversity business development? **(Potential Points – 10 Points)**

☐ Yes

☐ No

If yes, please attach a signed statement from your CEO or CPO.

5. Please attach a copy of your Company's equal opportunity and affirmative action policy. **(Potential Points – 5 Points)**

III. M/WBE business activity

6. What percentage of your Company's gross revenues were paid to New York State certified M/WBE subcontractors for servicing clients and/or manufacturing products and/or performing on contracts in your Company's prior year of business activity? **(Potential Points – 5 Points)**

7. What percentage of your Company's gross revenues involved the use of joint ventures, partnerships, or other similar arrangements with New York State certified M/WBE's in your Company's prior year of business activity? **(Potential Points – 5 Points)**

EXHIBIT F

-
8. What percentage of your Company's gross revenues were paid to New York State certified M/WBE subcontractors and paid to certified M/WBE joint ventures, partnerships, or other similar arrangements? **(Potential Points – 5 Points)**

-
9. What percentage of your Company's gross revenues involved the use of government or private sector contracts that had New York State certified M/WBE utilization requirements? **(Potential Points – 5 Points)**

-
10. What percentage of your Company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your Company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified M/WBE's as suppliers/contractors?¹ **(Potential Points – 5 Points)**

-
11. Does your Company provide technical training² to minority- and women-owned business enterprises? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

12. Is your Company participating in a government approved minority- and women-owned business enterprise mentor-protégé program? **(Potential Points – 5 Points)**

☐ Yes

☐ No

¹ Do not include onsite project overhead.

² Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

EXHIBIT F

If yes, identify the governmental mentoring program in which your Company participates and provide evidence demonstrating the extent of your Company's commitment to the governmental mentoring program.

13. Does your Company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? **(Potential Points – 10 Points)**

☐ Yes

☐ No

If yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

14. Does your Company have a formal minority- and women-owned business enterprise supplier diversity program? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, provide documentation of program activities and a copy of policy or program materials.

15. Does your Company provide any financial assistance to New York State certified M/WBE's? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, describe and attach details of any such programs as an exhibit.

EXHIBIT F

16. Does your Company have set supplier and subcontractor diversity goals for your Company's procurements? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, please describe.

17. Does your Company have established goals for New York State certified M/WBE suppliers or a total purchasing budget allocated to New York State certified M/WBE suppliers? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, please provide a copy or policy or statement of such established goals.

18. Is your Company certified as a Minority and/or Woman-owned business enterprise with the New York State Department of Economic Development ("MWBE")? **(Potential Points – 5 Points)**

☐ Yes

☐ No

If yes, please provide a copy of your certification. If no, please list all other jurisdictions and/or certifying bodies that have deemed your company Minority and/or Woman-owned. Also, please provide a copy of each certification.

EXHIBIT F

If your company has applied for, but has not, as of the issuance of the RFP, been certified as a Minority or Women-owned business enterprise by the New York State Department of Economic Development, you must submit proof of a pending application, including the filing date.

19. Please provide any other information that demonstrates your Company's commitment to diversity practices.

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature of
Owner/Official
Printed Name of
Signatory

Title

Name of Business

Address

City, State, Zip

STATE OF _____
COUNTY OF _____) ss:

On the _____ day of _____, 201_, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this certification and said person executed this instrument.

Notary Public