



REQUEST FOR PROPOSALS (RFP) Pharmacy Benefit Manager Plans

Project Manager: Ronald Caponera - Controller

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Key RFP Dates

The following table outlines the planned schedule of major activities related to the RFP distribution, response submission, evaluation and selection processes. Columbia County reserves the right to amend the schedule as necessary.

RFP Issued	August 5, 2016
Intent to Bid Due	August 9, 2016
Complete RFP Responses due	August 29, 2016
Notification of Finalists	September 12, 2016
Finalist Meetings	TBD

Any proposal received after the dates listed above will be returned and will not be considered.

All RFP Responses must be sent to:

Nick Nicoletti - Nick_Nicoletti@ajg.com
Greg Redlinger - Greg_Redlinger@ajg.com

Copies of the Request for Proposal and any related documents are available on the Columbia County Website: www.columbiacountyny.com

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Claims, Clinical and Formulary Information *have not* been included. These documents will be provided to vendors after completion and submission of the Confidentiality Agreement contained as Attachment A in this RFP. The completed and signed agreement should be emailed to Ron Caponera, Controller at the following address: Ronald.caponera@columbiacountyny.com

Section 1 Project Summary

1. Request for Proposal Summary

Columbia County is seeking proposals from qualified firms for a **Pharmacy Benefit Manager** in accordance with the Columbia County RFP Document.

2. Entity Submitting RFP

The terms “vendor”, “proposer”, “firm”, “company” or “contractor” used in this RFP or any subsequent documents or communications related to this RFP are interchangeable and mean the entity submitting a proposal and seeking to enter into a contract for the goods and/or services requested in this RFP.

3. Description of Columbia County

The County, with a land area of 643 square miles and an estimated population of 63,096 (2010 Census, U.S. Census Bureau), is located in east-central New York State and extends from the Hudson River on the west to the Massachusetts border on the east between the Counties of Dutchess and Rensselaer. While major portions of the County are rural and agricultural in character, the County includes the City of Hudson and its surrounding area, which serve as the commercial, industrial and governmental hub of the County. The leading products manufactured in the County include plastics, furniture and fixtures, building products and paper products. A cement storage plant is located just south of the City of Hudson. Agricultural products include dairy, poultry, livestock and fruit production. The County is also a haven for passive recreation enthusiasts from the New York City region.

Transportation facilities include rail passenger service by Amtrak, rail freight transportation by CSX and major highways which include the Berkshire Spur of the New York State Thruway system, the Taconic State Parkway, New York State Routes 9, 9G, and 9H along with numerous County highways. Air transportation is available at nearby Albany County Airport, along with business flights from the local Columbia County Airport.

Form of Government

In New York State, local government services are generally provided by counties, cities, towns and villages. Columbia County provides law enforcement services, economic assistance, health and nursing services, maintains county roads, co-sponsors a joint community college and provides numerous other services. The County Board of Supervisors is the main policy making body of the County. It has the power to levy taxes, adopt the County budget, make appropriations and adopt local laws. The County Board of Supervisors is a 23 member body consisting of one Supervisor from each of the 18 towns and one Supervisor from each of the five wards in the City of Hudson. Voting strength of each Supervisor is weighted to reflect population of that constituency.

Supervisors are elected at large, within the area they represent, for two or four year terms in November of a given year. Annually, the Board of Supervisors elects a chairman from among its members. The Chairman of the Board of Supervisors is the chief executive officer who also acts on behalf of the County Board of Supervisors. The County Treasurer, who is elected at large within the County for a four year term, is the chief fiscal officer of the County. The County Treasurer maintains the fiscal records, is responsible for receipt of, depositing of and disbursing of all funds of the County and issuance of bonds and notes of the County. The other administrative officials of the County, including the County Attorney, County Controller/Auditor, Compliance Officer, Budget Officer, Clerk of the Board and the various Commissioners, each appointed by the County Board of Supervisors. Other elected administrative officials of the County include the County Clerk, the District Attorney and the Sheriff, all elected to four year terms.

Section 2 Scope of Work

It is the intention of Columbia County to continue to offer the current pharmacy benefit plan design for the January 1, 2017 through December 31, 2019 plan year.

The County's list of RFP requirements are outlined in the Columbia County RFP Excel document.

Section 3
Proposal Preparation and Submittal

Proposals must conform to all requirements stated below and elsewhere in this RFP. Disregarding these requirements may result in disqualification of the proposal.

Before submitting a proposal, each firm shall familiarize itself with the entire RFP, including Scope of Work, contract form and all laws, regulations and other factors affecting contract performance. The firm shall be responsible for fully understanding the requirements of a subsequent contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the firm. There will be no subsequent financial adjustment for lack of such familiarization.

The firm's proposal should be organized in sections as outlined below:

1. RFP Excel Document

All proposals must be submitted via the Columbia County RFP Excel Document. All responses must be confined to the indicated cells and no additional response may be submitted separately from the document.

2. Proposal Form

All proposals must include the complete Proposal Form Attachment B signed by a person or an official authorized to commit the firm to a contract with the County. Your proposal must include all requested attachments.

3. General

- a. Cost of Proposal Preparation** – The County shall not reimburse the cost of developing, presenting or providing any response to this solicitation; offers submitted for consideration should be prepared simply, and economically, providing adequate information in a straightforward and concise manner.
- b. Certification** – By signature on the Proposal Form included herein, the vendor certifies that the submission of the proposal did not involve collusion or other anti-competitive practices. The vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal. In addition, vendor certifies whether or not an employee of the County has, or whose relative has, a substantial interest in any agreement subsequent to this document. Vendor also certifies their status with regard to debarment, or suspension by any

governmental entity.

Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the submitted proposal and, if applicable, any resulting agreement. Signing the certification with a false statement shall void the proposal and, if applicable, any resulting agreement. Any resulting agreement may be subject to legal remedies provided by law. Vendor agrees to promote and offer to the County only those services and/or materials as stated in and allowed for under resulting agreement(s).

A valid signature is defined as an officer or other individual with the ability to bind the contract on behalf of the vendor.

Section 4
Selection and Contract Award

Proposals shall be evaluated based on the requirements set forth in the RFP. Selection of the firm(s) will be at the discretion of the County and will be based on the proposal that the County deems to be the most responsive, responsible and serves the best interests of the County. It is the intent of the County to negotiate and enter into a contract with the selected firm following a Notice of Intent of Selection.

Selected proposer(s) may be required to make on-site oral and visual presentations or demonstrations at the request of the County. The County will schedule the time and location for any presentations. Costs and equipment for such presentations are the responsibility of the proposer. Best and Final offers may be solicited from the pool of finalists prior to selection of the successful firm.

Section 5
ATTACHMENT CHECKLIST

Vendors submitting proposals should complete and sign all of the following documents:

- Attachment A Confidentiality Agreement
- Attachment B Proposal Form
- Attachment C Terms and Conditions
- Attachment D Compliance with General Municipal Law Section 92-a(6)(c)
- Attachment E Insurance Requirements
- Attachment F Prior & Pending Lawsuits

**Attachment A
Confidentiality Agreement**

To be used by Entities Responding to the RFP Prepared by the County of Columbia

This confidentiality agreement is between Columbia County hereafter "The County" and _____, on behalf of itself and all of its subsidiaries and affiliates, (hereafter "Bidder") and is executed in connection with a bid that Bidder intends to submit to the County in response to an RFP prepared by the County on behalf of its employees (each hereafter "employee").

In order to prepare a responsive bid, Bidder needs to receive certain Client plan information and data, including individually identifiable health information pertaining to prescription benefit plan participants and beneficiaries, as well as other County Proprietary information consisting of the RFP questionnaire/RFI specifications and any associated financial spreadsheets (collectively "The County's Proprietary Information). The County and Bidder agree that the term "individually identifiable health information" refers to any health information that is not "de-identified," as defined in 45 C.F.R. Section 164.514(b)(2). In addition, in order to evaluate the bids submitted by Bidder, the County and Employee may need to receive certain proprietary information from bidder including, but not limited to provider-specific network allowances or provider-specific reimbursement arrangements and Maximum Allowable Cost ("MAC") list, including corresponding MAC pricing (bidder's Proprietary Information"). The County's Proprietary Information and Bidder's proprietary Information are collectively referred to as "Proprietary information."

Columbia County and Bidder agree to provide the necessary Proprietary Information in connection with the RFP and parties agree as follows:

- 1. Bidder will use the County's Information only for the purpose of preparing Bidder's bid/response to the RFP and subject to paragraph 5 of this Agreement. The County will use bidders Proprietary Information only for the purpose of evaluating the bid/response submitted by Bidder and subject to paragraph 5 of this Agreement.**
- 2. Bidder and The County agree that only those individuals employed by Bidder or The County (respectively) who have a need to know Proprietary Information to prepare the bid/response or evaluate the bid/response and have been made aware of the terms of this Agreement and have agreed to abide by its terms will have access to Proprietary Information of the other party (Bidder's Representative" and "County's Representatives").**
- 3. Neither Bidder nor any of its Representatives will disclose The County's Proprietary Information to any person or entity outside of Bidder, unless such a disclosure is: (a) necessary to prepare the bid/response, Bidder obtains the County's prior written consent to the disclosure, which consent shall not be unreasonably withheld, and the recipient first executes a**

confidentiality agreement with provision substantially equivalent to this one' or (b) required by law. Neither the County nor any of its Representatives will disclose Bidder's Proprietary Information to any person or entity outside of The County (other than Client) unless such a disclosure is: (a) necessary to evaluate the bid/response, The County obtains Bidder's prior written consent to the disclosure which consent shall not be unreasonably withheld, and the recipient first executes a confidentiality agreement with provisions substantially equivalent to this one; or (b) required by.

4. Bidder and the County agree to use commercially reasonable efforts to maintain the security of the Proprietary Information of the other party.
5. Each party will return the other party's Proprietary Information to the other party or destroy it upon completion of the RFP process if such return or destruction is feasible, except that each party may retain an archival copy of the other party's proprietary Information for its files, subject to its continued compliance with its obligations under this Agreement. If a party determines that return or destruction of some or all of the other party's Proprietary Information is not feasible, such party agrees to: (a) extend the protections of this agreement to any retained information for as long as the party retains it; and (b) limit further uses or disclosures to those that make the return or destruction infeasible.
6. Each party will report to the other party any use and/or disclosure of the other party's Proprietary Information that is not permitted by this agreement.
7. Each party shall regard and preserve as confidential all of the other party's proprietary information that has been or may be obtained by such party during the course of the RFP process, whether Bidder or The County has such information in memory, or in writing for in other physical form. Neither party shall, without written authority from the other party, use for such party's benefit or purposes, either during the RFP process or thereafter and Proprietary Information of the other party except as permitted herein.
8. With respect to the RFP and the Proprietary Information exchanged in connection therewith, the obligations assumed by the parties in this Agreement shall continue beyond completion of the RFP Process.
9. Bidder shall and does hereby indemnify, defend and hold harmless the County and their respective officers, directors, employees and Board of Supervisors from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that the County may incur or suffer and that result from, or are related to , any breach or failure of Bidder and Bidder's Representatives to perform any of the representations, warranties and agreements contained in this Agreement that pertain to individually identifiable health information.
10. Bidder recognizes that any breach of the covenants contained in this Agreement would irreparably injure the County. Accordingly, the County may, in addition to pursuing its other remedies, seek an injunction from any court having jurisdiction of the matter restraining any

further violation and no bond or other security shall be required in connection with such injunction.

11. If any of the provisions herein become invalid or are declared invalid, such determination of invalidity as to the clause(s) shall not affect the other provisions of this Agreement. If any provision of this Agreement should be held invalid or unenforceable, the remaining provisions shall be unaffected by such a holding. If any provision is found inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances.
12. This Agreement shall be binding upon The County and Bidder and their respective successors, assigns, heirs, executors, and administrators.
13. This Agreement contains the entire understanding of the parties hereto and supersedes all previous communications, representations, or agreements, oral or written, with respect to the subject matter hereof. No failure to exercise nor any delays in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. Neither this Agreement nor any of its provisions may be amended, supplemented, changed, waived or rescinded except by a written instrument signed by the party against whom enforcement thereof is sought. No waiver of any right or remedy hereunder on any one occasion shall extend to any subsequent or other matter.
14. This Agreement shall be governed by the laws of the State of New York.

Intending to be legally bound, the Parties have executed this Agreement.

The County of Columbia, N.Y.

Bidder

Signed: _____ Signed: _____

Print Name: _____ Print Name: _____

Title: _____ Title: _____

Date: _____ Date _____



COLUMBIA COUNTY, NY
Request for Proposals

**Attachment B
Proposal Form**

_____ Date

Proposal of

_____,
(Name)

a corporation organized and existing under the laws of the State of _____ ;
a partnership consisting of _____ ; an individual
trading as _____ .
(Name)

Request for Proposal: _____
[provide title or brief description]

To: Columbia County ("County")

1. In compliance with your Request for Proposal, the undersigned hereby offers to furnish the services designated in the RFP, in strict accordance with the RFP, upon written notice of acceptance of this Proposal at any time within thirty (30) days after the date of opening of the Proposals, and to execute the Contract in accordance with the Proposal as accepted within five (5) days after the Contract is presented for signature.
2. The undersigned Proposer hereby acknowledges receipt of the following Addenda, if any:

Addendum No.

Date

- 3. The undersigned Proposer understands that the County reserves the right to reject any or all Proposals or to waive any formality or technicality, as determined by the County in its sole discretion, in any Proposal in the interest of the County.
- 4. The undersigned Proposer hereby certifies and affirms that this Proposal is genuine and not a sham or collusive, nor made in the interest or behalf of any person not herein named, and that the undersigned Proposer has not directly or indirectly induced or solicited any other Proposer to put in a sham bid, or any other person, firm, or corporation to refrain from bidding, and that the Proposer has not in any manner sought by collusion to secure for itself an advantage over any other Proposer.

5. The undersigned certifies that to the best of his/her knowledge: **(check only one)**

There is no officer or employee of Columbia County who has, or would have, or whose relative has, or would have, a substantial interest in any contract resulting from this request.

The names of any and all public officers or employees of Columbia County who have, or would have, or whose relative has, or would have, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this Proposal.

6. The Proposer certifies, to the best of its knowledge and belief, that:

(i) The Proposer and/or any of its Principals or Owners:

(A) (check one) **are** or **are not** presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any governmental agency.

(B) (check one) **have** or **have not** , within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) contract or subcontract; violation of federal or state antitrust statutes, rules or regulations relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion; or receiving stolen property; and

(C) (check one) **are** () or **are not** () presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any other of the offenses enumerated in paragraph (i)(B) of this provision.

(ii) The Proposer (check one) **has** () or **has not** (), within a three year period preceding this offer, had one or more contracts terminated for default by any governmental agency.

"Principals," for the purposes of this Proposal, means officers, directors, owners, partners and persons having primary or substantial management or supervisory responsibilities within a business entity.

7. The certifications in paragraphs 4, 5 and 6 of this Proposal are material representations of fact upon which reliance will be placed when making an award. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to other remedies available to the County, the County may terminate the contract resulting from this solicitation for default.

(Official Name of Firm)

SEAL - If Bidder is a Corporation

(Signature)

(Print Name)

(Title)

(Complete Business Address)

(Email Address)

(Federal Taxpayer ID Number)



COLUMBIA COUNTY, NY
Request for Proposals

Attachment C
Terms and Conditions

- 1) Legal Remedies — All claims and controversies shall be litigated in either the Supreme Court of the State of New York, County of Columbia or in the Federal District Court, Northern District, located in Albany, New York.
- 2) Agreement — The Agreement shall contain the entire agreement between the County and the Vendor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations or master agreement in any form.
- 3) Agreement Amendments -The Agreement shall be modified only by a written amendment signed by persons duly authorized to enter into agreements on behalf of the County and Vendor.
- 4) Provisions Required by Law — Each and every provision of law and any clause required by law to be in the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.
- 5) Severability —The provisions of the Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
- 6) Records — The Vendor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Agreement for a period of six (6) years after the completion of the Agreement. All such documents shall be subject to inspection and audit at reasonable times. Upon request a legible copy of any or all such documents shall be produced at the offices of the Controller of the County of Columbia or at the Office of the Columbia County Attorney.
- 7) Advertising — Contractor shall not advertise or publish information concerning the Agreement, without prior written consent of the County.
- 8) Preparation of Specifications by Persons Other than County's Personnel — All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the County's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.
- 9) Americans With Disabilities Act - The Vendor shall comply with all applicable provisions of the Americans with Disabilities Act and Applicable federal regulations under the act. The Vendor expressly agrees:

- a. that in the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, sex, age, physical disability or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates; and
 - b. that no contractor, subcontractor, nor any person on his behalf 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, sex, age, physical disability or national origin; and
 - c. that there may be deducted from the amount payable to the contractor by the County under this Agreement a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Agreement; and
 - d. that this Agreement may be cancelled or terminated by the County, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of this section of the Agreement.
 - e. Whenever the term "contractor" appears in this paragraph it shall be deemed to read "vendor."
- 10) Conflict of Interest - The Vendor expressly understands and agrees that the Vendor is and shall in all respects be considered an independent contractor. The Vendor, its employees, partners, associates, subcontractors, sub consultants and any others employed by the Vendor to render services hereunder, are not and shall not hold themselves out as, nor claim to be, an officer or employee of the County, nor make claim to any rights accruing thereto, including but not limited to Workers' Compensation, disability benefits, Unemployment Benefits, Social Security coverage, application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, or retirement plan membership or credit. Vendor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Consultant activities and responsibilities hereunder. Vendor agrees that it is a separate and independent enterprise from the County, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between Vendor and the County, and the County will not be liable for any obligation incurred by Vendor, including but not limited to unpaid minimum wages and/or overtime premiums.
- 11) Federal, State and Local Taxes, Licenses, and Permits — Vendor is solely responsible for complying with all laws, ordinances, and regulations on taxes, registrations, licenses, and permits, as they may apply to any matter under this document. The Vendor must demonstrate that they are duly licensing by whatever regulatory body may so require during the performance of the Agreement. Prior to the commencement of Agreement, the Vendor shall be prepared to provide evidence of such licensing as may be requested by the County. Vendor shall, at no expense to the County, procure and keep in force during the entire period of the Agreement all such permits and licenses.

The Vendor shall comply, at its own expense, with the provisions of all federal, state and local laws, rules and regulations applicable to the Vendor as an employer of labor or otherwise. The Vendor specifically represents and agrees that it and its members, officers, employees, agents, servants, consultants and subcontractors have and shall possess the appropriate licensure, experience, knowledge and character necessary to qualify them individually for the particular duties they perform hereunder.

- 12) Liens — Each Vendor shall keep the County free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to the Vendor.
- 13) Sexual Harassment — Federal law and the policies of the County prohibit sexual harassment of County employees. Sexual harassment includes any unwelcome sexual advance toward a County employee, any request to a sexual favor from a County employee, or any other verbal or physical conduct of a sexual nature that is so severe or pervasive as to create a hostile or offensive working environment for County employees. Vendor, subcontractor, and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of County employees. The employer of any person whom the County is in reasonable judgment determines has committed an act of sexual harassment agrees as a term and condition of the Agreement to cause such person to be removed from the project site and from the County premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.
- 14) Confidentiality - Any and all disclosure or requirements for examination and providing records as set forth in this contract are and shall be subject to the prohibitions, limitations and requirements of the Health Insurance Portability and Accountability Act (42 U.S.C.A. Section 210 et seq.), and any and all rules, regulations and agency requirements adopted or made there under. Any refusal to disclose information by any party asserting such prohibitions or limitations shall be subject to enforcement or interpretation as prescribed by said act.
- 15) Assignment-Delegation - Any purported delegation of duties or assignment of rights under this Agreement without the express written consent of the County is void. The Vendor shall not subcontract any part of the work without the prior written consent of the County. All subcontracts shall provide that subcontractors are subject to all terms and conditions set forth in the contract documents. All work performed by a subcontractor shall be deemed work performed by the Vendor. In the event an assignment is made with the consent of the County, it shall not constitute a violation and the Vendor shall not be released from its obligations to the County under this agreement.
- 16) Force Majeure- Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing under the Agreement if such delay or default is caused by conditions beyond its reasonable control including but not limited to wars, insurrections, fires, floods, government restriction and /or any other cause beyond the reasonable control of the party whose performance is affected.
- 17) Intellectual Property Rights — It is understood and agreed that ownership of intellectual property developed as a result of fulfilling the requirements of this agreement belongs solely and exclusively to the County. Documents provided in

connection with the agreement belong to the County and are being used with permission. Intellectual property as used herein means all forms of legally protectable intellectual property, including copyrights, trademarks, inventions, patent applications, patents and mask works, drawings and or blueprints. It is also understood and agreed that any intellectual property created as a result of Vendor's performance of this Agreement is considered a work for hire under the U.S. copyright laws and as such, the County will own the copyright.

- 18) Laws and Regulations — Vendors are solely responsible for keeping themselves fully informed of and faithfully observing all laws, ordinances, and regulations affecting the rights of their employees and shall protect and indemnify the County, its officers and agents against any claims of liability arising from or based on any violation thereof.
- 19) Payment Terms - Any and all requests for payment to be made, including any request for partial payment made in proportion to the work completed, shall be submitted by the Vendor on properly executed claim forms of the County and paid only after approval by the County. In no event shall final payment be made to the Vendor prior to completion of all services, the submission of reports and the approval of same by the County. Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Vendor for out of pocket expenses or disbursements made in connection with the services rendered or the work to be performed hereunder. Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Vendor as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County shall provide payment pursuant to this paragraph within thirty (30) days after payment would otherwise be due pursuant to the provisions of this paragraph 3, but the County shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Vendor to cooperate with such audit. The County shall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.
- 20) Price Adjustment — Price changes per "Attachment D" will normally only be considered at the end of one Agreement period and the beginning of another. Price change requests shall be in writing, submitted 180 days prior to the end of the current agreement period and shall be supported by written evidence of increased costs to the Vendor. The County will not approve unsupported price increases that will merely increase the gross profitability of Vendor at the expense of the County. Price change requests shall be a factor in the Agreement extension review process. The County shall in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of the County.
- 21) Prior Course of Dealings — No trade usage, prior course of dealing, or course of performance under other agreements shall be a part of this Agreement resulting from this RFP, nor shall such trade usage, prior course of dealing or course of performance be used in the interpretation or construction of such resulting agreement.
- 22) Right to Offset — The County shall be entitled to offset against any sums due the Vendor, any expenses or costs incurred by the County, or damages assessed by the County concerning the Vendors non-conforming performance or failure to perform the Agreement, or any other debt owing the County.

- 23) Insolvency — The County shall have the right to terminate the Agreement at any time in the event Vendor files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Vendor and not discharged within thirty days; or if Vendor becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Vendor or its business.
- 24) Lack of Funding - This agreement is entered into for the purpose of performing a governmental function, and it shall inure only to the benefit of the entities that are the parties hereto. This agreement is not intended to benefit any person or entity that is not a signatory to this agreement, and it does not create any rights in favor of, nor does it expand or enlarge any rights of, persons or entities who are not signatories to this agreement. There are no third party beneficiaries to this agreement.
- 25) The parties hereto understand and agree that each and every provision of law, rules and regulations and clause required by law to be inserted in this Agreement shall be deemed to be incorporated herein by reference. Accordingly, if, through mistake, inadvertence, or otherwise, such provision is not inserted, or is incorrectly inserted, said law, rules, or regulations and/or clause shall be deemed to have been inserted herein and this Agreement shall be read and enforced as though such provision of law and/or clause were included herein.
- 26) The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- 27) This Agreement shall be construed and enforced in accordance with the laws of the State of New York.



COLUMBIA COUNTY, NY
Request for Proposals

Attachment D
Compliance with General Municipal Law Section 92-a(6)(c)

In addition to the terms and conditions contained in the RFP, the agreement by and between the County and the vendor shall contain and meet the following requirements:

- (i) a clear statement of the charges, fees or other compensation for the services provided under the agreement;
- (ii) a statement that payment for the services provided under the agreement shall be made only after the services are rendered;
- (iii) a provision stating that the contract administrator or other service provider to which functions are delegated shall be liable to the public corporation for all loss or damage that may result from any failure by the contract administrator or other service provider to discharge their duties, or from any improper or incorrect discharge of those duties, and a provision that expressly reserves to the public corporation all legal rights of set-off. The contract administrator or service provider shall save the public corporation free and harmless from any and all loss occasioned by or incurred in the performance of services under an agreement pursuant to this subdivision;
- (iv) a provision requiring the contract administrator or other service provider to furnish a surety bond in the amount of \$250,000 to secure the contract administrator's or other service provider's performance under the agreement;
- (v) a provision requiring the contract administrator or service provider to establish, maintain and retain for a specified period complete and accurate books, records, documents, accounts and other evidence pertinent to performance under the agreement, and to submit quarterly and annual reports, in a form acceptable to the governing board of the public corporation, detailing the payment of claims and other activities of the contract administrator or other service provider during the relevant period. The auditing body or official of the public corporation shall have access to and may examine such books, records, documents, accounts and other evidence pertinent to performance under the agreement upon reasonable notice to the contract administrator or service provider;
- (vi) a provision requiring an annual audit, and opinions thereon, by an independent certified public accountant, of the accounting procedures and internal control procedures of the contract administrator or other service provider;

- (vii) a provision by which the contract administrator or other service provider agrees to maintain the confidentiality of medical records in its possession and that such confidentiality may only be waived upon the written consent of the covered person; and
 - (viii) a provision by which the contract administrator or other service provider acknowledges that those records maintained on behalf of the public corporation are subject to the provisions of article six of the public officers law.
- (d) A contract entered into pursuant to this section shall be for a term not to exceed five years, except that it shall be subject to cancellation by the municipal corporation at any time upon thirty days' notice.



COLUMBIA COUNTY, NY

Attachment E Insurance and Indemnification

Vendor agrees to hold harmless and indemnify the County of Columbia, and the officers, agents, and employees of said County from and against all loss, damage, claims, demands, causes of action, judgments, losses, damages, liabilities, penalties and other obligations and expenses (including, without limitation, to reasonable attorneys' fees) arising out of bodily injury or property damage of whatever kind or nature, caused by Vendor and/or its employees, and arising out of Vendor's performance of this Agreement. Additionally, Vendor agrees to procure and maintain, at its own expense, insurance of the kinds and in the amount hereinafter provided, with insurance companies authorized to do business in the State of New York, covering all operations under this Agreement, whether performed by Vendor, its employees, or its subcontractor (if any). Before commencing work on behalf of the County of Columbia, Vendor shall furnish

Certificates of Insurance that have complied with these requirements, which certificates shall provide:

1. Coverage shall not be cancelled or reduced until thirty (30) days written notice has been given to the County of Columbia.
2. Underwriters will have no rights of recovery or subrogation against the County of Columbia, it being the intention of the parties that the insurance policies so effected shall protect both parties.
3. The insurance company(ies) issuing the policy(ies) shall have no recourse against the County of Columbia for payment of any premiums or assessments under any form of the policy.
4. Any and all deductible and self-insured retentions in the above-described insurance policies shall be assumed by and at the risk of Vendor in the amounts indicated in such policies.

The coverage parts and amount of insurance required are those checked as follows:

- ✓ Commercial General Liability insurance with minimum limits of \$1,000,000 per occurrence, subject to a \$2,000,000 annual aggregate. Coverage shall include bodily injury, property damage, personal injury, and blanket contractual liability. The County of Columbia shall be named additional insureds.
- ✓ Automobile Liability insurance with minimum limits of \$1,000,000 each accident. Coverage shall provide for any vicarious liability of the County of Columbia and be applicable to all owned, non-owned, hired, borrowed or temporarily used vehicles by Vendor.

- ✓ Statutory Workers' Compensation, Employer's liability, and New York State Disability in accordance with the Workers' Compensation and disability benefits laws of the State of New York.
- ✓ Professional liability insurance with minimum limits of \$1,000,000 per occurrence and a \$3,000,000 annual aggregate



COLUMBIA COUNTY, NY
Request for Proposals

Attachment F
Prior and Pending Lawsuits

Name of Company:

Signature:

Date:

Describe any pending or closed lawsuits against your organization in the past five (5) years.

_____ Authorized Signature

_____ Firm Name

_____ Date