



State of Oklahoma
Oklahoma State Department of Health
Procurement/Maternal & Child Health

Solicitation

Solicitation #: 3400001393

Solicitation Issue Date: November 2, 2015

Brief Description of Requirement:

Health Economist Professional Consultant Services:

Retain the services of a organization or individual(s) to: 1) design, implement, and execute public health return on investment, economic impact, cost effectiveness, and cost benefit analyses and strategies and 2) provide health economist professional consultant services in regards to a maternal and child health quality improvement project and program return on investment, economic impact, cost effectiveness, and cost benefit analyses and strategies.

NOTE: Short Response Deadline, see below.

Questions regarding this RFP are to be submitted via email to the Contracting Officer listed below no later than 11/10/2015.

Response Due Date¹: November 17th, 2015

Time: 3:00PM Central Time

Issued By and **RETURN SEALED BID TO²:**

Agency Name: Oklahoma State Department of Health

- U.S. Postal Delivery: 1000 NE 10th street, Oklahoma City, OK 73117
- Carrier Delivery: 1000 NE 10th street, Oklahoma City, OK 73117

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

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

1. Shipping Location: 1000 NE 10th street, Oklahoma City, OK 73117

2. Contracting Officer:

Name: Susan Wiest

Phone: 405-271-9444 x 56340

Email: susanw@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



State of Oklahoma
Oklahoma State Department of Health
Procurement/Maternal & Child Health

Responding Bidder Information

"Certification for Competitive Bid and Contract" (see page 3) **MUST** be submitted along with the response to the Solicitation.

1. RE: Solicitation # 3400001393

2. Bidder General Information:

FEI / SSN : _____

VEN 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 (type "X" at one below):

☐ YES – Permit #: _____

☐ NO – Exempt pursuant to Oklahoma Laws or Rules

5. Registration with the Oklahoma Secretary of State (type "X" at one below):

☐ 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 (type "X" at one below):

☐ YES – include a certificate of insurance with the bid

☐ NO - attach a signed statement that provides specific details supporting the exemption you are claiming from the Workers' Compensation Act (Note: Pursuant to Attorney General Opinion #07-8, the exemption from 85 O.S. 2011, § 311 applies only to employers who are natural persons, such as sole proprietors, and does not apply to employers who are entities created by law, including but not limited to corporations, partnerships and limited liability companies.)⁴

Authorized Signature

Date

Printed Name

Title

³ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <http://www.tax.ok.gov/faq/fagbussales.html>

⁴ For frequently asked questions concerning workers' compensation insurance, see <http://www.ok.gov/oid/fags.html#221>



**State of Oklahoma
Oklahoma State Department of Health
Procurement/Maternal & Child Health**

**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.

Solicitation or Purchase Order #: 3400001393

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 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 a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act;
- A.1.2. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.3. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.4. "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.1.5. "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 Dept. of Health-Procurement _____ 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 order of preference:
 - A.9.2.1. Purchase order, as amended by Change Order (if applicable);
 - A.9.2.2. Solicitation, as amended (if applicable); and
 - A.9.2.3. 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 Equivalents

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.

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 State prior to the closing date.

A.13. 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 260:1115-7-32.

A.14. Award of Contract

A.14.1. 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.14.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.

A.14.3. 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.15. Contract Modification

A.15.1. 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 Contract Modification, signed by the State Purchasing Director.

A.15.2. 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 Contract Modifications, 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.16. Delivery, Inspection and Acceptance

A.16.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The bidder(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.16.2. 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.17. Invoicing and Payment

- A.17.1. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.17.2. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. §34.71 and 62 O.S. §34.72.

A.18. Tax Exemption

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

A.19. Audit and Records Clause

- A.19.1. 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.19.2. The successful bidder(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.20. 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.21. 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.22. 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.23. Termination for Cause

- A.23.1. 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.23.2. 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.23.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.24. Termination for Convenience

- A.24.1. 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.24.2. 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.25. Insurance

The successful bidder(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.26. 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.27. 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.28. 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.29. 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

B.1. All terms and conditions herein become the contract between Oklahoma State Department of Health (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.2. Contractor Relationship:

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

B.3. Amendments, Unavailability or Redirection of Funding and Cancellation:

This contract may be terminated, in whole or in part, if the Contractor fails to comply with the terms and conditions of the contract or for other cause. 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. 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. 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.4. Assignment and Delegation:

If the Contractor cannot perform the services as identified in this contract, in whole or in part, the Contractor will be responsible for subcontracting the services or making alternative arrangements for the provisions of the services. The Access to Records clause as stated above shall be included in any subcontract. The Contractor will be liable for all additional costs and expenses arising from such subcontract or

substitution to cover performance. The subcontracting of services shall not relieve the Contractor of any responsibility for performance under this contract.

B.5. Contact Persons:

For the purposes of this contract, all contacts with the Contractor shall be directed to its representative: _____ at telephone number: _____.
Email:

For purposes of this contract, all contacts with the OSDH shall be directed to its representative Joyce Marshall at telephone number (405) 271-4480.
Email: JoyceM@health.ok.gov

B.6. 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:

Mark Dorsett
Maternal and Child Health Service
Oklahoma State Department of Health
1000 N.E. 10th Street
Oklahoma City, OK 73117-1299
(405)271-5585
Email: markd@health.ok.gov

B.7. Entire Agreement:

This contract, including referenced attachments, represents all of the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

B.8. 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 non-expendable, 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.9. Event of Default:

In the event the Contractor fails to meet the terms and conditions of this contract or fails to provide services in accordance with the provisions of the contract, the State of Oklahoma at its sole discretion, may withhold payments claimed by the Contractor or may by written notice of default to the Contractor, cancel this contract. Cancellation

due to default shall not be an exclusive remedy, but shall be in addition to any other rights and remedies provided for by law. In the event a Notice of Cancellation is issued, the Contractor shall have the right to request a review of such decision as provided by the rules and regulations promulgated by the Oklahoma Office of Enterprise and Management Services, Central Purchasing Division. This clause is an exception to the Cancellation clause.

B.10. Evidence of Insurability:

The Contractor 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 and shall provide evidence of insurability (Certificate of Insurance) from the insurance carrier prior to commencement of any work in connection with the Contract. The Contractor is also required to 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. The Contractor shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the OSDH Purchasing Division with evidence of such insurance and renewals. Such policy shall require thirty days advance notice of cancellation be provided to the OSDH Purchasing Division.

If the Contractor does not carry workers' compensation insurance because it considers their business to be that of an independent Contractor, as defined by the Workers Compensation Act (85 O.S. § 1 et. seq.), and not that of an employee, the Contractor must complete the OSDH Affidavit of Independent Contractor Status.

B.11. 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.12. Force Majeure:

The Contractor shall not be liable for any damages resulting from any delay in delivery or failure to give notice of delay that directly or indirectly results from the elements, acts of God, delays in transportation, or delays in delivery by any cause beyond the reasonable control of the Contractor.

B.13. 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:

1. name, address and FEI number of the Contractor,
2. invoice date,

3. period covered by invoice,
4. purchase order number,
5. any other data, reports, information or documentation required by other conditions of the contract,
6. detail of the services provided and be in accordance with the terms and conditions of this agreement,
7. 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 of my time in relation to the services provided to the OSDH.

The invoice shall be submitted to:

OKLAHOMA STATE DEPARTMENT OF HEALTH
Maternal and Child Health Service
Attn: Joyce Marshall
1000 NE 10TH Street
Oklahoma City, Oklahoma 73117-1299

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.

B.14. Mandatory Requirements:

The OSDH has established certain mandatory requirements that must be included in the RFP 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 RFP 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.15. 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 as set forth as mandatory.

B.16. 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.17. Other Certifications:

The Contractor certifies compliance with the provisions of Titles VI and VII of the 1964 Civil Rights Act and 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 or 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); 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; 2 CFR § 200.322 (Procurement of Recovered Materials); and, the Single Audit Act of 1984; as applicable.

B.18. Privacy Clause:

The Contractor shall, at all times, maintain confidential all information pertaining to any person, patient, or client with whom it has a professional relationship, contact or contract. No information shall be released to any person or party not directly employed by the Contractor without first obtaining such person's, patient's or client's expressed written consent therefore. Confidential information pertaining to any minor shall not be released to any person or party without the express written consent of a custodial parent, court appointed guardian, court authorized foster parent, or authorized self-consenting minor, subject however, to all applicable state and federal statutes, rules and regulations.

B.19. Procurement Integrity:

The Contractor certifies they have not entered into this contract with this or any other Oklahoma 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.20. Protecting and Securing Protected Health Information:

Incorporated herein in its entirety, and made a part of this contract, is the attached Business Associate Agreement (Attachment A) signed between the Parties.

B.21. 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.22. Travel and Related Expenses:

All travel expenses incurred by the Contractor that are associated with the execution of this contract shall be performed at no cost to the OSDH.

B.23. 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.

C. SOLICITATION SPECIFICATIONS

C.1 Purpose:

The purpose of this RFP is to retain the services of a qualified organization or individual(s) with the capacity and assessment tools, processes, and proven practices to: 1) design, implement, and execute public health return on investment, economic impact, cost effectiveness, and cost benefit analyses and strategies training with OSDH maternal and child health management and staff; and 2) provide health economist professional consultant services in regard to maternal and child health quality improvement project and program return on investment, economic impact, cost effectiveness, and cost benefit analyses and strategies, including completion of a comprehensive return on investment/economic impact analyses on a minimum of two and maximum of three OSDH maternal and child health service quality improvement projects; with consultation on additional projects/programs as needed. These analyses will be completed in the specific area of improving birth outcomes, including reducing health disparities and infant mortality reduction.

C.2. Contract Period:

This contract shall begin on the Date of Award and terminate upon fulfillment of contract duties on or before September 30, 2016.

This resulting contract shall not take effect and no services shall be provided until a purchase order has been issued.

C.3. Contract Expense Cap:

The total amount available for the services described in this RFP shall not exceed \$20,681. Payment shall be made as follows upon receipt of a properly completed and approved invoice to the OSDH for 1/3 of the total contract price at the end of each of the following milestones:

- C.3.1.** Upon successful completion of work plan, initial consultation sessions, and one day training session with OSDH staff.
- C.3.2.** Upon successful completion of consultation sessions and completed “return on investment/economic impact analysis” on first agreed upon OSDH MCH quality improvement project.
- C.3.3.** Upon successful completion of consultation sessions and second completed “return on investment/economic impact analysis” as agreed upon by the parties hereto on or before September 10, 2016; and completion on or before September 30, 2016, of all contract requirements as specified herein.

C.4. Duties of the Contractor:

The Contractor shall:

- C.4.1.** Review of all appropriate background on the Oklahoma public health and maternal and child health system and quality improvement projects as provided to Contractor by the OSDH.
- C.4.2.** Review the general quality improvement collaborative process with the OSDH and key collaborative team members to outline the activities required, including:
 - C.4.2.a.** Complete work plan describing full approach, resources, phases, timelines, and efficient and effective use of time.
 - C.4.2.b.** Selection of the appropriate structure for training process and consultant sessions.
 - C.4.2.c.** Materials to provide participants during trainings and consultant sessions.
 - C.4.2.d.** Established milestones and timelines to review progress and make needed adjustments.
 - C.4.2.e.** Facility, audio visual, and communication requirements and needs for on-site training day.
- C.4.3.** Plan and conduct a minimum of one full-day training session, consultation sessions as needed, and a minimum of two completed return on investment/economic impact analyses for two different OSDH Maternal and Child Health (MCH) Service quality improvement projects.

C.5. Duties of OSDH

The OSDH shall provide:

- C.5.1** Background information to the contractor on Oklahoma public healthcare, the maternal and child health system, and the collaborative process between the two.
- C.5.2** A meeting facility, staff consultation and necessary materials in order for the contractor to successfully facilitate the training session for OSDH Maternal and Child Health Service management and staff.
- C.5.3** Availability of key staff and leadership personnel to meet with the contractor during the contract period and prior to the training session as

needed for establishment of information flow, exchange of ideas, and channels of communication.

- C.5.4** Availability of key leadership and other agency personnel to meet with the contractor throughout contract period in relationship to the planning and implementation or delivery of the outcomes and deliverables described in the RFP.

D. EVALUATION PROCESS AND CRITERIA

- D.1** The Supplier must have a minimum of five (5) years of experience in facilitating, training, researching, analyzing and completing materials that are publishable in regard to health economic impact and return on investment analyses for public health-related quality improvement projects and programs.
- D.2** The OSDH will assemble a review committee to evaluate the proposals. The proposal(s) will be evaluated and awarded based on Best Value to the State of Oklahoma. This committee will make recommendations to the OSDH Procurement Services. The final award will be made in accordance with state procurement rules based on the following evaluation criteria:
- D.2.1.** Work Plan demonstrating understanding and availability to provide scope of work within acceptable timeframe for accomplishment of duties.
- D.2.2.** Documented experience in providing return on public health investment/economic impact analyses and consultation services described herein with resumes, letters of reference, and sample work products included as requested. Maternal and child health return on investment/economic impact analyses experience is preferred.
- D.2.3.** Budget costs associated with fulfilling duties of the RFP/contract.

E. INSTRUCTIONS TO SUPPLIERS

- E.1.** Suppliers should submit one (1) original Proposal and five (5) additional copies to OSDH, Procurement, Attn: Susan Wiest, 1000 NE 10th street, Oklahoma City, OK 73117
- E.2.** Proposals should be submitted, with the solicitation number written on the front of the envelope in the form of an "RFP Package". This package must contain response and all supporting information and documents. Each page of the "RFP Package", including attachments and supporting documents, should be numbered sequentially.
- E.3.** 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. Submission by FAX is not acceptable.
- E.4.** Pages should be numbered and Proposals stapled or fastened with a binder clip. DO NOT submit the proposal in a report cover, notebook, or with strip binding.

- E.5.** Inquiries and/or questions should be directed to OSDH Procurement, Contracting Officer, Susan Wiest via email(only) at susanw@health.ok.gov Questions must contain the bid solicitation number in the subject line of the email. **Deadline for Questions is November 10th, 2015 at 3:00pm CST.** Responses to questions will be compiled and posted on the OSDH website as an Amendment.
- E.6.** Do not discuss the RFP prior to award with any state employee with the exception of the designated Contracting Officer. Contact with any other OSDH personnel could void your RFP response.
- E.7.** Proposals will not be considered if any of the following exists:
- E.7.1** Proposal was not submitted by the stated deadline. **The RFP is due by 3:00pm on November 17th, 2015 at the Oklahoma State Dept. of Health, Procurement Attn: Susan Wiest, 1000 NE 10th, OKC, OK 73117.**
 - E.7.2** Proposal does not include the entire proposal package.
 - E.7.3** Proposal does not comply with all of the requirements of the proposal process and solicitation.
- E.8.** Mandatory Proposal Submission Requirements:
- E.8.1** Project Work Plan – Describe approach, including a work plan outlining resources, phases, timelines and efficient and effective use of Department leadership and staff time for prescribed time period. The work plan should be no more than 10 pages and should include a description and outline of recommended return on investment/economic impact processes, training, tools, research, and analyses.
 - E.8.2.** Experience – Documentation of experience in preparing, leading, and facilitating return on investment and/or economic impact analyses in public health topic areas and working in conjunction with public health organizations, including:
 - E.8.2.1.** resumes of key staff or consultants, and two or more letters of reference from work with other organizations, preferably in the field of maternal and child health. Letters of reference should include contact name and phone numbers.
 - E.8.2.2.** work product examples should be included documenting professional consultation services/products provided in regard to public health return on investment and economic impact analyses including publishable materials, trainings provided, and research projects completed using proven tools and skills.
 - E.8.2.3.** Additional other key information may be provided to demonstrate experience and expertise in this area.
- E.9.** Budget/Costs:
Proposed fixed rate pricing to be paid in accordance with section **C.3 Contract Expense Cap.**
- E.9.1.** Milestone 1 - \$ _____
 - E.9.2.** Milestone 2 - \$ _____
 - E.9.3.** Milestone 3 - \$ _____

F. CHECKLIST

- F.1.** _____ Solicitation Request
- F.2.** _____ Responding Bidder's Information
- F.3.** _____ Certification for Competitive Proposal and/or Contract
- F.4.** _____ Proposal
- F.5.** _____ Business Associate Agreement (BAA) (Attachment A)
- F.6.** _____ Copy of required credentials (See Section E.8.2.1., page 18)
- F.7.** _____ Proof of Liability and Worker's Comp Insurance

G. Questions

Any questions regarding this solicitation must be sent in writing (via email) to Susan Wiest, susanw@health.ok.gov and received no later than 3:00pm on November 10th, 2015. Questions received after this time will not be answered. An amendment listing all questions and answers will be posted to the OSDH website.

**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) OSDH agrees to timely notify Business Associate, in writing, of any arrangements between OSDH 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 OSDH become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, OSDH shall provide Business Associate with written notice of such a breach in sufficient detail to enable **Contractor** to understand the specific nature of the breach. OSDH shall be entitled to terminate the Underlying Contract associated with such breach if, after OSDH 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 OSDH 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 OSDH 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: Robn Green, MPH

Print Name: _____

Print Title: HIPAA Privacy Officer

Print Title: _____

Date: _____

Date: _____