



1. Solicitation #: 3400001648

2. Solicitation Issue Date: 06/28/2019

3. Brief Description of Requirement:

The Oklahoma State Department of Health, Screening and Special Services, is requesting a Request for Proposal (RFP) for genetic counseling and sweat testing on newborns identified as at risk for Cystic Fibrosis (CF) through newborn screening testing in Tulsa, OK.

Any questions must be submitted in writing via e-mail to: BarbaraAT@health.ok.gov no later than 1:00 p.m. 7/8/2019. Q & A will be posted following this deadline as an amendment to be copies and attached to the bid response.

4. Response Due Date¹: 07/17/2019

Time: 3:00 CST/CDT

5. Issued By and RETURN BID VIA EMAIL²: BarbaraAT@health.ok.gov

U.S. Postal Delivery Address: Oklahoma State
Department of Health

Procurement / B. Traylor

Common Carrier Delivery Address: 1000 NE 10th

Oklahoma City, OK 73117

Electronic Submission Address: BarbaraAT@health.ok.gov

6. Solicitation Type (type "X" at one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

7. Contracting Officer:

Name: Barbara Traylor
Phone: 405/271-4043
Email: BarbaraAT@health.ok.gov

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").

² If "U.S. Postal Delivery" differs from "Carrier Delivery, use "Carrier Delivery" for courier or personal deliveries.



Responding Bidder Information

"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.

1. RE: Solicitation # 3400001648

2. Bidder General Information:

FEI / SSN : _____ Supplier ID: _____
Company Name: _____

3. Bidder Contact Information:

Address: _____
City: _____ State: _____ Zip Code: _____
Contact Name: _____
Contact Title: _____
Phone #: _____ Fax #: _____
Email: _____ Website: _____

4. Oklahoma Sales Tax Permit³:

- YES – Permit #: _____
 NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. Registration with the Oklahoma Secretary of State:

- YES - Filing Number: _____
 NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

- YES – Include with the bid a certificate of insurance.
 NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.⁴

³ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

⁴ For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

7. Disabled Veteran Business Enterprise Act

- YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.
- NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature

Date

Printed Name

Title



Certification for Competitive Bid and/or Contract (Non-Collusion Certification)

NOTE: A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Agency Name: 3400001648 Agency Number: 340

Solicitation or Purchase Order #: _____

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

- 1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

- [] the competitive bid attached herewith and contract, if awarded to said supplier;
OR
[] the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number

A. GENERAL PROVISIONS

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental;
- A.1.2. "Addendum" means a written restatement of or modification to a Contract Document executed by the Supplier and State.
- A.1.3. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.4. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.5. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.6. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

A.2. Bid Submission

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, OMES-FORM-CP-076, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", OMES-FORM-CP-004, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. In addition to a hard copy submittal, the bidder will also be required to submit an electronic copy. Electronic responses must be submitted in the identical format contained in the solicitation (for example Microsoft Word, Microsoft Excel, but not Adobe PDF). In the event the hard copy of the price worksheets and electronic copy of the price worksheets do not agree, the electronic copy will prevail.
- A.2.5. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

A.3. Solicitation Amendments

- A.3.1. If an "Amendment of Solicitation", OMES-FORM-CP-011, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

A.4. Bid Change

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a response to this solicitation:

A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:

A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;

A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty 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 for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and

A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.

A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

A.6. Bid Opening

Sealed bids shall be opened by the Oklahoma State Department of Health located at 1000 NE 10th Street,
Oklahoma City, OK 73117 at the time and date specified in the solicitation as the Response Due Date and Time.

A.7. Open Bid / Open Record

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential, and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the Purchasing Director as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The State Purchasing Director shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

A.8. Late Bids

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.

A.9.2. The Contract resulting from this solicitation may consist of the following documents in the following order of precedence:

A.9.2.1. Any Addendum to the Contract;

A.9.2.2. Purchase order, as amended by Change Order (if applicable);

A.9.2.3. Solicitation, as amended (if applicable); and

A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

A.11. Manufacturers' Name and Approved Equivalent

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

A.12. Clarification of Solicitation

A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation, and must be prior to the closing date of the solicitation.

A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

A.13. Negotiations

A.13.1. In accordance with Title 74 §85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

A.13.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

A.13.3. Negotiations may be conducted in person, in writing, or by telephone.

A.13.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

A.13.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

- A.13.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

A.14. Rejection of Bid

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

A.15. Award of Contract

- A.15.1. The State Purchasing Director may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the State Purchasing Director to be in the best interest of the State of Oklahoma.
- A.15.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.
- A.15.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

A.16. Contract Modification

- A.16.1. The Contract is issued under the authority of the State Purchasing Director who signs the Contract. The Contract may be modified only through a written Addendum, signed by the State Purchasing Director and the supplier .
- A.16.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

A.17. Delivery, Inspection and Acceptance

- A.17.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.17.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

A.18. Invoicing and Payment

- A.18.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.
- A.18.2. State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.18.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.18.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.

A.18.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

A.19. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

A.20. Audit and Records Clause

A.20.1. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.

A.20.2. The successful supplier(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.21. Non-Appropriation Clause

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

A.22. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

A.23. Choice of Venue

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

A.24. Termination for Cause

A.24.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.

A.24.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the State Purchasing Director determines that an administrative error occurred prior to Contract performance.

A.24.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.25. Termination for Convenience

A.25.1. The State may terminate the Contract, in whole or in part, for convenience if the State Purchasing Director determines that termination is in the State's best interest. The State Purchasing Director shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State Purchasing Director.

A.25.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

A.26. Insurance

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

A.27. Employment Relationship

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

A.28. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at www.dhs.gov/E-Verify.

A.29. Compliance with Applicable Laws

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

A.30. Special Provisions

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

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B. SPECIAL PROVISIONS

All terms and conditions herein become the contract between the OSDH and the Contractor. The Contractor agrees to comply with all of these terms and conditions. Contractor understands and agrees that when any term and/or condition contained within this contract is, or becomes, applicable to the Contractor's officers and/or employees, Contractor agrees to ensure that its officers and employees (collectively, "organization") abide by the terms and/or condition applicable to organization.

B.1. CONTRACTOR RELATIONSHIP:

In accordance with 2 CFR Part 200 (Uniform Grant Guidance), the relationship between the OSDH and the Contractor for this contract is that of a vendor

B.2. ACCESS TO RECORDS REQUIREMENTS:

The Contractor agrees to comply with all record retention requirements of 2 CFR § 200.333 - §200.337. The Contractor agrees to maintain required records and supporting documentation, for validation of costs billed to the OSDH, for seven (7) years from the ending date of the contract. The Contractor also agrees to allow the State Auditor's Office, GAO, the Oklahoma Department of Management and Enterprise Services, the OSDH, or their authorized representatives access to the records, books, documents, accounting procedures, practices or any items of the service provider relevant to this contract for purpose of audit and examination. The Contractor further agrees to assure appropriate access by the aforementioned parties to any subcontractor's associated records.

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the seven-year period, the records must be retained until completion of the action and resolution of all issues which arise from it; or, until the end of the regular seven-year period, whichever is later.

B.3. ADVANCE PAYMENTS PROHIBITED:

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the OSDH.

B.4. AMENDMENTS, UNAVAILABILITY OR REDIRECTION OF FUNDING AND CANCELLATION:

In the event state or federal funds used to support this contract become unavailable, either in full or in part, due to reductions in appropriations, the OSDH may terminate or reduce the contract upon notice in writing to the Contractor by certified mail or email. The OSDH may also, based on its determination of agency need, increase or reduce contract amounts and send notification of such changes to the Contractor upon making such changes. The OSDH shall be the final authority as to the availability or redirection of funds. The effective date of such contract termination, increase or reduction shall be specified in the notice. All other modifications or amendments to this contract shall be in writing, dated and executed by both the Contractor and the OSDH. In the event of a reduction, the Contractor may cancel this contract as of the effective date of the proposed reduction upon advance written notice to the OSDH. With exception of the above, this contract shall be in force until the expiration date, or until 30 days after written notice has been given by either party of its desire to cancel without cause. Notification of cancellation shall be by Certified Mail to the business address of record or by email to the specified Contact Person. In the event this contract is canceled by either party, the

OSDH shall be responsible for reimbursement for goods or services received or provided prior to cancellation date. In the event this contract is cancelled under this section, Contractor agrees to take all reasonable steps to minimize termination costs and to comply with the requirements in 2 CFR §200.343 and 200.344. . The OSDH agrees to reimburse Contractor for all work performed prior to the date of notice of termination of this contract for expenditures and non-cancelable commitments incurred in anticipation of performing under this contract. The OSDH shall not be responsible for reimbursement of unreasonable or unnecessary expenditures incurred after receipt of the cancellation notice.

B.5. APPLICABLE LAW:

This contract shall be governed in all respects by the laws of the State of Oklahoma. Jurisdiction and venue for any dispute concerning this contract shall be Oklahoma County, Oklahoma.

B.6. ASSIGNMENT AND DELEGATION:

The services to be performed under this contract shall not be assigned or transferred, in whole or in part, to any other person or entity without the prior written approval of the OSDH. If the Contractor cannot perform the services as identified in this contract, the Contractor will be responsible for subcontracting the services or making alternative arrangements for the provision of the services. The terms of this contract shall be included in any OSDH approved subcontract. The Contractor will be liable for all additional costs and expenses arising from such subcontract or substitution to cover performance. Approval by the OSDH of a subcontract shall not relieve the Contractor of any responsibility for performance under this contract.

B.7. CERIFICATION REGARDING DEBARMENT SUSPENSION, PROPOSED FOR DEBARMENT OR DECLARED INELIBIBLE FOR AWARD OF CONTRACTS BY ANY FEDERAL OR STATE AGENCY:

By signing the contract, the Contractor attests and assures that no employee or any of it principals performing hereunder:

- B.7.1.** are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- B.7.2.** have, 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 relating to the submission of offers; or, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- B.7.3.** have, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, State or local entity; nor,
- B.7.4.** are presently indicted for, or otherwise criminally indicted, or charged by a governmental entity with any of the offenses enumerated above in this section.

B.8. CONTRACT MONITORING PLAN:

As a vendor with the OSDH, your contract will be monitored to ensure compliance with the Terms and Conditions outlined in this contract. Typical monitoring activities may include

Contractor site visits, review of contractually required deliverables, invoice review, and verification of licensure and/or insurance required and other monitoring activities.

All communications related to this contract will be between the Contractor's Contact Person and the OSDH Contract Monitor. The OSDH Contract Monitor for this contract is:

Jennifer Baysinger
Screening & Special Services
1000 NE 10th
Oklahoma City, OK 73117-1299
(405)271-6617
JenniferXA@health.ok.gov

B.9. CONTRACTOR'S RELATION TO THE OSDH:

The Contractor is in all respects an independent Contractor and is neither an agent nor an employee of the OSDH. Neither the Contractor nor any of its officers, employee, agents, or members shall have authority to bind the OSDH nor are they entitled to any of the benefits or worker's compensation provided by the OSDH to its employees. In the event the independent contractor relationship ends in any way, this contract shall automatically terminate without notice. The Contractor shall notify the OSDH Contract Monitor of the change in relationship.

B.10. ENTIRE AGREEMENT:

This contract, including referenced attachments, taken together as a whole constitute the entire agreement between the OSDH and the Contractor. No other statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied shall be binding or valid.

B.11. EQUIPMENT AND OTHER PURCHASES:

It is understood that no items of equipment, property or other capital purchases shall be reimbursed under the provisions of this contract. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the Contractor for financial statement purposes, or \$5000.

B.12. EVENT OF DEFAULT:

The OSDH may withhold payment or terminate the contract in whole or in part in the event (i) it has provided Contractor with written notice of material breach, and (ii) Contractor fails to cure such material breach within thirty (30) days of receipt of written notice. If the contract or certain obligations under the contract are terminated, the OSDH shall be liable only for payment for products or services delivered and accepted prior to the date of such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. In no event shall the OSDH be liable to the Contractor, for compensation for any products or services provided by Contractor neither requested nor accepted by the OSDH. Any partial termination of the contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of the Contractor or the OSDH regarding portions of the contract that remain in effect.

B.13. Maintenance of Insurance, Payment of Taxes, and Workers' Compensation:

A. As a condition of this contract, Contractor shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below. Such proof of coverage shall be provided to the OSDH Procurement if services will be provided by any of Contractor's employees, agents or subcontractors at any State premises and/or employer vehicles will be used in connection with performance of work for the OSDH. Contractor may not commence performance hereunder until such proof has been provided. Additionally, Contractor shall promptly provide proof to the OSDH Procurement of any renewals, additions, or changes to such insurance coverage. Contractor's obligation to maintain insurance coverage under the contract is a continuing obligation through the term of the contract and each purchase order issued to Contractor in connection with the contract. The minimum acceptable insurance limits of liability are as follows:

- i. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- ii. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- iii. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence and in the aggregate, with coverage, if applicable, for all owned vehicles, all non-owned vehicles, and all hired vehicles;
- iv. Professional Errors and Omissions Insurance which shall include Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$1,000,000 per claim and in the aggregate;
- v. Medical Malpractice insurance, if applicable;
- vi. Comply with applicable Federal and State occupational disease statutes. If occupational diseases are not covered under those statutes, they shall be covered under the employer's section of the insurance policy; and
- vii. Additional coverage required by State in writing in connection with a particular purchase or service.

B. Contractor shall be entirely responsible during the existence of the contract for the liability and payment of taxes payable by or assessed to Contractor or its employees, agents and subcontractors of whatever kind, in connection with the contract. Contractor further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. The OSDH shall not be liable to the Contractor, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State employee.

C. Contractor agrees to indemnify and hold harmless the OSDH and its employees, agents, representatives, contractors, and/or assignees from any and all liability, actions, claims, demands, or suits, and all related costs and expenses and attorneys' fees relating to tax liability, unemployment insurance and/or assignees from any and all liability, actions, claims,

demands, or suits, and all related costs and expenses and attorneys' fees relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

B.14. FAILURE TO COMPLY STATEMENT:

The Contractor shall be subject to all applicable state and federal laws, rules and regulations, and all amendments thereto. The Contractor agrees that should it be in noncompliance, the OSDH may impose additional conditions as provided in 2 CFR §200.207; or, as provided in 2 CFR § 200.338, temporarily hold cash payments pending correction of the deficiency, disallow all or part of the cost of the activity or action not in compliance, suspend or terminate the contract in part or in whole, withhold further awards for the project or program, or take other remedies legally available. Compliance with the requirements shall be the responsibility of the Contractor, without reliance on or direction by the OSDH.

B.15. FORCE MAJEURE:

- A. Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, the OSDH may terminate a purchase order if Contractor cannot cause delivery of products or services in a timely manner to meet the business needs of the OSDH.
- B. Notwithstanding the foregoing or any other provision in the contract, (1) in no event will any of the following be considered a force majeure event: (a) shutdowns, disruptions or malfunctions in Contractor's systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Contractor's systems; or (b) the delay or failure of Contractor or subcontractor personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a force majeure event; and (2) no force majeure event modifies or excuses Contractor's confidentiality, indemnification or data security and breach notifications set forth herein.

B.16. INVOICING:

A properly completed invoice must be submitted within 30 days of the end of the month in which services were delivered and include the following items:

- B.16.1.** name, address and FEI number of the Contractor;
- B.16.2.** invoice date;
- B.16.3.** period covered by invoice;

- B.16.4. purchase order number;
- B.16.5. any other data, reports, information or documentation required by other conditions of the contract;
- B.16.6. detail of the services provided and be in accordance with the terms and conditions of this agreement.

For invoices involving payment for the Contractor's time, the invoice must be signed and contain the following statement: By my signature I attest that this invoice is an accurate and true representation

The invoice shall be submitted to:

OKLAHOMA STATE DEPARTMENT OF HEALTH
Screening & Special Services
Attn: Jennifer Baysinger
1000 NE 10th Street
Oklahoma City, Oklahoma 73117-1299
405/271-6617
JenniferXA@health.ok.gov

The State of Oklahoma has 45 days from presentation of a proper invoice to issue payment to the Contractor.

The OSDH may withhold or delay payment to any Contractor failing to provide required programmatic documentation and/or requested financial documentation.

The OSDH reserves the right not to process invoices submitted by the Contractor to OSDH more than 30 days after the month in which services were delivered. This OSDH will not pay invoices received more than ninety (90) days after the end of the applicable contract period.

The Contractor assures that all costs billed will be supported by documentation that will include, but not be limited to, copies of paid invoices, payroll records and time reports as required by the costs principles applicable to their organization (See "Contractor Relationship" section of this contract). The Contractor further assures that all billings will be based on actual costs incurred and paid.

If the Contractor is unable to support any part of their claim to the OSDH and it is determined that such inability is attributed to misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to OSDH for an amount equal to such unsupported part of the claim in addition to all costs, including legal, attributable to the reviewing and discovery of said part of claim. Liability under this paragraph shall be determined within two years of the discovery of such misrepresentation of fact or fraud by the Contractor.

B.17. MANDATORY REQUIREMENTS:

The OSDH has established certain mandatory requirements that must be included in the proposal response. The use of the terms "shall", "must" or "will" (except to indicate simple futurity) in this RFP indicate a mandatory requirement or condition, which by failure to meet or provide will be cause for the proposal response being deemed non-responsive. The word "should" or "may" in this RFP indicate desirable attributes of conditions and are permissive in nature. Deviation from or omission of such a desirable feature will not by itself cause a proposal to be non-responsive.

B.18. NON-COLLUSION CERTIFICATION:

The Contractor will complete and return the attached non-collusion certification, OMES-FORM-CP-004.

B.19. OKLAHOMA TAXPAYER AND CITIZEN PROTECTION ACT OF 2007

By signing the solicitation, the Bidder warrants and attests its employees and all proposed subcontractors are in compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal and State laws and regulations related to the immigration status of employees. The Bidder shall obtain statements from all proposed subcontractors certifying compliance with this requirement and shall furnish copies of the statements with their Bid. These warranties shall remain in effect through the entire term, including all renewal periods, of the Contract.

All contractors or subcontractors are prohibited by State law from entering into a contract with a public employer for the physical performance of services within this state unless the contractor or subcontractor registers and participates in the Status Verification System to verify information of all new employees.

The Status Verification Service System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (EEV) available at www.dhs.gov/E-Verify.

B.20. NON-RESPONSIVE PROPOSALS:

Proposals which do not meet all material requirements of this RFP or which fail to provide all required information, documents or materials may be determined as non-responsive and may not be evaluated. Material requirements of the RFP are those set forth as mandatory

B.21. OTHER CERTIFICATIONS:

The Contractor certifies compliance with the provisions of the 1964 Civil Rights Act, Education Amendment of 1972; Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975; the Hatch Act; the Pro Children Act of 1994; Drug Free Workplace Act of 1988; the American with Disabilities Act of 1990; Title IX of the Education Amendments of 1972; 31 U.S.C. Section 1352, Public Law 105-78; Section 503 of Division F, Title V, of the FY12 Consolidated Appropriations Act; 41 U.S.C. 4712 and the National Defense Authorization Act (NDAA) for Fiscal year (FY) 2013; Contract Work Hours and Safety Standards Act (40 U.S. C. 3701-3708); Anti-Lobbying Law (31 U.S.C. 1325); Internal Revenue Service Publication 1075 (regarding use, access and disclosure of Federal Tax Information); the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended; mandatory standards and policies relating to energy efficiency as outlined in the State of Oklahoma's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201); 2 CFR § 200.112 (Conflict of Interest); 2 CFR § 200.113 (Mandatory Disclosures); 2 CFR § 200.322 (Procurement of Recovered Materials); registered as business entity licensed to do business in the State, having obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable; and, the Single Audit Act of 1984; as applicable.

B.22. PROCUREMENT INTEGRITY;

The Contractor certifies they have not entered into this contract with this or any state agency that would result in a substantial duplication of the services or duplication of the end product rendered by the Contractor or its employees.

B.23. TOBACCO FREE POLICY:

Contractor, while performing the duties under this contract shall comply with the smoke free requirements on state property pursuant to 21 O.S. § 1247. For other tobacco products, including e-cigarettes, use of such products is prohibited pursuant to the Governor's Executive Orders 2012-01 and 2013-43.

B.24. STATEMENT OF RESPONSIBILITY AND LIABILITY:

The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. The OSDH shall be responsible for the acts and omissions to act of its officers and employees while acting within the scope of their employment according to the Oklahoma Governmental Tort Claims Act (51 O.S. §§151 et seq.).

The Contractor shall be responsible for any damages or personal injury caused by the negligent acts or omissions to act by its officers, employees, or agents acting within the scope of their authority or employment.

The Contractor agrees to hold harmless the OSDH of any claims, demands and liabilities resulting from any act or omission on the part of the Contractor and/or its agents, servants, and employees in the performance of this contract. It is the express intention of the parties hereto that this contract shall not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.

B.25. TRAVEL AND RELATED EXPENSES:

All costs associated with the execution of this contract are included in the costs described in the Contract Expense Cap section of this contract. Additional costs, including travel, expenses, will not be reimbursed.

B.26. WAIVER OF BREACH:

No failure by the OSDH to enforce any provisions hereof after any event of default by the Contractor shall be deemed a waiver of the OSDH's rights with regard to that event, or any subsequent event. Waiver shall not be construed to be a modification of the terms of the contract.

B.27. LIMITED ENGLISH PROFICIENCY

Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program needs service or information in a language other than English in order to effectively be informed of or participant in the program, the Contractor shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide the information in appropriate languages to such persons.

An inability by the Contractor to provide the information in the appropriate language to a significant number or proportion of the population eligible to be served or likely to be directly affected by the program shall result in termination of the contract.

B.28. CHARITABLE CHOICE PROVIDERS:

Providers who are members of the faith community are eligible to compete for contracts with the State of Oklahoma on the same basis as any other provider. Such providers shall not be required to alter their forms of internal governance, their religious character or

remove religious art, icons, scripture, or other symbols. Such providers may not, however, discriminate against clients on the basis of their religion, religious beliefs, or clients' refusal to participate in religious practices (45 CFR Part 87.1c). Organizations that receive direct financial assistance from the OSDH under any OSDH program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the OSDH. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the OSDH, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

B.29. NON-RESPONSIVE PROPOSALS:

Proposals which do not meet all material requirements of this RFP or which fail to provide all required information, documents or materials may be determined as non-responsive and may not be evaluated. Material requirements of the RFP are those set forth as mandatory.

B.30. OPEN RECORDS ACT:

Contractor acknowledges that the State is subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 et seq. Contractor also acknowledges that State will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act or other applicable law, no Contract provision is confidential information and any provision is subject to disclosure.

B.31. SEVERABILITY:

If any provision of this contract, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect.

B.32. NOTICES

Notices under this contract shall be considered properly delivered when sent by certified mail to the business address of record or by email, delivery receipt requested, to the Contact Person identified in the contract.

C. SOLICITATION SPECIFICATIONS

C.1. PURPOSE:

The Oklahoma State Department of Health, hereinafter referred to as the OSDH, is requesting a Request for Proposal for a contract to provide genetic counseling and sweat testing on newborns in Tulsa, Oklahoma.

C.2. CONTRACT RELATIONSHIP:

In accordance with the Office of Management and Budget (OMB Circular A-133, the relationship between the OSDH is that of a vendor.

C.3. CONTRACT PERIOD:

The Initial contract period will begin on July 1, 2019 or Date of Award whichever is later and terminate on June 30, 2020. This award shall include an option to renew for up to four (4) additional one (1) year periods. This supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until so notified in writing of the approval of the contract.

C.4. DUTIES OF THE CONTRACTOR

C.4.1 Genetic Counseling Services

- 1) Provide a minimum of 70 genetic counseling sessions for clients who:
 - a) Are identified with a disorder through newborn screening;
 - b) Are identified with trait/carrier status through newborn screening;
- 2) Genetic counseling sessions shall comply with the following:
 - a) Document each genetic counseling session with a genetic counseling report form and genetic counseling letter
 - i) Genetic counseling report form shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health, and
 - ii) Genetic counseling letter shall be sent to the parent, to the Newborn Screening Program at the Oklahoma State Department of Health, and to the infant's primary care provider
 - iii) Letters to the parent must be mailed within 14 days of the genetic counseling appointment and include a written summary of the consultation utilizing a letter format that includes all pertinent genetic information.
 - b) Cooperate and communicate effectively and ensure all families receive genetic counseling;
 - c) Designate a private room for families to receive genetic counseling services;
 - d) Distribute case appropriate literature provided or approved by OSDH;
- 3) Abide by the OSDH requirements for genetic counseling session and complete applicable genetic counseling report form (Form will be provided to awarded contractor).
- 4) Abide by HIPAA in the provision of genetic counseling.
- 5) Abide by the following OSDH reporting requirements:
 - a) OSDH must be notified within 24 hours of any clients who fails to keep genetic counseling appointment;
 - b) OSDH must be informed of any genetic counseling sessions for possible Cystic Fibrosis patients that are not performed on the designated newborn screening sweat test day;

- 6) Provide genetic counseling services for newborns referred through newborn screening or a Long-Term Follow-Up (LTFU) coordinator as approved by the Newborn Screening Program. Genetic counseling shall include:
 - a) Performing genetic counseling sessions individually and face-to-face;
 - b) Performing genetic counseling session by phone (only with prior approval from Newborn Screening Program);
 - c) Give the family written materials as provided or approved by the OSDH.
- 7) Send, "Failure to keep scheduled appointment" letters to clients referred for hemoglobin trait counseling within 72 hours of missed appointment.

C.4.2. Sweat Testing Services

- 1) Provide a minimum of 60 sweat test.
- 2) Maintain recognition by the Cystic Fibrosis (CF) Centers in Oklahoma, as a sweat testing provider and be associated with an accredited CF Center.
- 3) Provide services in compliance with the publication "Infection Control Recommendations for Patients with Cystic Fibrosis: Microbiology, Important Pathogens, and Infection Control Practices to Prevent Patient-to-Patient Transmission." Saiman L, Siegel JD, Lipuma JJ, et al. Infection prevention and control guideline for cystic fibrosis: 2013 update. Infect Control Hosp Epidemiol. 2014;35 Suppl 1:S1-S67.
- 4) Provide diagnostic sweat testing services that are compliant with CLSI (SWEAT TESTING: SAMPLE COLLECTION AND QUANTITATIVE CHLORIDE ANALYSIS; APPROVED GUIDELINE –FOURTH EDITION: C34 or current addition) and meet the Cystic Fibrosis Foundation (CFF) requirements for sweat testing.
- 5) Post a sign in the waiting area that discourages patient-to-patient contact. An example, "Patients having blood drawn are often sick and contact between patients is discouraged."
- 6) Provide a separate waiting area for newborns who present for a sweat test as opposed to other laboratory services.
- 7) Avoid having the newborn wait in the waiting room for extended period of time (i.e., longer than ten (10) minutes).
- 8) Ensure newborns do not come in contact with older CF clients while in the waiting room by communicating with the CF Center to avoid scheduling older CF clients for lab or other testing on the newborn screening sweat-testing day.
- 9) Report all newborn sweat test results, including quantity not sufficient (QNS), to the genetics service provider within 15 minutes of completion of sweat test.
- 10) Report all newborn sweat test results, including quantity not sufficient (QNS), to the Newborn Screening Program within twenty-four (24) hours.

C.4.3. Scheduling

- 1) Coordinate with specialty clinics to ensure face-to-face genetic counseling is provided to each family on the day of a specialty clinic visit, unless arranged prior to that time;
- 2) Schedule all infants for sweat testing ASAP:
 - a) schedule newborns on a designated day and timeframe each week (i.e., every Monday from 8:00 to 4:30);
 - b) obtaining approval from the genetic counseling service provider and the newborn screening program to schedule an infant on a day other than the designated newborn screening sweat testing day; and
 - c) schedule infants to have a 1 hour genetic counseling session after the sweat test is performed, and ensure families do not wait more than 30 minutes for a genetic counseling session.

- 1) Notify the OSDH of any infant that must wait greater than two (2) weeks for a sweat testing appointment.

C.4.4. Coordination of Services for Possible CF Patients

- 1) Assure that sweat testing services and genetic counseling services are provided during a single visit:
 - a) Coordinate to ensure genetic counseling is provided to each family on the specified sweat testing day, unless arranged prior to that time;
 - b) Sweat lab to report results to the genetic counseling service provider within 15 minutes of completion of the sweat test and the genetic counselor shall accept results from the sweat testing laboratory when available;
 - c) Genetic counseling service provider to verbally communicate sweat test results to the family immediately following sweat testing (within 30 minutes of result report); and
 - d) Genetic counseling service provider to provide an introductory genetic counseling session for quantity not sufficient sweat test results and a post quantity sufficient sweat test result genetic counseling session (counseling sessions by phone will be reimbursable only with prior permission from Newborn Screening Program).

C.4.5. Reimbursement of Services

- 1) Genetic counseling sessions will be reimbursed, up to two years of age, if identified through newborn screening and will also be reimbursed for the individual identified with trait or disease to receive genetic counseling between 16-18 years of age.
 - a) Reimburse for face-to-face appointments, for trait or disease of any condition identified by newborn screening, must be documented by genetic counseling report form and genetic counseling letter. A copy of the genetic counseling report form shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health. A copy of the genetic counseling letter shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health, the family, and the primary care provider.
 - b) Reimbursement by phone counseling sessions, for trait or disease of any condition identified by newborn screening, must be documented by a genetic counseling report form and genetic counseling letter. A copy of the genetic counseling report form shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health. A copy of the genetic counseling letter shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health, the family, and the primary care provider. Phone counseling sessions for Cystic Fibrosis will only be reimbursable with prior permission from the Newborn Screening Program.
 - c) Hemoglobin trait "no show" appointments will be reimbursed if documented by a genetic counseling report form and genetic counseling letter. A copy of the genetic counseling report form shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health. A copy of the genetic counseling letter shall be sent to the Newborn Screening Program at the Oklahoma State Department of Health, the family, and the primary care provider.
 - d) Monthly genetic counseling invoices shall include the OSDH laboratory number and date of service.
- 2) Reimbursement will be provided for only-one (1) sweat test per infant referred through the Newborn Screening Program.
 - a) Sweat testing will be reimbursed if a copy of the sweat test results is sent to the Newborn Screening Program at the Oklahoma State Department of Health.
 - b) Quantity Not Sufficient (QNS) results will not be reimbursed.

- c) Monthly sweat testing invoices shall include the OSDH laboratory number and date of service.
- 3) Exceptions to the above requirements will need prior permission from the Newborn Screening Administrative Program Manager.

C.4.6. Required Reports (Due 30 days after end of contract period)

- 1) Annual genetic counseling report and shall contain the following:
 - a) Number of hemoglobin trait NBS referrals counseled categorized by trait type and type of session including face-to-face, phone, and "No Show Appointment".
 - b) Number of Cystic Fibrosis (CF) NBS referrals counseled categorized by confirmed disease versus carrier status and by type of session including face-to-face, phone and "No Show Appointment".
 - c) Number of Hemoglobinopathy Disease (SCD) NBS referrals counseled categorized by type of disease and type of session including face-to-face, phone, and "No Show Appointment".
 - d) Number of congenital adrenal hyperplasia (CAH) NBS referrals counseled categorized by confirmed disease versus carrier status and by type of session including face-to-face, phone, and "No Show Appointment".
 - e) Number of metabolic NBS referrals counseled categorized by confirmed disease versus carrier status and by type of session including face-to-face, phone, and "No Show Appointment".
 - f) Number of other NBS referrals counseled categorized by confirmed disease versus carrier status and by type of session including face-to-face, phone, and "No Show Appointment".
 - g) Number of older clients (> 1 year) referred with an NBS disorder counseled categorized by confirmed disease versus carrier status and by type of session including face-to-face, phone, and "No Show Appointment".
- 2) Annual sweat testing report shall contain the following:
 - a) Number of NBS referrals that received sweat testing,
 - b) Number of sweat test results categorized by result type including positive, borderline, negative and QNS.

C.5. Duties of OSDH:

The OSDH shall:

- 1) Identify to the sweat testing laboratory newborns for sweat testing.
- 2) Ensure, in collaboration with the primary care provider, prompt referral of newborns for sweat testing by the Contractor.
- 3) Provide newborn screening results to the genetic counseling service provider.
- 4) Provide Sickle Cell disease/trait and Cystic Fibrosis brochures to the genetic counseling service provider for distribution.
- 5) Provide updated genetic counseling report form.
- 6) Review the annual genetic counseling report.
- 7) Review the annual sweat testing report
- 8) Review and process invoices for payment.

D. EVALUATION

D.1. Proposals will be evaluated on the "best value" determination in accordance with 74 O.S. § 85.2 (2). on the following criteria

D.1.1. Experience.

D.1.2. Organizational Capacity.

D.1.3. Response to Statement of Work

D.1.4. Price

D.2. Negotiations:

D.2.1. In accordance with Title 74 §85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State.

D.2.2. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks.

D.2.3. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

D.2.4. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

D.2.4.1 Negotiations may be conducted in person, in writing, or by telephone.

D.2.4.2 Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

D.2.4.3. Terms, conditions, prices, methodology, or other features of the offeror's offer may be subject to negotiations and subsequent revision. As part of the negotiations, the offer or may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

D.2.4.4 The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

E. INSTRUCTIONS TO SUPPLIER

E.1. Prospective Bidders are urged to read this Solicitation carefully. Failure to do so shall be at the Bidder's risk. Provisions, terms, and conditions may be stated or phrased differently than in previous solicitations. Irrespective of past interpretations, practices or customs, Bids shall be evaluated and any resultant contract(s) shall be administered in accordance with the plain meaning of the contents hereof. The Bidder is cautioned that the requirements of this Solicitation can be altered only by written Amendment approved by the State and that verbal communications from whatever source are of no effect. In no event shall the Bidder's failure to read and understand any term or condition in this Solicitation constitute grounds for a claim after award of the Contract.

E.2. Submission of RFP

The RFP may be submitted via Email (preferred method) or mailed. If mailed, the RFP number must be written on the front of the envelope in accordance with the request for proposal submission instructions.

E.3. Mandatory Requirements.

E.3.1. Provide qualified staff to carry out the terms and conditions of this agreement. For the purpose of this agreement, qualified staff shall be defined as follows:

E.3.1.1. Genetic counselor – a board certified genetic counselor/geneticist (ACMG or ABGC).

E.3.1.2. Qualified laboratory staff – staff who have completed training to perform newborn sweat testing.

E.3.1.3. Be recognized by the Cystic Fibrosis Centers in Oklahoma as a sweat testing provider with at least two years history of sweat testing children.

E.3.2. Currently performing a minimum of 30 sweat tests on newborns per year.

E.3.3. Be located in the Tulsa metropolitan area.

E.4. Narrative

E.4.1. Requirements:

E.4.1.1. All narratives should be typed on 8.5" x 11" paper and single-spaced and single sided. Pages should be numbered. Each copy of the proposal should be stapled or fastened with a binder clip.

E.4.1.2. DO NOT submit the RFP in a report cover, notebook or with strip binding.

E.4.1.3. DO NOT include or attach materials that are not specifically requested. Extraneous materials will be removed and not reviewed.

E.4.1.4. Prepare one (1) original package. Related documents in response to this RFP are public records under the Freedom of Information Act and Oklahoma Open Records Act regarding public access to such documents.

E.5. Narrative contents:

E.5.1. Genetic Counseling Services

E.5.1.1. Provide copies of Licenses

E.5.1.2. Provide copies of Resumes

E.5.1.3. Describe how you would communicate appointments, test results, reports, and failure to keep appointments, with the Newborn Screening Program, parents, and primary care providers. (C.4.1.2)

E.5.1.4. Describe the setting for counseling with parents (i.e. private room etc.). (C.4.1.2)

E.5.1.5. Describe how you will distribute literature provided by the OSDH. (C.4.1.2)

E.5.1.6. Describe how you abide by the HIPPA rules in the provision of genetic counseling. (C.4.1.4)

E.5.1.7. Describe how you will accomplish all OSDH reporting required by C.4.1.5 and C.4.6.

E.5.1.8. Describe how you will provide counseling for newborn referrals through newborn screening or Long-Term Follow-Up (LTFU) as approved by Newborn Screening Program (C.4.1.6), including how you will coordinate with specialty clinics to ensure face-to-face genetic counseling is provided on the day of the specialty clinic visit (C.4.3.1).

E.5.2. Sweat Testing Services

E.5.2.1. Provide documentation of recognition by the Cystic Fibrosis Centers (CF) in Oklahoma as a sweat testing provider and be associated with an accredited CF center. (C.4.2.2)

- E.5.2.2. Describe how you are in compliance with the publication "Infection Control Recommendations for Patients with Cystic Fibrosis: Microbiology, Important Pathogens and Infection Control Practices to Prevent Patient to Patient Transmissions." (C.4.2.3)
- E.5.2.3. How do you insure diagnostic sweat testing services are compliant with CLSI and meet Cystic Fibrosis Foundation requirements (C.4.2.4)
- E.5.2.4. How do you accommodate infants that are awaiting test? (C.4.2.5-8)
- E.5.2.5. How will you report the sweat test results to the genetic counseling service provider and the Newborn Screening Program within the allotted time? (C.4.2.9-10)
- E.5.2.6. Describe how you will coordinate with genetic counseling and sweat test in a single visit. (C.4.4)
- E.5.2.7. Describe how you will accomplish all OSDH reporting required by C.4.2.10 and C.4.6.

E.5.3. Submission: No later than closing date and time.

Submit package via Email to BarbaraAT@health.ok.gov] include **RFP#** in Subject Line or Mail to:

Oklahoma State Department of Health
 ATTN: Barbara Traylor
 Procurement Service
 1000 NE 10th Street, Room 309
 Oklahoma City, Oklahoma 73117
BarbaraAT@health.ok.gov

- E.5.4. Inquiries and/or questions should be directed to: Barbara Traylor email barbaraat@health.ok.gov. Prior to award, RFP cannot be discussed with any state employee with the exception of the Contracting Officer. Questions should be submitted by e-mail not later than 1:00 PM, July 8, 2019. Answers will be sent back via e-mail to all prospective bidders.
- E.5.5. RFPs could be considered ineligible for submission and may not be reviewed if any of the following conditions occur:
 - E.5.5.1. RFP was not submitted by the stated deadline.
 - E.5.5.2. RFP does not include the entire and completed RFP proposal package.
 - E.5.5.3. RFP does not comply with all of the requirements of the proposal process and solicitation.
- E.5.6. Offerors, by submitting their responses to this RFP, agree to comply with all terms and conditions contained herein.

F. CHECKLIST

- F.1. State of Oklahoma Solicitation Request
- F.2. Narrative (Section E)
- F.3. Cost
- F.4. Business Associate Agreement

G. PRICE AND COST

EXPENSE CAP:

The maximum available for this contract is \$20,000.00. This amount includes **both** genetic counseling (face-to-face counseling, phone counseling, hemoglobin trait "no show" counseling) and sweat testing.

Genetic Counseling:

A minimum of 70 genetic counseling sessions at the offered per session price must be possible within the stated \$20,000 budget.

Provide the bid price per session:

Year 1: \$ _____

Year 2: \$ _____

Year 3: \$ _____

Year 4: \$ _____

Year 5: \$ _____

Sweat Testing

A minimum of 60 test at the offered per-test price must be possible within the stated \$20,000.00 budget.

Provide the bid price per test:

Year 1: \$ _____

Year 2: \$ _____

Year 3: \$ _____

Year 4: \$ _____

Year 5: \$ _____

Sweat testing results must be sent to the Newborn Screening Program at the Oklahoma State Department of Health.

Quantity Not Sufficient (QNS) results will not be billed.

**OKLAHOMA STATE DEPARTMENT OF HEALTH
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement "BAA", effective on the last signature date below, is entered into by and between the Oklahoma State Department of Health "Covered Entity" and _____
"Business Associate".

BACKGROUND AND PURPOSE: The Parties have entered into, and may in the future enter into, one or more written agreements that require Business Associate to be provided with, to have access to, and/or to create Protected Health Information "PHI", (the "Underlying Contract(s)"), that is subject to the federal regulations issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and codified at 45 CFR, parts 160 and 164 (HIPAA Regulations). This BAA shall supplement and/or amend each of the Underlying Contract(s) only with respect to the Business Associate's Use, Disclosure, and creation of PHI under the Underlying Contract(s) to allow Covered Entity to comply with Sections 164.502(c) and 164.314(a)(2)(i) of the HIPAA Regulations. Business Associate acknowledges that it is to comply with the HIPAA Security and Privacy regulations pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), Title XIII, of the American Recovery and Reinvestment Act of 2009, including Sections 164.308, 164.310, 164.312 and 164.316 of title 45 of the Code of Federal Regulations. Except as so supplemented and/or amended, the terms of the Underlying Contract(s) shall continue unchanged and shall apply with full force and effect to govern the matters addressed in the BAA and in each of the Underlying Contract(s).

DEFINITIONS: Unless otherwise defined in this BAA, all capitalized terms used in this BAA have the meanings ascribed in the HIPAA Regulations, provided, however, that "PHI" and "ePHI" shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 CFR § 160.103, limited to the information Business Associate received from or created or received on behalf of the Oklahoma State Department of Health "OSDH" as OSDH's Business Associate. "Administrative Safeguards" shall have the same meaning as the term "administrative safeguards in 45 CFR § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate's workforce, not OSDH's workforce, in relation to the protection of that information.

Business Associate. "Business Associate" shall generally have the same meaning as the term "Business Associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.

Covered Entity. "Covered Entity" shall generally have the same meaning as the term "Covered Entity" at 45 CFR 160.103.

HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, all as may be amended.

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By law, Secretary, Security Incident, Subcontractor, Unsecured PHI, and Use.

Obligations of Business Associate: Business Associate may use Electronic PHI and PHI (collectively, "PHI") solely to perform its duties and responsibilities under this Agreement and only as provided in this Agreement. Business Associate acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Agreement or as required by law. Specifically, Business Associate agrees it will:

- (a) use or further disclose PHI only as permitted in this Agreement or as Required by Law, including, but not limited to the Privacy and Security Rule;
- (b) use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- (c) implement and document appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of Covered Entity in accordance with 45 CFR 164;
- (d) implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 CFR 164;
- (e) make its policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA's compliance and the Secretary of the Department of Health and Human Services (HHS);
- (f) not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
- (g) in accordance with 45 CFR 164.502(e)(1) and 164.308(b), if applicable, ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; this shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor;
- (h) report to Covered Entity in writing any use or disclosure of PHI that is not permitted under this Agreement as soon as reasonably practicable but in no event later than five (5) calendar days from becoming aware of it and mitigate, to the extent practicable and in cooperation with Covered Entity, any harmful effects known to it of a use or disclosure made in violation of this Agreement;
- (i) promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five (5) calendar days any Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- (j) with the exception of law enforcement delays that satisfy the requirements of 45 CFR 164.412, notify Covered Entity promptly, in writing and without unreasonable delay and in no case later than five (5) calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 CFR § 164.404(c) at

the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. As used in this Section, "breach" shall have the meaning given such term at 45 CFR 164.402;

- (k) to the extent allowed by law, indemnify and hold Covered Entity harmless from all claims, liabilities, costs, and damages arising out of or in any manner related to the disclosure by Business Associate of any PHI or to the breach by Business Associate of any obligation related to PHI;
- (l) provide access to PHI in a Designated Record Set to Covered Entity, or if directed by Covered Entity to an Individual in order to meet the requirements of 45 CFR 164.524. In the event that any Individual request access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five (5) working days of receiving a request. This shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor. Any denials of access to the PHI requested shall be the responsibility of Covered Entity;
- (m) make PHI available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 CFR 164.526;
- (n) document disclosure of PHI and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 CFR 164.528, and within five (5) working days of receiving a request from Covered Entity, make such disclosure documentation and information available to Covered Entity. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward within five (5) working days of receiving a request such request to Covered Entity;
- (o) make its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of HHS, authorized governmental officials, and Covered Entity for the purpose of determining Business Associate's compliance with the Privacy Rule. Business Associate shall give Covered Entity advance written notice of requests from DHHS or government officials and provide Covered Entity with a copy of all documents made available; and
- (p) ensure that all of its subcontractors, vendors, and agents to whom it provides PHI or who create, receive, use, disclose, maintain, or have access to Covered Entity's PHI shall agree in writing to requirements, restrictions, and conditions at least as stringent as those that apply to Business Associate under this Agreement, including but not limited to implementing reasonable and appropriate safeguards to protect PHI, and shall ensure that its subcontractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.

Permitted Uses and Disclosures of PHI by Business Associate: Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of or to provide services to Covered Entity for the purposes specified in this Agreement, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Unless otherwise limited herein, Business Associate may:

- (a) use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;

- (b) disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that (i) the disclosure is Required by Law; or (ii) Business Associate obtains reasonable assurances from any person to whom the PHI is disclosed that such PHI will be kept confidential and will be used or further disclosed only as Required by Law or for the purpose(s) for which it was disclosed to the person, and the person commits to notifying Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
- (c) disclose PHI to report violations of law to appropriate federal and state authorities; or
- (d) aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
- (e) make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;
- (f) de-identify any and all PHI obtained by Business Associate under this BAA, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule [45 CFR §(d)(1)].

Obligations of Covered Entity:

- (a) Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.
- (c) Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity.
- (d) Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between Covered Entity and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.

Term and Termination:

- (a) Term. The Term of this Agreement shall be effective as of the date of the underlying agreement, and shall terminate on the date the underlying agreement terminates or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- (b) Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement (and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity if a cure period is specified).
- (c) Obligations of Business Associate Upon Termination.

Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:

1. Retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under "Permitted Uses and Disclosures By Business Associate" that applied prior to termination; and
5. Return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(d) All other obligations of Business Associate under this Agreement shall survive termination.

Should Covered Entity become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, Covered Entity shall provide Business Associate with written notice of such a breach in sufficient detail to enable **Business Associate** to understand the specific nature of the breach. CE shall be entitled to terminate the Underlying Contract associated with such breach if, after CE provides the notice to Business Associate, Business Associate fails to cure the breach within a reasonable time period not less than thirty (30) days specified by CE in such notice; provided, however, that such time period specified by OSDH shall be based on the nature of the breach involved [45 CFR §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D)].

MISCELLANEOUS:

Interpretation: The terms of this BAA shall prevail in the case of any conflict with the terms of any Underlying Contract to the extent necessary to allow CE to comply with the HIPAA Regulations. The bracketed citations to the HIPAA Regulations in several paragraphs of this BAA are for reference only and shall not be relevant in interpreting any provision of this BAA.

No Third Party Beneficiaries: Nothing in this BAA shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

Business Associate recognizes that any material breach of this Agreement or breach of confidentiality or misuse of PHI may result in the termination of this Agreement and/or legal action. Said termination may be immediate and need not comply with any termination provision in the parties' underlying agreement, if any.

The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or BA to comply with the requirements of the Privacy Rule and related laws and regulations.

- (a) ODSH's Notice of Privacy Practices is available on its website: www.ok.gov/health.
- (b) Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- (c) This Agreement embodies and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior Business Associate agreements, oral or written agreements, commitments, and understandings pertaining to the subject matter hereof.
- (d) If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 days of expiration or termination of the parties' agreement, Business Associate shall provide to Covered Entity a complete report of all disclosures of and access to the designated record set covering the three years immediately preceding the termination or expiration. The report shall include patient name, date and time of disclosures/access, description of what was disclosed/accessed, purpose of disclosure/access, name of individual who received or accessed the information, and, if available, what action was taken within the designated record set.

Amendment: To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to these revised obligations. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or to comply with the requirements of the Privacy Rule and related laws and regulations.

A signed copy of this agreement shall be accorded the same force and effect as the original.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf.

OKLAHOMA STATE DEPARTMENT OF HEALTH

CONTRACTOR

By: _____

By: _____

Print Name: Robert Morey

Print Name: _____

Print Title: Privacy & Security Officer

Print Title: _____

Date: _____

Date: _____