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County Executive

Department of Social Services

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Commissioner

WESTCHESTER COUNTY
DEPARTMENT OF SOCIAL SERVICES

REQUEST FOR PROPOSALS
FOR THE PROVISION OF
PERSONAL EMERGENCY RESPONSE SYSTEMS (“PERS”) SERVICES
TO RECIPIENTS OF MEDICAID

PROPOSALS WILL BE ACCEPTED UNTIL 4:30 P.M.
Thursday, January 29, 2009

Address proposals to :

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Program Administrator
Department of Social Services
Office of Medical Home Care Services
131 Warburton Avenue 4E
Yonkers, New York 10701
E-Mail: Jaa8@westchestergov.com

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1. INTRODUCTION AND SCHEDULE

The Westchester County Department of Social Services (“the Department”) is requesting proposals from all public, not-for-profit, or proprietary vendors interested in providing Personal Emergency Response System (“PERS”) services to recipients of Medical Assistance in Westchester County. Proposers must be qualified and capable of furnishing, installing, maintaining and removing PERS equipment, as well as maintaining a 24-hour emergency response center. Successful Proposers must demonstrate the ability to furnish PERS services in conformity with all applicable laws, regulations and standards. Proposers must also exhibit financial stability, and quality of service. The Department will select one or more vendors, based on competitive factors such as cost and equipment quality, for a three year term.

1.1. RFP Availability and Dissemination

Copies of this Request for Proposals (“RFP”) may be obtained from Jose A. Alonso, Program Administrator, Department of Social Services, Medical Home Care Services, 131 Warburton Avenue 4E, Yonkers, New York 10701, (914) 231-3622. E-Mail: Jaa8@westchestergov.com

To ensure wider dissemination of information, proposal solicitations will be announced in The Journal News. The announcement will contain the above description and information regarding the contact person for further information and copies of the RFP.

1.2. Informational Meeting

The Department will hold a meeting to answer questions regarding the RFP and to outline the criteria for the selection process on Monday, January 5, 2009 from 10:00 to 1:00 pm. in Conference room 4U on the North Side at 131 Warburton Avenue, Yonkers, New York 10701.

1.3. Questions and Inquiries

Requests for clarification of the RFP must be written and submitted to Jose A. Alonso no later than 4:30 pm. on Tuesday, January 13, 2009. Formal written responses will be distributed by the County on or before Wednesday, January 21, 2009. No communications of any kind will be binding against the County except for formal written responses to any request for clarification.

1.4. Proposal Requirements

- 1.4.1. Proposals MUST be signed. Unsigned proposals will be rejected.
- 1.4.2. Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.
- 1.4.3. No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.
- 1.4.4. Three (3) copies of each proposal must be delivered to Jose A. Alonso, 131 Warburton Avenue 4E, Yonkers, New York 10701 by 4:30 pm. on Thursday, January 29, 2009.

2. PROGRAM BACKGROUND

2.1. General Background

New York State Department of Health (“NYSDOH”) statistics indicate that there were

approximately 11,451 individuals over age 65 and approximately 20,088 individuals with disabilities under age 65 eligible for Medical Assistance in Westchester County in December 2008.¹

The Department purchased personal care services for approximately 2,045 recipients in January, 2008 through contracts with 30 agencies. The cost for these services in 2009 is estimated at \$77,437,835 million.

2.2. History of the PERS Program

In response to escalating personal care costs and periodic shortages in the available supply of home care workers, two demonstration programs testing the benefits of PERS were initiated in the 1980's. These programs showed that Medical Assistance expenditures could be significantly reduced without an adverse impact on the recipients' quality of care. Based upon these findings, Chapter 438 of the Laws of 1989 was enacted, adding New York Social Services Law Section 367-g and authorizing PERS statewide. The State subsequently promulgated Regulation 505.33, published in Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("18 NYCRR"), in 1991 and attached hereto as Appendix "B", permitting local districts to provide PERS to eligible recipients.

Westchester County began providing PERS to recipients through a contract with one vendor in August 1992. The average monthly total of PERS subscribers from January 2004, through January 2008 was 500. The average quarterly total for new installations was ____ over the course of 2008.

2.3. Applicable Laws, Regulations, Policies and Standards

2.3.1. Title XIX of the Social Security Act (42 U.S.C. 1396, et. seq.) enables states to create Medical Assistance programs, which include the furnishing of personal care services to needy individuals. Funding for such programs is also authorized, requiring state contribution.

2.3.2. New York State authorizes the provision of personal care services in Section 365-2 of Social Services Law. Applicable provisions of Section 365-2 pertaining to personal care are implemented by NYSDSS through 18 NYCRR 505.14.

2.3.3. Section 367-g of New York State Social Services Law authorizes the use of PERS to eligible recipients of Medical Assistance. NYSDSS has implemented the PERS program for personal care recipients through the promulgation of 18 NYCRR 505.33.

2.3.4. In accordance with Regulation 505.33, all PERS equipment must be approved by the Federal Communications Commission and meet the Underwriters' Laboratories, Inc. ("UL") safety standard 1637.

2.3.5. To receive payment for the provision of these services, the vendor must be enrolled in the Medical Assistance program in accordance with 18 NYCRR 504.1, et. seq.

2.3.6. All claims for payment must be in conformity with 18 NYCRR 540.7 and applicable state and federal laws.

¹ New York State Department of Health Medicaid Statistics
http://www.health.state.ny.us/nysdoh/medstat/el2007/2007-cy_eligibles.xls
http://www.health.state.ny.us/nysdoh/medstat/el2007/2007-cy_eligibles.htm

2.3.7. The County administers the Medical Assistance program for eligible persons as an agent of NYSDOH. In addition to requirements under the State and federal programs, compliance with all County Laws and the fulfillment of the County's overall policy goals will be considered in evaluating the proposals.

3. PROGRAM OUTLINE

The Personal Emergency Response System consists of an electronic call device which is installed in the recipient's residence and linked, via the recipient's telephone line, with a central emergency response center. In the case of sudden illness, accident or other emergency, the recipient can notify the emergency response center immediately in order to secure assistance.

3.1. Program Participants

Persons eligible for a PERS will be residents of Westchester County who are eligible for Medical Assistance and are applying for or are currently receiving personal care services. They may be frail, elderly medically disabled and/or handicapped, as evidenced by a medical and social assessment submitted to and evaluated by the Department. Recipients participating in the PERS program are screened to meet specific criteria, including:

- a. eligibility for more than 32 hours of Personal Care service per week without a PERS installed in the residence;
- b. Functioning telephone service with no pattern of disconnection or service;
- c. mental alertness and ability, or the ability of their emergency responders, to communicate in simple English;
- d. ability to ambulate with or without aides (i.e., not bed bound);
- e. availability of relative, neighbor or other representative to assist recipient in an emergency.

Eligible recipients will have been determined by the Department to need safety monitoring in addition to Personal Care services such as assistance in bathing, grooming and meal preparation. The Department will assess the individual's situation and determine that the need for safety monitoring can best be met by a PERS installed in the home.

4. SCOPE OF SERVICES

4.1 General Requirements

The criteria outlined below are the minimum that a Proposer must meet to provide services required by this RFP.

The Proposer must:

- a. have a State or Federal tax identification number;
- b. obtain and provide acceptable verification of liability insurance in the sum of not less than one million dollars (\$1,000,000) per occurrence, naming the County of Westchester as an additional insured (for further information, see Appendix "A");
- c. provide verification of the successful delivery of the type of service described in the RFP for at least on (1) full year immediately preceding the date of this RFP;

- d. have sufficient staff to directly operate all aspects of the program; and
- e. submit verifiable billings monthly in accordance with time frames set by the Department.

4.2. Specific Requirements

In addition to those responsibilities set forth in the General Requirements, the Proposer will be responsible for the following:

4.2.1. **Installing an Emergency Response System in a recipient's residence within 5 working days of notification by authorized Department staff.**

- a. Department staff will notify the Proposer by facsimile device of a request for installation. The Proposer will arrange with the recipient for a mutually convenient appointment with 5 working days of the Proposer's notification by the Department.
- b. The Proposer will notify the Department of the installation appointment and will notify the Department to confirm the installation.
- c. The Proposer will immediately notify the Department if it is unable to schedule or complete an installation within the required time frame.
- d. The Proposer will provide all parts and equipment necessary for installing the PERS into a functioning telephone system.
- e. The Proposer will instruct the recipient in the use and maintenance of the PERS and will provide the recipient with simple written instructions, including how to report a malfunction of the PERS.
- f. The Proposer will, upon request of the recipient or the Department, provide additional follow-up instructions to the recipient on operating and maintaining the PERS.
- g. The Proposer will, upon request of the Department, provide demonstrations or instructions for Department staff in the operation of the PERS.
- h. The Proposer will forward to the Department within 5 working days of the installation, either by mail or facsimile, a form signed by a Proposer representative or employee and by the recipient or recipient's representative confirming the date of the installation and the recipient's understanding of the use and maintenance of the PERS.

4.2.2. **Maintaining all installed PERS in proper working order.**

- a. The Proposer will repair or replace within 24 hours of notification any PERS that is not functioning properly at no cost to the Department. Notification of equipment malfunction may come from the Department, the recipient, the recipient's representative or other responsible source.
- b. The Proposer will notify the Department immediately upon repairing or replacing a malfunctioning PERS.

4.2.3. **Ensuring that the PERS is operating properly at least once every 24 hours.**

- a. The Proposer will make provisions to ensure that each installed PERS is operating properly at least once every 24 hours.

- b. Provisions for the daily checking will preferably be automated and cause the least possible inconvenience for the recipient.
- c. The Proposer will follow up immediately on any PERS that is not operating properly. As specified in section 4.2.2., malfunctioning equipment will be repaired or replaced within 24 hours of notification or identification.

4.2.4. Maintaining a 24-hour emergency response center staffed with trained emergency operators.

- a. The Proposer will establish and maintain a 24-hour monitoring center for all installed PERS. The center will provide for the following activities:
 - i. Receiving emergency signals from recipients and acknowledging the signal within 2 minutes of receipt.
 - ii. Establishing immediate 2-way voice communication with recipients sending emergency signals.
 - iii. Being capable of responding to multiple emergency signals simultaneously.
 - iv. Notifying a third party (recipient-designated representative, police, EMS, etc.) to respond to an emergency via immediate telephone contact and without interrupting or terminating direct voice contact with the recipient.
 - v. Verifying a resolution of the emergency situation and notifying the Department within 24 hours or the next business day.
- b. The Proposer will ensure 24-hour staffing of the emergency response center with trained operators.
 - i. The Proposer will prepare written training material and procedures for the operators.
 - ii. The operators will pass a written test administered by the Proposer pertaining to proper operation of the system and response to emergencies prior to being assigned to the project.

4.2.5. Ensuring continuous PERS monitoring and response capabilities during power failures, mechanical malfunction or other emergencies.

- a. The Proposer will provide the emergency response center with appropriate auxiliary power, separate telephone service and back up information retrieval systems to provide continuous recipient monitoring and emergency response capability in case of local or widespread power failure, fire or other emergency. This should include at least one geographically separate emergency response center serviced by completely separate electrical power grid and telephone service, that duplicates all of the information retrieval and response systems of the primary site.
- b. Installed PERS should be capable of operating for 24 hours without external power in case of power failure at the recipient's residence.

4.2.6. Creating, maintaining and protecting automated recipient data records.

- a. The Proposer will devise an automated recipient data storage and retrieval system which will include pertinent recipient information, including:

1. Recipient name, address (including apartment and floor), telephone number.
 2. Recipient history, including age, sex, medical condition, diagnosis and medication.
 3. Person(s) to notify in an emergency.
 4. Local police, fire, ambulance, doctor and hospital service.
- b. The Proposer will protect recipient records from alteration or destruction, and will protect the confidentiality of recipient records, as explained in section 4.3.
- 4.2.7. **Responding immediately to all signals from the recipient's PERS, and maintaining appropriate contact until termination of the emergency situation.**
- a. The Proposer, immediately upon receiving a signal from a recipient's PERS, will retrieve the recipient's automated data records, establish immediate two-way voice contact directly with the recipient via the incoming signal and contact the recipient's representative, or take other emergency action as prescribed in the recipient's record.
 - b. The emergency response operator will monitor the provision of emergency service to verify that it has been provided and that the emergency situation no longer exists at the recipient's residence.
 - c. The Proposer will notify the Department by telephone or facsimile device on the working day following the emergency, of the nature and resolution of the emergency.

The Proposer will submit to the Department a written summary of the emergency within 5 working days of the incident (this may be waived if the original notification was written and sent by a facsimile device).

4.2.8. **Maintaining all written records of all PERS activities including activation of PERS.**

- a. The Proposer will prepare and retain written records including:
 - i. PERS installations
 - ii. Recipient orientation and instruction
 - iii. PERS maintenance and repair
 - iv. PERS monitoring every 24 hours
 - v. Recipient data updating
 - vi. PERS activations and emergency responses
 - vii. PERS removal

4.2.9. **Providing all recipient data, activity, forms as devised, requested or directed by the Department.**

- a. The Proposer will prepare and produce at no cost to the Department all forms necessary for recording and/or reporting including:
 - i. Recipient data/history
 - ii. PERS installation and removal record
 - iii. Recipient orientation verification
 - iv. PERS maintenance and repair record
 - v. PERS 24-hour monitoring log

- vi. PERS activation report
 - vii. Monthly recipient roster
- b. Forms numbered i. through vi. above, will provide for reporting the date and time of the activity, as well as the persons involved. Additionally, form number vi. will provide for reporting a detailed description of the emergency, emergency response and resolution.

4.2.10. Removing the PERS from a recipient's residence within 5 working days of notification by authorized Department staff.

- a. The Proposer will, upon instruction by the Department, arrange with the recipient or recipient's representative for a mutually convenient appointment within 5 working days.
- b. The Proposer will verify to the Department by telephone and in writing that the PERS has been removed.
- c. Payment will terminate on the date the Department notifies the contractor. Sole liability for the recovery of the PERS will remain with the Proposer.

4.2.11. Identifying the administrative level personnel to act as liaison(s) for communication with the Department.

4.3. Confidentiality of Patient Records

Each Proposer must agree that all information, records and data collected in connection with the contract shall be protected from unauthorized disclosures. In addition, the agency must agree to guard the confidentiality of recipient information. Access to recipient identifying information shall be limited by the vendor to persons or agencies which require the information in order to perform their duties in accordance with the contract, including New York State, Westchester County, or the United States government.

Any other party shall be granted access to confidential information only after complying with the requirements of state and federal laws and regulations pertaining to such access. The County shall have absolute authority to determine if and when any other party has properly obtained the right to have access to the confidential information. Nothing herein shall prohibit the disclosure of information in summary, statistical, or other form which does not identify particular individuals.

The Proposer must also agree to adhere to 18 NYCRR 357 as well as the Health Insurance Portability and Accountability Act ("HIPAA") of 1996 as amended, and its implementing regulation, the Standards for Privacy of Individually Identifiable Health Information 65 Fed. Reg. 82, 462 et seq. (Dec. 28, 2000) (hereinafter the "HIPAA Privacy Rule") and all other applicable Federal, State and County laws regarding confidentiality of records. (Attached as Appendix "F" is the HIPAA Business Associate Terms)

5. DEPARTMENT RESPONSIBILITIES

The Department will be responsible for referring all recipients to be served under the contract, and will retain complete control of recipient eligibility determination, care plan development, service authorization and case management. The Department will also be responsible for monitoring and evaluating the Proposer's performance.

5.1. Recipient Screening

The Department will be responsible for screening Medicaid eligible persons who are applying for or currently receiving home attendant service for participation in the PERS project.

Eligibility requirements will include the following:

- a. eligibility for more than 32 hours of home attendant service per week without a PERS installed in the recipient's residence;
- b. mental alertness and ability, or the ability of emergency responders, to communicate in simple English;
- c. ability to ambulate with or without aides (i.e., not bed bound)
- d. availability of relatives, neighbors or other recipient representatives to assist the recipient in an emergency (i.e., emergency responders); and
- e. functioning telephone service with no pattern of disconnection of service.

5.2. Notification of Installation and Removal

The Department will be responsible for referring new recipients for the program to the Proposer. Installation of a PERS in the recipient's home shall be made within 5 working days of referral by facsimile device from authorized Department staff to the Proposer. Written authorization to begin PERS service along with pertinent recipient data, will be sent to the Proposer by facsimile machine.

The Department will also be responsible for directing the Proposer to remove a PERS from a recipient residence at the recipient's request, because of the death of the recipient, hospitalization of the recipient for more than 30 days, or because of another change in circumstances. Where the removal is not at the recipient's request, or because of the death of the recipient, the decision to remove the PERS will be the sole responsibility of the Department. For all PERS removals, notification will be by telephone from authorized Department staff. Written authorization to terminate PERS service will be sent to the Proposer on the same day as the telephone notification. If the Proposer is notified directly by a recipient's family or other representative to remove the PERS, authorization must first be obtained from the Department.

5.3. Provision of Recipient History Data

The Department will be responsible for providing the Proposer with pertinent data for each recipient who is referred for PERS service. The data will include the recipient's name, address, telephone number, medical condition, diagnosis and medication and will be submitted by the Department on forms prepared by the Proposer as specified in section 4.2.9.

The Department will also be responsible for providing the Proposer with information about changes in a recipient's status in a timely fashion.

5.4. Case management and Coordination

The Department will be responsible for the continuing case management of recipients participating in the PERS program. In this capacity, the Department will promptly forward to the Proposer any service complaints received from participating recipients through Department field staff and act to resolve recipient-Proposer problems.

5.5. Contract Monitoring and Evaluation

The Department will be responsible for monitoring the Proposer's ongoing compliance with the

terms of the contract. The Department will monitor the Proposer's performance in such areas as: timeliness of the provision of service; reliability of service; timeliness and efficiency of emergency response; and timeliness and accuracy of reporting.

6. PROPOSAL NARRATIVE INSTRUCTIONS

All proposals shall clearly and concisely explain how the Proposer will provide PERS services to the estimated caseload of recipients, as detailed in the SCOPE OF SERVICES. Each proposal must be signed by someone in the Proposer's organization authorized to contractually commit the respondent. Each proposal shall be comprised of the following:

6.1. Letter of Transmittal

The letter should identify the Proposer, the authorized contract person and any areas of non-conformance with the specifications of the RFP.

6.2. Cover Page

The cover page should contain the following:

- a. Title
- b. Period covered
- c. Name and Address of Respondent
- d. Name, Title, Telephone Number of Contact Person
- e. Cost Per Case (Installation/Monthly Charge)
- f. Signature of Corporate Officers or Authorized Agent

6.3. Table of Contents

6.4. Brief History of the Organization

Provide an organizational chart and a brief description of the type and general history of the Proposer's organization, which shows the Proposer's experience and qualifications for providing an automated personal emergency response system to the target population.

Identify all contracts to provide PERS services with Westchester County, New York State or any other municipality in the past five years (Specify the agency the contract was/is with, period of contract, amount of contract, name and telephone number of contact person for the contract).

6.5. Program Design

6.5.1. Problem Statement

State what the objectives are in providing PERS to the target population as well as what problems exist in providing the service. Briefly describe how the Proposer will address these objectives and problems.

6.5.2. Staffing

Identify titles, number of persons in each title, job description for each title, and minimum qualifications for each title.

6.5.3. Service Delivery

In sufficient detail, describe the goods and services to be provided and the mechanisms for providing them along with any other description which the Proposer feels is necessary to provide a complete picture of the proposed program and how it will operate. Include a detailed description of how the Proposer will meet the specific requirements of the RFP, including, but not limited to, installing PERS and initiating service within 5 working days, providing 24-hour monitoring; insuring continuous monitoring during power failure or other emergencies; and responding to and following up on emergency signals from recipients. Also provide a detailed description of the equipment to be used, including the PERS and response center equipment.

6.6. Budgetary and Financial Information

6.6.1. 2007-2008 Budgets

Provide a detailed budget of the respondent's PERS operations for 2007 and 2008.

6.6.2. Projected Budget

Project a budget for the Westchester County contract over a 36-month period, assuming either 15 new cases per month or 45 per quarter. This budget should include a cost per case, which will include installation, rental fees, service and maintenance, etc. The projection should be based on the following equipment:

1. One (1) hands free PERS unit, with two-way voice communication;
2. One (1) personal transmitter, either hand-held, wrist-type or breath-activated.

In addition, provide a separate projection for the inclusion of the following items:

3. Two (2) fixed personal transmitters, e.g., for attachment to doors or walls;
4. One (1) smoke detector.

6.6.3. Audited Financial Statement

Appended to the proposal should be a copy of the Proposer's latest audited financial statement. A Certified Public Accountant, independent of your organization, should prepare the financial statement, including a minimum of an income statement (profit and loss), a balance sheet (statement of financial position), and a statement of cash flows, for the agency's last fiscal year.

Proposers who have been in business for the minimum period of one year and do not yet have an audited financial statement may submit a statement from a bank or other financial institution in lieu of the financial statement for purposes of the initial phase of review. Such statement should document firm financial backing and adequate resource availability to enter into business. An audited statement must then be provided upon its completion.

6.7 Disclosure Statement

Appended to the proposal should be a signed and notarized statement from a responsible officer in the organization disclosing any pending litigation, unsatisfied judgments, convictions for fraud or sanctions or penalties imposed by governmental authorities.

7. PROPOSAL EVALUATION AND SELECTION

Each proposal will be reviewed by the Department according to the selection criteria defined below; final selection will be made by the Department's Office of Adult and Medical Services which will select those proposals which, in its opinion, best meet the requirements of the RFP.

Approval of the Proposer (s) and final contract requirements are subject to approval of the Westchester County Board of Acquisition and Contract. The approved Proposer will be required to sign contracts with the Department. The contract will be the final document and will specify the rights and responsibilities of all parties. If the selected Proposer (s) refuses or is unable to sign said contract within a reasonable time frame as determined by the Department, the Department will withdraw the offer to contract and begin negotiations with the next highest-ranked Proposer, subject to Board of Acquisition and Contract and other appropriate approvals.

Proposals will be rated on the following factors:

7.1 Organization Capability

7.1.1 Proposer's History and Performance Record

Recent history with automated emergency responses system operation.

Prior experience with target population.

Performance on prior government contracts.

7.1.2 Responsiveness to the RFP.

Compliance with basic requirements and understanding of basic services to be provided.

Clarity and conciseness of the proposal.

7.1.3 Management

Adequacy of the proposed organization and staffing plans.

7.1.4 Quality Assurance

Adequacy of staff supervision, training and support.

7.2 Financial Capability

Indication of the respondent's overall fiscal well-being

7.3 Equipment and Systems

Technical evaluation of the proposed equipment, including capability, reliability, special

features, back-up, warranties, maintenance, ease of use, security features and monitoring facility. Proposers may be asked to demonstrate their PERS at a time and location set by the Department.

Note that all PERS equipment must be approved by the Federal Communications Commission and meet UL safety standard 1637. The UL Listing Mark on the equipment will be accepted as evidence of the equipment's compliance with such standards.

If the equipment does not bear a UL listing Mark, the Proposer must provide a written statement from the equipment's manufacturer or from a testing laboratory other than UL stating that the equipment meets or exceeds UL 1637.

7.4 Maintenance and Customer Service

Evaluation of service plan to initiate and monitor PERS service and to respond efficiently to emergencies.

Evaluation of maintenance plan to keep equipment functioning properly, including replacement schedule and monitoring of unit functionality.

Evaluation of customer service plan, including initial training for usage of PERS and responsiveness to recipient complaints.

7.5 Cost

Reasonableness of proposed budget.

8. LEGAL REPRESENTATION

8.1. Understandings

Please take Notice, by submission of a proposal in response to this request for proposals, proposing entity agrees to and understands:

- that any proposals, attachments, additional information, etc. submitted pursuant to this Request for Proposals constitutes an intention to negotiate with the County of Westchester and is not a bid under Section 103 of the New York State General Municipal Law;
- submission of a proposal, attachments and additional information shall not entitle the proposing entity to enter into a service agreement with the County of Westchester for the required services;
- by submitting a proposal, the proposing entity agrees and understands that the County of Westchester is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;
- that any and all counter-proposals, negotiations or any communications received by a proposing entity, its officers, employees or agents from the County, its elected officials, officers, employees or agents, shall not be binding against the County of Westchester, its elected officials, officers, employees or agents unless and until a formal written agreement for the services sought by this RFP is duly executed by both parties and approved by the Westchester County Board of Acquisition & Contract, and the Office of the Westchester County Attorney.

Neither the receipt of this RFP nor the submission by its recipient of a proposal pursuant thereto shall be deemed to create an agreement among recipient, the County, the State of New York or

between any of the parties.

In addition to the foregoing, the Proposer also understands and agrees that the County reserves the right and may in its sole discretion, exercise the following rights and options with respect to this Request for Proposals:

- To select the proposal that best satisfies the interests of the County and not necessarily on the basis of price or any other single factor.
- To reject any and all proposals.
- To issue additional solicitations for proposals and/or amendments to this RFP.
- To conduct investigations with respect to the qualifications of each proposer.
- To select any proposal as the basis for negotiations of a contract and to negotiate with one or more of the proposers for amendments or other modifications to their proposals.
- To modify dates.
- To enter into an agreement or agreements for only portions (or not to enter into an agreement for any) of the services contemplated by the proposal with one or more of the proposers.
- To waive any irregularities in proposals received after notification to proposers affected.
- The County assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal.
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluation of proposals and the negotiations and award of any contract.
- While this is a Request for Proposals and not a bid, the County reserves the right to apply the case law under General Municipal Law §103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP.
- The County is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.
- Evaluation criteria are not necessarily listed in order of importance. The County reserves the right to weigh its evaluation criteria in any manner it deems appropriate.
- It is the policy of the County, pursuant to Local Law No. 27-1997, to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women.

8.2.. PROPOSAL REQUIREMENTS

Requests for clarification of the RFP must be written and submitted to Jose A. Alonso no later than 4:30 pm. on Tuesday, January 13, 2008. Formal written responses will be distributed by the County on or before Wednesday, January 21, 2009. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.

Proposals MUST be signed. Unsigned proposals will be rejected.

Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.

No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

8.3. CONTENTS OF PROPOSAL:

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84-90, mandates public access of government records. However, proposals submitted in response to the RFP may contain technical, financial or other data whose public disclosure could cause substantial injury to the proposer's competitive position or constitute a trade secret. Proposers who have a good faith belief that information submitted in their proposal is protected from disclosure under the New York Freedom of Information Law shall insert the following notice in front of its proposal:

"NOTICE

The data on pages _____ of this proposal identified by an asterisk (*) contain technical or financial information which are trade secrets or information for which disclosure would result in substantial injury to the respondent's competitive position.

The Proposer requests that such data be used only for the evaluation of the proposal, but understands that the disclosure will be limited to the extent that the County considers proper under the law. If the County enters into an agreement with this Proposer, the County shall have the right to use or disclose the information as provided in the agreement, unless otherwise obligated by law."

And the Proposer shall clearly identify the pages of the proposal containing such information by typing in **bold face** on the top of each page ***"The Proposer believes that this information is protected from disclosure under the State Freedom of Information Law"**.

The County assumes no liability for disclosure of information so identified, provided that the County has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction.

The contents of the proposal which is accepted by the County, except portions "Protected from Disclosure", may become part of any agreement resulting from this RFP.

9. CONTRACT

After selection of the successful proposer, a formal written contract will be prepared by the County of Westchester and will not be binding until signed by both parties and approved by the Westchester County Board of Acquisition & Contract and the Office of the County Attorney. NO

RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE COUNTY FOR SUBMISSION TO THE BOARD OF ACQUISITION & CONTRACT FOR CONTRACT APPROVAL. SAID BOARD HAS THE RIGHT TO REJECT ANY RECOMMENDATION AND THE APPROVAL OF SAID BOARD IS NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE COUNTY.

9.1. INDEMNIFICATION INSURANCE

The Proposer accepts and agrees that any contract entered into between the County and one or more of the Proposers arising in connection with this RFP will contain language in substantially the following form:

“In addition to, and not in limitation of, the insurance provisions contained in Appendix A, the Proposer agrees:

- (a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Proposer shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims demands, costs, judgments, fees, attorneys’ fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Proposer or third parties under the direction or control of the Proposer; and
- (b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.”

Upon execution of any contract between Proposer and the County, the Proposer will be required to provide proof of insurance coverage described in Schedule “A”. insurance coverage in amount and form shall not be deemed acceptable until approved by Westchester County Department of Risk Management. The Director of Risk Management may alter insurance requirements at his/her discretion.

Proposer agrees that it will submit the proper forms for payment to the NYSDSS fiscal intermediary and that the Medical Assistance payment shall be accepted as payment in full. The Proposer shall not seek additional payment from the County, unless specifically authorized, or from the recipient or representatives of the recipient.

The Proposer represents and agrees that all prices quoted for goods or services herein have been arrived at by the Proposer independently and have been submitted without collusion with any other vendor of similar materials, supplies, equipment or services.

The Proposer expressly agrees:

- (a) That in the hiring of employees for the performance of work under this Agreement or any subcontract or Agreement hereunder; no Proposer, subcontractor nor any person acting on behalf of such Proposer or subcontractor, shall by reason of race, creed, color, national origin, age, sex, disability or marital status, discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

- (b) That no Proposer, subcontractor, nor any person on his behalf shall, in any shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, national origin age, sex, disability or marital status.
- (c) That there may be deducted from the amount payable to the Proposer by the County under this Agreement a penalty of fifty (\$50.00) dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions hereof;
- (d) That this Agreement may be cancelled or terminated by the County, and all monies due or to become due hereunder may be forfeited, for a second or or any subsequent violation of this paragraph 9.4.

The Proposer shall at his own cost and expense comply with all provisions of the Labor Law, including, without limitation, Articles 8, 8-A and 9 thereof, the Lien Law, the Worker's Compensation Law and all other laws or ordinances affecting this Agreement.

9.2. NON-COLLUSION

The Proposer, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York and the County, and that said laws have not been violated and shall not be violated as they relate to the procurement of the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any County employee, officer or official.

9.3. CONFLICT OF INTEREST

The award of a contract is subject to provision of all Federal, State and County laws. All firms must disclose with their proposals the name of any officer, director or agent who is also an employee of the County. Further, all firms must disclose the name of any County employee who owns, directly or indirectly, an interest of ten percent or more in the firm or any of its subsidiaries or affiliates.

9.4. MBE/WBE

Pursuant to Local law No 27-1997, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises which are owned and controlled by persons of color or women in contracts and projects funded by the County. Therefore, the County asks Proposers to complete the questionnaire attached hereto as Appendix "C".

9.5. MACBRIDE PRINCIPLES

Pursuant to Act No. 56-1999, no County procuring officer may award or recommend for award any contract not subject to competitive bidding to a Proposer that does not execute a certification substantially in the form attached hereto as Appendix "D". Therefore, the County asks Proposers to complete the questionnaire attached hereto as Appendix "D".

9.6. RELATIONSHIP TO COUNTY

Proposers are required to complete the questionnaire entitled “Required Disclosure of Relationships to County” attached hereto as Appendix “E”. In the event that any information provided in the completed questionnaire changes, Proposer agrees to provide a revised “Required Disclosure of Relationships to County” form to the County within ten (10) business days of such event.

9.7. PROPOSER CERTIFICATE

The Certificate attached as page 22 should be signed and included with all proposals.

9.8 CRIMINAL BACKGROUND DISCLOSURE

PLEASE TAKE NOTICE that pursuant to Executive Order No. 1-2008, the County shall have the right to bar any contractor, consultant, licensee or lessee of County owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said contractor, consultant, licensee or lessee who is at least sixteen (16) years old, including but not limited to subconsultants, subcontractors, sublessees or sublicensees or any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property from providing work or services to the County or from being on County property if any of the above mentioned persons has either one of the following: (a) A conviction of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State); (b) A pending criminal proceeding for a crime(s) as defined above; or (c) A refusal to answer such questions; where the following criteria apply: (a) If any of the persons providing work or services to the County in relation to a County Contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County Contract; and (b) If any of the persons providing work or services to the County, in relation to a County Contract may, in the course of providing those services, have access to sensitive data (for example, Social Security Numbers and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors and the infirm).

Proposers that are awarded a contract shall be required to submit a Certification Form and any additional applicable criminal disclosure forms as attached hereto as Schedule “F,” along with the executed contract. Notwithstanding the above, a Proposer may qualify for an exemption from Executive Order 1-2008 if: (i) the County has already conducted a background check and issued a security clearance that is in full force and effect for those persons; or (ii) if another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of the agreement that is sought by this RFP and the same is in full force and effect.

PROPOSER CERTIFICATION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the County of Westchester and is NOT A BID. Submission of this proposal, attachments and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the County of Westchester for the required services. The undersigned agrees and understands that the County of Westchester is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the County of Westchester, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the County of Westchester and approved by the Office of the County Attorney.

It is understood and agreed that the County of Westchester reserves the right to reject consideration of any and all proposals including, but not limited to , proposals which are conditional or incomplete. It is further understood and agreed that the County of Westchester reserves all rights specified in the Request for Proposals.

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the County of Westchester is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

Proposer Name

Signature & Title

SCHEDULE “A”

STANDARD INSURANCE PROVISIONS (CONTRACTOR)

1. Prior to commencing work, the Contractor shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Contractor and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Contractor shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Contractor to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Contractor to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification. All property losses shall be made payable to and adjusted with the County.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Contractor shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the “Special Conditions” of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for Proof of Compliance with the New York State Workers' Compensation Law.

State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

(Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits' Policy, or both, a temporary permit may be issued if the employer completes form C-105.2 in duplicate. A copy of form C-105.2 is sent to the Worker's Compensation Board, Information Unit for investigation and report.)

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Workers' Compensation Board evidencing that fact.

(b) Employer's Liability with minimum limit of \$100,000.00

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000.00 for bodily injury and \$100,000.00 for property damage or a combined single limit of \$1,000,000.00 (c.s.l.), naming the County of Westchester as an additional insured. This insurance shall indicate on the certificate of insurance the following coverages:

- (i) Premises-Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor.
- (iv) Products and Completed Operations.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000.00 per occurrence for bodily injury and a minimum limit of \$100,000.00 per occurrence for property damage or a combined single limit of \$1,000,000.00 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

(e) Professional Liability. The Contractor shall provide proof of such insurance (limits of \$1,000,000.00 per occurrence/\$3,000,000.00 aggregate).

3. All policies and certificates of insurance of the Contractor shall contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause “other insurance provisions” in a policy in which the County of Westchester is named as an insured shall not apply to the County of Westchester.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.

The Contractor agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Contractor shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys’ fees or loss arising directly out of the acts or omissions of the Contractor or third parties under the direction or control of the Contractor; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly arising out of this Agreement and to bear all other costs and expenses related thereto.

SCHEDULE “B”

A new Section 505.33 is added to Title 18 to read as follows: 505.33 Personal emergency response services (PERS).

(a) Definitions.

- (1) Personal emergency response services mean:
 - (i) the provision and maintenance of electronic communication equipment in the home of an individual which signals a monitoring agency for help when activated by the individual, or after a period of time if a timer mechanism has not been reset; and
 - (ii) the continuous monitoring of such signals by a trained operator and, in case of receipt of such signals, the immediate notification of such emergency response organizations or persons, if necessary, as the individual has previously specified.
- (2) Electronic communication equipment (PERS equipment) means equipment that electronically signals a monitoring agency for help via telephone lines. PERS equipment includes the following:
 - (i) an emergency response activator, which is a small electronic device that the PERS recipient presses or otherwise activates to send a signal for help to the monitoring agency; and
 - (ii) an emergency response communicator, which is an electronic unit connected to a PERS recipient's telephone line. The emergency response communicator accepts a signal for help from the emergency response activator and also has its own device to generate a signal for help. It sends the signal via telephone lines to the monitoring agency.
- (3) Monitoring agency means an agency that is capable of receiving signals for help from a recipient's PERS equipment 24 hours per day, seven days per week; determining whether an emergency exists; and notifying an emergency response organization or an emergency responder that the PERS recipient needs emergency help.
- (4) Emergency response organization means a police department, a fire department, and ambulance service, a hospital or other entity that the PERS recipient has designated to respond to specific signals for help when notified by the monitoring agency or and emergency responder.

- (5) Emergency responder means a PERS recipient's neighbor, family member or other person who has agreed, at the recipient's request, to respond to specific signals for help when notified by the monitoring agency.
 - (6) PERS provider means a certified home health agency, a long term home health care program, an area agency on aging, a police department, a fire department, an ambulance service, a hospital or any other entity that is capable of providing PERS either directly or through sub-contracts. A PERS provider may also be a monitoring agency.
- (b) Social services districts' PERS plans.
- (1) Each social services district must submit a PERS plan to the department of form the department requires and must not authorize PERS until the department has approved the district's PERS plan. Each social services district must submit any changes to its approved PERS plan as part of the district's annual plan for the provision of personal care services, as required by section 505.14(j) of this Part.
 - (2) A social services district's PERS plan must be in a form acceptable to the department and must include descriptions of the following:
 - (i) the process the social services district will use to authorize PERS;
 - (ii) the PERS equipment that the social services district will require to be used, including whether the equipment will have a voice-to-voice capability;
 - (iii) the process by which the social services district will select the PERS providers with which it will contract;
 - (iv) the coordination among the social services district, the PERS providers with which it will contract and any entities with which the PERS providers will subcontract; and
 - (v) the projected cost savings that PERS will achieve.
 - (3) The department will notify a social services district of its approval or disapproval of the district's PERS plan within 45 business days after it receives the plan. If the department disapproves a social services district's PERS plan, the district must submit a revised plan to the department within 30 business days after the day the district receives the department's disapproval notice.

- (c) PERS assessments, authorizations and reauthorizations.
- (1) As part of its assessment for an authorization of personal care services or home health services, a social services district may also assess whether PERS would be appropriate for a person.
 - (2) An initial authorization for PERS must be based on a physician's order and a comprehensive assessment of the person.
 - (i) the comprehensive assessment must be performed by social services district staff, or by staff of the district's designee, on forms that the department approves to be used.
 - (ii) the comprehensive assessment must evaluate the following factors: the person's physical disability status, the degree to which the person is at risk of an emergency due to a medical or functional impairment or disability, and the degree of the person's social isolation.
 - (iii) a social services district may authorize PERS only when the comprehensive assessment indicates that PERS would be appropriate for the person because:
 - (a) the person has a medical condition, disability or impairment that warrants use of PERS;
 - (b) PERS would reduce or eliminate the number of hours of personal care services or home health services the person would need;
 - (c) the person's safety in the home must be monitored;
 - (d) the person has insufficient informal caretakers, such as family members and friends, directly and continuously available to monitor his or her health and safety;
 - (e) the person is alert and self-directing, which means that he or she is capable of making choices about activities of daily living, understanding the impact of the choices and assuming responsibility for the results of the choices;
 - (f) the person can communicate in basic English or, if the person is unable to communicate in basic English, the person's emergency responder or responders can communicate in basic English;

- (g) the person would be able to use the PERS equipment effectively; and
 - (h) the person has a functioning telephone that is compatible with the PERS equipment or will have such a telephone when the PERS equipment is installed.
- (3) If a social services district authorizes PERS, the PERS authorization and plan of care may be incorporated in the authorization and plan of care for personal care services or home health services.
- (4) The duration of an initial PERS authorization must be based upon the person's needs as reflected in the comprehensive assessment. No initial authorization may exceed six months.
- (5) When a PERS recipient's physical circumstances, mental status, or medical condition significantly change during the authorization period, social services district staff, or staff of the district's designee, must perform a new comprehensive assessment and make any necessary changes in the authorization.
- (6) A social services district must not authorize PERS if the person is eligible for the long term home health care program (LTHHCP), can obtain PERS through LTHHCP and wishes to obtain PERS through the LTHHCP.
- (7) A reauthorization of PERS must follow the procedures set forth in paragraphs (2) through (6) of this subdivision, except that the recipient's physician, the social services district's local professional director, or a physician at the area Office of Health Systems Management must review the comprehensive assessment and be responsible for the final determination to reauthorize PERS. No single authorization may exceed six months.
- (8) A social services district must notify the person in writing of its decision to authorize, deny, reauthorize or discontinue PERS on a form required by the department. The notice must meet the notice requirements set forth in Part 358 of this Title. The person will be entitled to a fair hearing in accordance with the requirements of Part 358 of this Title. A PERS recipient for whom the social services district proposes to discontinue PERS will be entitled to aid continuing in accordance with the requirements of Part 358 of this Title.

(d) Contracting for PERS.

- (1) A social services district must have contracts with a sufficient number of PERS providers to provide PERS to all persons for whom the district has authorized PERS.
- (2) Before contracting with any PERS provider, a social services district must determine that the provider is qualified to provide PERS either directly or through subcontracts and can meet this section's requirements and any local requirements contained in the district's approved PERS plan described in subdivision (b) of this section.
- (3) A social services district's contracts with PERS providers must be on a form that the department has approved to be used. A district must not implement any contract for PERS or any local variations until the department has approved the contract and any local variations.
- (4) A PERS provider must maintain appropriate insurance coverage to protect the social services district from liability claims resulting from acts, omissions or negligence of provider personnel that cause personal injuries to PERS recipients or such personnel.

(e) Responsibilities of social services districts.

- (1) A social services district must ensure that the PERS recipient designates an emergency response organization; one emergency responder or, if possible, two such responders; a representative, who may be the same person as an emergency responder; and a preferred hospital. The district must also ensure that the PERS recipient, or his or her representative, signs a written authorization for emergency response organization personnel and an emergency responder to enter the recipient's home and provide emergency treatment and transportation.
- (2) On the day that a social services district authorizes PERS, it must perform the following activities:
 - (i) telephone the PERS provider and inform the provider:
 - (a) of the name, telephone, and address of the person for whom the social services district has authorized PERS;
 - (b) that the provider must telephone the person or the person's representative that same day to arrange a mutually convenient time for the provider to install the PERS equipment into the person's functioning telephone line; and

- (c) that the provider must install the PERS equipment within seven business days after the day the provider receives a written PERS authorization from the social services district and that, if the provider cannot install the equipment within this seven day period, it must immediately notify the district.
 - (ii) send the PERS provider a written PERS authorization; and
 - (iii) send the PERS provider the information regarding the person that is described in clauses (f) (3) (i) (a) through (g) of this section.
- (3) If a PERS recipient's physical circumstances, medical condition or mental status change during the authorization period, the social services district must send to the PERS provider the information regarding these changes so that the provider may update the recipient's data record, as described in subparagraph (f) (3) (i) of this section.
- (4) (i) Subject to notice, aid continuing, and fair hearing requirements set forth in subdivision (c) (8) of this section and Part 358 of this Title, a social services district must discontinue PERS when the recipient is continuously hospitalized for more than 60 days or when his or her physical circumstances, mental status or medical condition has changed significantly so that PERS are no longer appropriate for the person. Whenever a social services district discontinues PERS because PERS are no longer appropriate for the recipient, the district must ensure that personal care services, if appropriate, are provided to the recipient.
- (ii) On the day that the social services district discontinues PERS, it must perform the following activities:
- (a) Telephone the PERS provider and inform the provider that it must telephone the recipient or the recipient's representative that same day to arrange a mutually convenient time for the PERS equipment removal, and that the provider must remove the PERS equipment within seven business days after the day the provider receives the district's written notification to remove the equipment; and
 - (b) send the PERS provider a written notification to remove the equipment.
- (5) A social services district must monitor a PERS provider's compliance with this section's requirements. The district must monitor the timeliness of the provider's installation, maintenance and removal of PERS equipment; the timeliness and efficiency of the monitoring agency's responses to signals for help from recipients' PERS equipment; the timeliness of the provider's

reports of emergencies; the reliability of PERS equipment; and all complaints by PERS recipients regarding the PERS provider or the PERS equipment.

(f) Responsibilities of PERS providers.

- (1) A PERS provider must properly install all PERS equipment into a PERS recipient's functioning telephone line and must furnish all supplies necessary for installing this equipment.
 - (i) On the day that the PERS provider receives the district's telephoned PERS authorization, it must telephone the recipient or the recipient's representative to arrange a mutually convenient time for the provider to install the PERS equipment into the recipient's functioning telephone line. The PERS provider must install the PERS equipment within seven business days from the day it receives the district's written PERS authorization. If the provider is unable to install the PERS equipment within this period, it must notify the district immediately.
 - (ii) On the day that the PERS provider installs the PERS equipment, it must perform the following activities:
 - (a) Telephone the social services district and notify it that the equipment has been installed;
 - (b) Instruct the PERS recipient regarding the use of the PERS equipment and give the PERS recipient simple written instructions that describe these procedures.
 - (c) Inform the PERS recipient that he or she should immediately notify the provider or the social services district if the equipment malfunctions; and
 - (d) Inform the PERS recipient that he or she may call the monitoring agency when he or she wants to test the PERS equipment or when he or she has questions regarding the PERS equipment.
 - (iii) At the PERS recipient's or the social services district's request, the PERS provider give follow-up instructions to the recipient regarding his or her use of the PERS equipment.
 - (iv) Within seven business days after the day the PERS equipment is installed, the PERS provider must forward to the social services district, by mail or facsimile machine, a written confirmation that the equipment has been installed and that the PERS recipient has

been instructed how to use the equipment. The confirmation must be signed by a representative of the provider and by the PERS recipient or the recipient's representative.

- (2) A PERS provider must maintain all installed PERS equipment in proper working order.
 - (i) The PERS provider must monitor all installed PERS equipment to insure that the equipment operates properly at all times. The provider's monitoring of the PERS equipment should be automated and result in the least possible inconvenience to the PERS recipient.
 - (ii) The PERS provider must replace PERS equipment batteries when necessary, at no additional cost to the social services district, the department or the recipient.
 - (iii) Within 24 hours after the PERS provider is notified that any PERS equipment has malfunctioned, the provider must repair or replace the equipment at no additional cost to the social services district, the department or the recipient. The PERS provider may be notified that the PERS equipment has malfunctioned by the social services district, the PERS recipient, the PERS recipient's representative or another responsible party. When any PERS equipment is repaired or replaced, the PERS provider must notify the social services district by telephone within 24 hours.
- (3) A PERS provider must maintain the following records at no additional cost to the social services district or the department:
 - (i) A data record for each PERS recipient. The provider must update this record at least every six months by contacting the social services district. The provider must also update the recipient's data record whenever the social services district notifies the provider that changes should be made to the PERS recipient's data record. Each PERS recipient's data record must contain the following information, which the social services district will send to the provider on the day it authorizes PERS and whenever the social services district is informed that such information has changed:
 - (a) the PERS recipient's name, telephone number and address, including his or her apartment number and floor, if applicable;
 - (b) the PERS recipient's personal medical history, including his or her age, sex, medical condition, diagnosis and other relevant medical history;
 - (c) the name, telephone number and address of the person or persons whom the PERS recipient has designated as the

emergency responder or responders;

- (d) the name, telephone number and address of the person whom the PERS recipient has designated as his or her representative, if different from an emergency responder;
 - (e) the name, telephone number and address of the police department, fire department, ambulance service, hospital or other entity that the PERS recipient has designated as an emergency response organization;
 - (f) the PERS recipient's written authorization for the emergency response organization and an emergency responder to enter his or her home and provide emergency treatment and transportation; and
 - (g) the name, telephone number and address of the PERS recipient's physician and the recipient's preferred hospital.
- (ii) a record of the PERS provider's instructions to the PERS recipient regarding his or her use of the PERS equipment;
 - (iii) a record of the PERS equipment's installation and removal;
 - (iv) a record of the maintenance of PERS equipment and any repairs or replacements of malfunctioning equipment that were necessary;
 - (v) a record of the monitoring agency's 24-hour monitoring of PERS recipients;
 - (vi) a record of each signal for help from a recipient's PERS equipment that the monitoring agency receives and the monitoring agency's response to the signal; and
 - (vii) a record of PERS recipients whom the monitoring agency monitors each month.
- (4)(i) The PERS provider must ensure that the monitoring agency performs the following activities when the monitoring agency receives a signal for help from a recipient's PERS equipment:
 - (a) if the PERS recipient's equipment has voice-to-voice capability, establish immediate verbal contact with the PERS recipient via the incoming signal to determine whether an emergency exists at the PERS recipient's home;

- (b) retrieve the PERS recipient's data record;
 - (c) if unable to establish immediate verbal contact with a PERS recipient whose equipment has voice-to-voice capability, or if the PERS recipient's equipment lacks such capability, immediately notify an emergency responder that the PERS recipient has signaled for help;
 - (d) if unable to notify an emergency responder, immediately notify an emergency response organization that the PERS recipient has signaled for help;
 - (e) maintain appropriate contact with the PERS recipient, the emergency responder or the emergency response organization; and
 - (f) monitor the provision of emergency services to verify that these services have been provided and that the emergency at the PERS recipient's home has been resolved.
- (ii) The PERS provider must telephone the social services district on the first business day after the emergency occurred and inform it of the nature of the emergency and how it was resolved. The provider must forward to the social services district, by mail or facsimile machine, a written report of the emergency within seven business days after the day the emergency occurred. This report must contain at least the information described in paragraphs (3) (v) and (vi) of this subdivision.
- (5) The PERS provider must ensure that the monitoring agency can continuously monitor and respond to signals for help from recipients' PERS equipment during power failures, mechanical malfunctions or other technical emergencies. The provider must ensure that the monitoring agency has the monitoring capabilities specified in subdivision (g) (2) of this section.
- (6) A PERS provider must remove PERS equipment from a recipient's home when notified to do so by the social services district. The provider must not remove PERS equipment unless the district has notified it that the equipment must be removed.
- (i) One the day the social services district telephones the PERS provider and notifies it that PERS equipment must be removed, the provider must telephone the recipient or the recipient's representative to arrange a mutually convenient time for the equipment's removal.
 - (ii) The PERS provider must remove PERS equipment within seven business days after the day the provider receives the social services

district's written notification that PERS equipment must be removed.

- (iii) On the day the PERS equipment is removed, the PERS provider must notify the social services district by telephone of the equipment's removal.
- (iv) Within seven business days after the day the PERS equipment is removed, the PERS provider must forward to the social services district, by mail or facsimile machine, a written confirmation that the equipment has been removed. The confirmation must be signed by a representative of the provider and by the former PERS recipient or his or her representative.

(g) Standards for PERS equipment and monitoring agencies.

- (1) All PERS equipment must be approved by the Federal Communications Commission and meet the Underwriters' Laboratories, Inc. (UL) safety standard Number 1637, which is the UL safety standard for home health care signaling equipment. (Standard for Home Health Care Signaling Equipment, UL 1637, First Edition, May 30, 1989, effective January 2, 1991; published by Underwriters Laboratories, Inc. 333 Pfingsten Road, Northbrook, Illinois, 60062. Copies are available for public use and inspection at the Department of State, 162 Washington Avenue, Albany, New York 12231.) The UL listing mark on the equipment will be accepted as evidence of the equipment's compliance with such standard.
 - (i) The emergency response activator must be activated either by breath, by touch or by some other means and must be usable by persons who are visually or hearing impaired or physically disabled.
 - (ii) The emergency response communicator must be attached to the PERS recipient's telephone line and must not interfere with normal telephone use. The emergency response communicator must be capable of operating without external power during a power failure at the recipient's home in accordance with UL requirements for home health care signaling equipment with stand-by capability.
- (2) The monitoring agency must be capable of simultaneously responding to multiple signals for help from recipients' PERS equipment. The monitoring agency's equipment must include the following:
 - (i) a primary receiver and a back-up receiver, which must be independent and interchangeable;
 - (ii) a back-up information retrieval system;
 - (iii) a clock printer, which must print out the time and date of the emergency

signal, the PERS recipient's identification code and the emergency code that indicates whether the signal is active, passive or a responder test;

- (iv) a back-up power supply;
 - (v) a separate telephone service; and
 - (vi) a telephone line monitor, which must give visual and audible signals when an incoming telephone line is disconnected for more than 10 seconds.
- (3) The monitoring agency must maintain detailed technical and operations manuals that describe PERS elements, including the installation, functioning and testing of PERS equipment; emergency response protocols; and recordkeeping and reporting procedures.
- (h) Payment for PERS.
- (1) A social services district must negotiate payment rates for PERS at or below rates included in a rate schedule established by the department with the approval of the Director of the Budget. A social services district must not negotiate PERS payment rates that exceed local prevailing PERS rates.
 - (2) PERS rates must include payment for the rental or lease of PERS equipment; the installation, maintenance and removal of PERS equipment; and a monthly service charge for monitoring agency services.
 - (3) The social services district must submit all negotiated PERS rates to the department for approval.
 - (4) Payments for PERS will be made only when the PERS provider's claim is supported by documentation required by section 540.7(a) (8) of this Title.
 - (5) Payments for PERS must end the day the social services district sends the PERS provider written notification that PERS equipment must be removed from the recipient's home.

SCHEDULE "C"

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY PERSONS OF COLOR OR WOMEN

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Local Law No. 27-1997 we request that you answer the questions listed below.

The term persons of color means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North American; or (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a) at least 51% owned by one or more persons of color or women; (b.) an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (d.) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to Article 15-a of the New York State Executive law and implementing regulations, 9 NYCRR subtitle N Part 540 *et seq.*, or as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 *et seq.*, and the relevant provisions of the Code of Federal Regulations as amended.

1. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?

_____ No

_____ Yes (as a business owned and controlled by persons of color)

_____ Yes (as a business owned and controlled by women)

2. If you are a business owned and controlled by persons of color, please specify, the minority classifications which apply:

3. Are you certified with the State of New York as a minority business enterprise ("MBE") or a women business enterprise ("WBE")?

_____ No

_____ Yes (as a MBE)

_____ Yes (as a WBE)

4. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply: _____

5. Are you certified with the Federal Government as a small disadvantaged business concern.?

_____ No

_____ Yes

Name of Firm/Business Enterprise: _____

Address: _____

Name/Title of Person completing MBE/WME Questionnaire: _____

Signature: _____

SCHEDULE “D”

CERTIFICATION REGARDING BUSINESS DEALINGS WITH NORTHERN IRELAND

A. The Contractor and any individual or legal entity in which the Contractor holds a ten (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles.

B. For purposes of this Certification, “MacBride Principles” shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

- (1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
- (2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
- (3) ban provocative religious or political emblems from the workplace;
- (4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
- (5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
- (6) abolish all job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion;
- (7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
- (8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
- (9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

C. For purposes of this Certification, “Northern Ireland” shall be understood to be the six counties partitioned from the Irish Province of Ulster, and administered from

London and/or from Stormont.

D. The Contractor agrees that the warranties and representation in paragraph “A” are material conditions of this Agreement. If the County receives information that the Contractor is in violation of paragraph “A”, the County shall review such information and give the Contractor opportunity to respond. If the County finds that such a violation has occurred, the County may declare the Contractor in default, and/or terminate this Agreement. In the event of any such termination, the County may procure the supplies, services or work from another source in accordance with applicable law. The Contractor shall pay to the County the difference between the contract price for the uncompleted portion of this Agreement and the cost to the County of completing performance of this Agreement either by itself or by engaging another contractor. If this is a contract other than a construction contract, the Contractor shall be liable for the difference in price if the cost of procurement from another source is greater than what the County would have paid the Contractor plus any reasonable costs the County incurs in any new procurement and if this is a construction contract, the County shall also have the right to hold the contractor in partial or total default in accordance with the default provisions of this Agreement. In addition, the Contractor may be declared not to be a responsible bidder or proposer for up the three (3) years, following written notice to the Contractor giving the Contractor the opportunity for a hearing at which the Contractor may be represented by counsel. The rights and remedies of the County hereunder shall be in addition to, and not in lieu of, any rights and remedies the County has pursuant to this Agreement or by operation of law or in equity.

Agreed:

Name of
Contractor_____

By: (Authorized
Representative)_____

Title:_____

SCHEDULE "E"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County contractor must complete, sign and return this form to the County)

Contract Name and/or ID No.:

(To be filled in by County)

Name of Contractor:

(To be filled in by Contractor)

A.) Related Employees:

1. Are any of the employees that you will use to carry out this contract with Westchester County also an officer or employee of the County, or the spouse, or the child or dependent of such County officer or employee?

Yes _____ No _____

If yes, please provide details: _____

B.) Related Owners:

1. If you are the owner of the Contractor, are you or your spouse, an officer or employee of the County?

Yes _____ No _____

If yes, please provide details: _____

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a county officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the county or otherwise. For the purpose of this chapter, a county officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the county;**
- ii. A firm, partnership or association of which such officer or employee is a member or employee;**

- iii. A corporation of which such officer or employee is an officer, director or employee; and
- iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the County have an **interest** in the Contractor or in any subcontractor that will be used for this contract?

Yes _____ No _____

If yes, please provide details: _____

Authorized Company Official shall sign below
and type or print information below the
signature line:

Name:

Title:

Date:

Contract # _____
Name of Contractor/SubContractor _____

SCHEDULE "F"

CONTRACTOR
CRIMINAL BACKGROUND DISCLOSURE INSTRUCTIONS

Pursuant to Executive Order 1-2008 and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County shall have the right to bar the following "Persons Subject to Disclosure" (Persons shall mean individuals or legal entities) from providing work or services to the County or from being on County property:

(a) Consultants, Contractors, Licensees, Lessees of County owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, Subcontractors, Sublessees or Sublicensees who are providing services to the County; and

(b) Any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

If any of the above mentioned Persons Subject to Disclosure has either one of the following:

(a) A conviction of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State);

(b) A pending criminal proceeding for a crime(s) as defined above; or

(c) A refusal to answer such questions.

Where the following criteria apply:

(a) If any of the Persons Subject to Disclosure providing work or services to the County in relation to a County Contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County Contract; and

(b) If any of the Persons Subject to Disclosure providing work or services to the County, in relation to a County Contract may, in the course of providing those services, have access to sensitive data (for example, Social Security Numbers and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors and the infirm).

Accordingly, the Contractor is required to review these Instructions and complete Schedule “F-1” as well as any other applicable criminal disclosure forms (i.e., “Schedules F-2” through “F- 5,” together with “F-1,” collectively referred to as “Disclosure Forms”).

However, the following Persons Subject to Disclosure are **exempt** from Executive Order 1-2008: (i) those persons for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; or (ii) those persons for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of this Contract that is in full force and effect.

If a Person Subject to Disclosure is exempt from the disclosure described in Executive Order 1-2008 because of either “i” or “ii” above, then the Contractor shall notify the Procuring Officer² in the respective Department of its claim of exemption and it shall be the responsibility of the Procuring Officer to verify each exemption. If the Procuring Officer determines that the Contractor is exempt under sections “i” or “ii” above, the Procuring Officer shall confirm same with the Contractor and maintain a written record including all supporting details of the verification of and acknowledgement of said exemption.

If the Procuring Officer determines that the Contractor is not exempt under sections “i” or “ii” above, the Procuring Officer shall notify the Contractor in writing, and the appropriate Disclosure Forms shall be required.

² “Procuring Officer” shall mean the head of the department or the individual(s) authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.

It shall be the Contractor's duty to disclose and to inquire of each and every Person Subject to Disclosure, whether they have been convicted of a crime or whether they are currently subject to pending criminal charges. It shall be the duty of the Contractor to submit a completed Certification Form annexed hereto as Schedule "F-1," which certifies that the Contractor and every Person Subject to Disclosure has been asked whether they have been convicted of a crime or are currently subject to pending criminal charges.

Should the Contractor or any Person Subject to Disclosure (also referred to as "Person") affirmatively advise that they have been convicted of a crime said Person shall be identified in Schedule "F-2" and shall complete Schedule "F-3," entitled, "Criminal Background Disclosure Form For Persons Who Have Been Convicted of A Crime."

Should the Contractor or any Person Subject to Disclosure advise that they are subject to pending criminal charges, said Person shall be identified in Schedule "F-2" and shall complete the form annexed hereto as Schedule "F-4," entitled, "Criminal Background Disclosure Form For Persons Who Are Subject to Pending Criminal Charges."

Should the Contractor or any Person Subject to Disclosure refuse to answer whether they have been convicted of a crime or are currently subject to pending criminal charges, the name and title of said Person(s) shall be listed in Schedule "F-5."

It shall be the duty of the Contractor to submit to the Procuring Officer all of the attached applicable Disclosure Forms prior to the commencement of this Contract. It is the responsibility of each Contractor to assure that all of their proposed SubContractors complete the criminal background and disclosure certification forms and submit the forms to the Procuring Officer before they will be approved to perform work on the contract.

Under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception to this obligation. If the Contractor needs to obtain translation services to fulfill this obligation, it shall be at the sole cost and expense of the Contractor.

The Contractor shall be required to make the same inquiry and forward updated Disclosure Forms to the Procuring Officer regarding additional Persons Subject to Disclosure in connection with this Contract during the term of this Contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED DISCLOSURE FORMS ARE FILED WITH THE PROCURING OFFICER.**

THE CONTRACTOR HAS A CONTINUING OBLIGATION TO MAINTAIN THE ACCURACY OF THE DISCLOSURE FORMS FOR THE DURATION OF THIS CONTRACT, INCLUDING ANY AMENDMENTS OR EXTENSIONS THERETO AND SHALL PROVIDE ANY UPDATES TO THE COUNTY AS NECESSARY TO COMPLY WITH THE DISCLOSURE REQUIRED BY EXECUTIVE ORDER 1-2008.

Any failure by the Contractor to comply with the disclosure requirements of Executive Order 1–2008, absent proof of exemption deemed satisfactory by the County Procuring Officer, may be considered by the County a material breach by the Contractor and shall be grounds for immediate termination of this Agreement by the County.

Contract # _____
Name of Contractor/SubContractor _____

SCHEDULE "F-1"

**CONTRACTOR AND ALL PERSONS SUBJECT TO DISCLOSURE³
CERTIFICATION FORM**

IF THIS FORM IS COMPLETED BY A SUBCONTRACTOR CHECK HERE⁴

I, _____,
(Name of Person Signing Below)

(CHECK APPLICABLE ANSWER BELOW)

_____ a principal of the Contractor & authorized to execute this Certification Form;

_____ a representative of the Contractor & authorized to execute this Certification Form;

(CHECK APPLICABLE RESPONSES FOR SECTIONS A AND B BELOW)

A. PRINCIPAL/REPRESENTATIVE/CONTRACTOR DISCLOSURE

I am a principal or a representative of the Contractor authorized to execute this Certification Form and based upon my own personal knowledge or having made all necessary efforts to obtain the facts my answers to the questions below are as follows:

1) Have you or the Contractor ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?

_____ Yes _____ No

2) Are you or the Contractor subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?

_____ Yes _____ No

³ Persons Subject to Disclosure are identified and defined in Schedule "F," pursuant to Executive Order 1-2008.

⁴ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

B. PERSONS SUBJECT TO DISCLOSURE

I hereby certify that all of the Persons Subject to Disclosure, as previously defined under this Contract that will or are intended to provide services, work or intended to be on County property under this Contract have been asked the following questions and their responses are as follows:

1) Have you ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?

_____ Yes

_____ No

2) Are you subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?

_____ Yes

_____ No

If the answer is “yes,” to any of the questions in Sections “A,” or “B” above, please list the names and titles of all such Persons in Schedule “F-2.”

In addition, the Persons identified in Schedule “F-2” must complete Schedule “F-3” or “F-4.”

Schedule “F-3” must be completed by those Persons who have previously been convicted of a crime.

Schedule “F-4” is provided for those Persons who are subject to pending criminal charges.

If a Person refuses to answer any of the questions in Sections “A” or “B” above, the name and title of said Person shall be listed in Schedule “F-5.”

CONTRACTOR CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Contractor shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Contractor has a continuing obligation to maintain the accuracy of the Disclosure Forms for the duration of this Contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

Name:
Title:
Date:

Notary Public

Date

**** ATTENTION ****

**IF YOU HAVE ANSWERED “NO”
TO ALL OF THE QUESTIONS
CONTAINED IN SCHEDULE “F-1,”
PLEASE DISREGARD ALL OF THE
FORMS LOCATED AFTER THIS
PAGE.**

Contract # _____
Name of Contractor/SubContractor _____

SCHEDULE "F-2"⁵

**NAMES AND TITLES OF PERSONS SUBJECT TO DISCLOSURE
THAT ANSWERED "YES" TO ANY QUESTION IN SCHEDULE "F-1"**

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Note: If more names and titles must be added, please attach a separate page entitled, "Schedule F-2 Continued."

CONTRACTOR CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate and that all additional required Disclosure Forms have been completed.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Contractor shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Contractor has a continuing obligation to maintain the accuracy of the Disclosure Forms for the duration of this Contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

Name:
Title and Date:

Notary Public

⁵ If this Certification Form is being completed by a Subconsultant, please consider all references to "Consultant" to mean "Subconsultant."

Contract # _____
Name of Contractor/SubContractor _____

SCHEDULE “F-3”

**CRIMINAL BACKGROUND DISCLOSURE FORM FOR
PERSONS WHO HAVE BEEN CONVICTED OF A CRIME**

The conviction of a crime will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the prior conviction(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 1) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3) Please provide the date and place of each conviction.
- 4) Please provide your age at the time of each crime for which you were convicted.

- 5) Please provide the legal disposition of each case.
- 6) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

I certify that this information is correct and complete. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form for the duration of this Contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date

Contract # _____
Name of Contractor/SubContractor _____

SCHEDULE "F-4"

CRIMINAL BACKGROUND DISCLOSURE FORM FOR PERSONS WHO ARE SUBJECT TO PENDING CRIMINAL CHARGES

A pending criminal charge will not automatically result in a denial of your right to work on a County contract, your right to be on County property or your license, but may, if the County determines that the pending charge(s) create an unacceptable risk. However, if you fail to list any part of your conviction history, whether due, but not limited to any omission, intentional falsification or any failure to disclose for any reason, you may be prohibited from working or being on County property without any risk assessment. If it is later determined that you failed to disclose a criminal conviction for any reason, your right to work on a County contract, be on County property or your license may be terminated at any time.

I, _____, am _____
(Name of Person Signing Below) (Title Relevant to Contract)

- 1) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.

- 2) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).

- 3) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I certify that this information is correct and complete. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my employment on this project.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

I understand that I have a continuing obligation to maintain the accuracy of this form for the duration of this Contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

By my signature below I hereby affirm that all of the facts, statements and answers contained herein and all attachments are true and correct.

Name:
Title:
Date:

Notary Public

Date

SCHEDULE “F-5”⁶

PERSONS THAT REFUSED TO ANSWER

Please list the names and titles of each Person that refused to answer any of the questions in “Schedule F-1.”

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

CONTRACTOR CERTIFICATION

I hereby certify that all of the information provided herein is true and accurate.

No Person Subject to Disclosure shall perform work or services or enter onto County premises until the Disclosure Forms are filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to be added after execution of this Certification Form, the Contractor shall not utilize such persons or permit said individual onto County property until the updated Disclosure Forms are filed with the Procuring Officer.

It is further understood and agreed that the Contractor has a continuing obligation to maintain the accuracy of the Disclosure Forms for the duration of this Contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

Name:
Title:
Date:

Notary Public

⁶ If this Certification Form is being completed by a Subconsultant, please consider all references to “Consultant” to mean “Subconsultant.”

SCHEDULE "G"
HIPAA Business Associate
Terms

Pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996, and its implementing regulation, the Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,462 *et seq.* (Dec. 28, 2000) (hereinafter the "HIPAA Privacy Rule"), the **COUNTY OF WESTCHESTER**, acting by and through its Department of Social Services, with an office at 112 East Post Road, Yonkers, New York 10701, ("Covered Entity") and _____, with an office at _____ ("Business Associate") (jointly "the Parties") agree that the following terms address the requirements of the HIPAA Privacy Rule with respect to "business associates," as that term is defined in the HIPAA Privacy Rule.

Specifically, the following terms are intended to ensure that the Business Associate will establish and implement appropriate safeguards (including certain administrative requirements) for "Protected Health Information" the Business Associate may create, receive, use, or disclose in connection with certain functions, activities, or services (collectively "services") to be provided by Business Associate to Covered Entity pursuant to this Agreement.

I. Definitions

"Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

"Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

"Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

"Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

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") and its implementing regulations, including those at 45 CFR Parts 160 and 164.

II. Obligations and Activities of the Business Associate:

- (a) The Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Schedule or as required by law.
- (b) The Business Associate agrees to use the appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Schedule and to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of the Covered Entity pursuant to this Agreement.
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Schedule.
- (d) The Business Associate agrees to report to the Covered Entity, as soon as reasonably practicable, when it becomes aware of any use or disclosure of the Protected Health Information not provided for by this Schedule. The Business Associate also agrees to report to the Covered Entity any security incident of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity agrees to the same restrictions and conditions that apply through this Schedule to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524, if the business associate has protected health information in a Designated Record Set.
- (g) The Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity, if the Business Associate has protected health information in a Designated Record Set.
- (h) The Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity available to the Covered Entity, or to the Secretary of Health and Human Services, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(j) The Business Associate agrees to provide to the Covered Entity or an Individual, in time and manner designated by the Covered Entity, information collected in accordance with this Agreement, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. Permitted Uses and Disclosures by Business Associate

(a) General Use and Disclosure Provisions

Except as otherwise limited in this Schedule, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Specific Use and Disclosure Provisions:

- (i) Except as otherwise limited in this Schedule, the Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (ii) Except as otherwise limited in this Schedule, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (iii) Except as otherwise limited in this Schedule, the Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (iv) The Business Associate may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 45 CFR 164.502(j)(1).

IV. Obligations of Covered Entity

Provisions for the Covered Entity To Inform the Business Associate of Privacy Practices and Restrictions

(a) The Covered Entity shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR 164.520, to the

extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.

(b) The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.

(c) The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by Covered Entity

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except if the Business Associate will use or disclose protected health information for, and the Agreement includes provisions for, data aggregation or management and administrative activities of Business Associate.

VI. Breach of Provisions

(a) Upon the Covered Entity's knowledge of a material breach by Business Associate of the terms of this Schedule, Covered Entity shall

- (i) provide an opportunity for the Business Associate to cure the breach or end the violation. Covered Entity shall terminate the Agreement if the Business Associate does not cure the breach and end the violation within the time specified by Covered Entity;
- (ii) immediately terminate the Agreement if the Business Associate has breached a material term of this Schedule and cure is not possible; or
- (iii) If neither termination nor cure are feasible, the Covered Entity shall report the violation to the Secretary.

(b) Effect of Termination.

- (i) Except as provided in paragraph (b)(ii) below, upon termination of the Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

- (ii) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, the Business Associate shall extend the protections of this Schedule 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.

VII. Miscellaneous

(a) Regulatory References. A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

(c) Survival. The respective rights and obligations of the Business Associate under Section VI of this Schedule shall survive the termination of the Agreement.

(d) Interpretation. Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits the Covered Entity to comply with the HIPAA Privacy Rule.

(e) If anything in this Schedule conflicts with a provision of any other agreement on this matter, this Schedule is controlling.

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