

**STATE OF LOUISIANA
OFFICE OF GROUP BENEFITS**

**REQUEST FOR PROPOSALS
FOR
ACTUARIAL SERVICES**

PROPOSAL DUE DATE: 10/27/2014

ISSUED: 09/26/2014

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1 GENERAL INFORMATION

1.1 Purpose

The Office of Group Benefits (OGB) is seeking proposals from actuarial and consulting (Actuary) providers for a contract that will allow for benefit design, rate development, RFP scoring, and other analytical and financial support activities for the state health insurance plan and in conjunction with OGB's Health Plan Administrator (Administrator). Actuary will provide methods for, and calculation of, health plan premiums for OGB health plans and other support services that must be provided by an actuary or other similarly qualified staff employed by the Actuary. Actuary's methods must be analytically sound.

1.2 Background

The Office of Group Benefits is responsible for the administration and management of state health and welfare benefit programs to over 230,000 active and retired State of Louisiana employees and their dependents, as well as the employees and dependents of other government entities that have selected OGB benefits. Offered benefits include health insurance, prescription drug coverage, flexible spending account benefits, and life insurance. OGB offers fully-insured plans (Vantage Medical Home HMO), Self-Funded plans (BCBS LA HMO, PPO, and CDHP) and Medicare Retiree Specific fully-insured plans. OGB has projected medical plan expenditure in SFY15 of \$1,283,614,000; \$1,226,715,000 in plan related expenses and \$56,899,000 in administrative costs. Such management requires ongoing consulting and assistance with benefit development, rate setting, risk adjustment determinations, financial analysis, analysis of claims and encounters, evaluation of expenditures, budget projections, trend calculations, causes and discovery of trend, evaluation of multiple benefit options, and financial and other reporting requirements as may be necessary to administer a self-funded health plan.

1.3 Scope of Services

Attachment I details the scope of services and deliverables or desired results that the State requires of the Contractor.

1.4 Blackout Period

The Blackout Period is a specified period of time during a competitive sealed procurement process in which any proposer, bidder, or its agent or representative, is prohibited from communicating with any state employee or contractor of the State

involved in any step in the procurement process about the affected procurement. The Blackout Period shall apply not only to state employees, but also to any contractor of the State. "Involvement" in the procurement process shall include but shall not be limited to project management, design, development, implementation, procurement management, development of specifications, and evaluation of proposals for a particular procurement. All solicitations for competitive sealed procurements will identify a designated contact person. All communications to and from potential proposers, bidders, vendors and/or their representatives during the Blackout Period must be in accordance with this solicitation's defined method of communication with the designated contact person. The Blackout Period will begin upon posting of the solicitation. The Blackout Period will end when the contract is awarded.

In those instances in which a prospective vendor is also an incumbent vendor, the State and the incumbent vendor shall contact each other with respect to the existing contract only. Under no circumstances shall the State and the incumbent vendor and/or its representative(s) discuss the blacked-out procurement.

Any bidder, proposer, or state contractor who violates the Blackout Period may be liable to the State in damages and/or subject to any other remedy allowed by law.

Any costs associated with cancellation or termination will be the responsibility of the proposer or bidder.

Notwithstanding the foregoing, the Blackout Period shall not apply to:

1. A protest to a solicitation submitted pursuant to La. R.S. 39:1671 or LAC 34:V.145.A.8;
2. Duly noticed site visits and/or conferences for bidders or proposers;
3. Oral presentations during the evaluation process;
4. Communications regarding a particular solicitation between any person and staff of the procuring agency provided the communication is limited strictly to matters of procedure. Procedural matters shall include deadlines for decisions or submission of proposals and the proper means of communicating regarding the procurement, but shall not include any substantive matter related to the particular procurement or requirements of the RFP.

2 ADMINISTRATIVE INFORMATION

2.1 Term of Contract

The period of any contract resulting from this RFP is tentatively scheduled to begin on or about January 1, 2015 and to continue through December 31, 2015 with the option for two one-year renewals after the first year. The State has the right to contract for up to three years upon approval.

2.2 Proposer Inquiries

The State will consider written inquiries and requests for clarification of the content of this RFP received from potential proposers. Written inquiries must be received by 5:00pm (Central Daylight Time) on the date specified in the Schedule of Events. The State reserves the right to modify the RFP should a change be identified that is in the best interest of the State.

Only Bill Guerra has the authority to officially respond to proposer's questions on behalf of the State. Any communications from any other individuals are not binding to the State.

Official responses to all questions submitted by potential proposers will be posted by October 10, 2014 at the following locations:

<http://wwwprd.doa.louisiana.gov/osp/lapac/pubmain.asp>

https://www.groupbenefits.org/portal/page/portal30/SHARED/O/OGBWEB/EXPLORE_OGB

2.3 Definitions

Contractor- the successful proposer who is awarded a contract

Proposer- an individual or organization submitting a proposal in response to an RFP

Shall, Must, Will- words used to denote a mandatory requirement

Should, May, Can- words used to denote an advisory or permissible action

2.4 Schedule of Events

EVENT	TIME (Central Daylight Time)	DATE (all dates are state business days)
Advertise RFP and Post to LaPAC		9/26/2014
Deadline for receipt of written inquiries	5:00 PM	10/03/2014
Issue responses to written inquiries		10/10/2014
Deadline for receipt of proposals	5:00 PM	10/27/2014
Oral Presentation (if requested by the state)		Week of 11/17/2014
Announce award of contractor selection		Week of 12/01/2014
Begin Implementation		Upon award of contract

NOTE: The State of Louisiana reserves the right to change this schedule of RFP events, as it deems necessary.

3 PROPOSAL INFORMATION

3.1 Minimum Qualifications of Proposer

It is required that Proposers meet or exceed the following qualifications:

- The firm must have at least five years of experience, prior to deadline for receipt of proposals, providing actuarial consulting services to other U.S. public self-funded health plan clients, similar to services requested in this RFP.
- The primary actuary who performs the work under any contract resulting from this RFP must be a Fellow of the Society of Actuaries (FSA), a Member of the American Academy of Actuaries (MAAA), and an enrolled actuary. The proposer must provide evidence in the proposal that the primary actuary who will be assigned by the proposer to perform the work under any contract resulting from this RFP is a Fellow of the Society of Actuaries and an enrolled actuary.

3.2 Determination of Responsibility

Determination of the proposer's responsibility relating to this RFP shall be made according to the standards set forth in LAC 34: 136. The State must find that the selected proposer:

- Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance;
- Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them;
- Is able to comply with the proposed or required time of delivery or performance schedule;
- Has a satisfactory record of integrity, judgment, and performance; and
- Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

Proposers should ensure that their proposals contain sufficient information for the State to make its determination by presenting acceptable evidence of the above to perform the contracted services.

3.2.1 Right to Prohibit Award

In accordance with the provisions of R.S. 39:2192, in awarding contracts after August 15, 2010, any public entity is authorized to reject a proposal or bid from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more, has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony or equivalent federal felony crime

committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting, and social services procurement under the provisions of Chapter 16 of this Title, or the Louisiana Procurement Code under the provisions of Chapter 17 of this Title.

3.3 RFP Addenda

State reserves the right to change the schedule of events or revise any part of the RFP by issuing an addendum to the RFP at any time. Addenda, if any, will be posted at the following locations:

<http://wwwprd.doa.louisiana.gov/osp/lapac/pubmain.asp>

https://www.groupbenefits.org/portal/page/portal30/SHARED/O/OGBWEB/EXPLORE_OGB

It is the responsibility of the proposer to check the website for addenda to the RFP, if any.

3.4 Waiver of Administrative Informalities

The State reserves the right, at its sole discretion, to waive minor administrative informalities contained in any proposal.

3.5 Proposal Rejection/RFP Cancellation

Issuance of this RFP in no way constitutes a commitment by the State to award a contract. The State reserves the right to accept or reject, in whole or part, all proposals submitted and/or cancel this announcement if it is determined to be in the State's best interest.

3.6 Withdrawal of Proposal

A proposer may withdraw a proposal that has been submitted at any time up to the date and time the proposal is due. To accomplish this, a written request signed by the authorized representative of the proposer must be submitted to the RFP Coordinator.

3.7 Subcontracting Information

The State shall have a single prime contractor as the result of any contract negotiation, and that prime contractor shall be responsible for all deliverables specified in the RFP and proposal. This general requirement notwithstanding, proposers may enter into subcontractor arrangements, however, should acknowledge in their proposals total responsibility for the entire contract.

If the proposer intends to subcontract for portions of the work, the proposer should identify any subcontractor relationships and include specific designations of the tasks to be performed by the subcontractor. Information required of the proposer under the terms of this RFP shall also be required for each subcontractor. The prime contractor shall be the single point of contact for all subcontract work.

Unless provided for in the contract with the State, the prime contractor shall not contract with any other party for any of the services herein contracted without the express prior written approval of the State.

3.8 Ownership of Proposal

All materials submitted in response to this request shall become the property of the State. Selection or rejection of a proposal does not affect this right.

3.9 Proprietary Information

Proprietary, Privileged, Confidential Information in Proposals: After award of the Contract, all proposals will be considered public record and will be available for public inspection during regular working hours.

As a general rule, after award of the Contract, all proposals shall be considered public record and shall be available for public inspection and copying pursuant to the Louisiana Public Records Law, La. R.S. 44.1 et. seq. OGB recognizes that proposals submitted in response to the RFP may contain trade secrets and/or privileged commercial or financial information that the Proposer does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of such data may be restricted, provided the Proposer marks the cover sheet of the proposal with following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

“Data contained in Pages ___ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, the OGB shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction shall not limit the right of OGB to use or disclose data obtained from any other source, including the Proposer, without restrictions”.

Further, to protect such data, each page containing such data shall be specifically identified and marked **“CONFIDENTIAL”**.

The Proposer is advised to use such designation only when appropriate and necessary. A blanket designation of an entire proposal as Confidential is NOT appropriate. The cost proposal shall not be designated as Confidential.

It should be noted, however, that data bearing the aforementioned legend shall be subject to release under the provision of the Louisiana Public Records Law, L.R.S. 44.1 et. seq. The OGB assumes no liability for disclosure or use of unmarked data and may use or disclose such data for any purpose. It should be noted that any resultant contract will become a matter of public record.

The OGB reserves the right to make any proposal, including proprietary information contained therein, available to the Office of the Governor, Division of Administration, Office of Contractual Review, or other state agencies or organizations for the purpose of assisting the OGB in its evaluation of the Proposal. The OGB will require such individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation.

In addition, the Proposer shall provide a redacted version of the proposal omitting those responses (or options thereof) and attachments that the Proposer determines are within the scope of the exception to the Louisiana Public Records Law. In a separate document, the Proposer shall provide the justification for each omission.

The Louisiana Office of Group Benefits (OGB) will make the redacted proposal available for inspection and/or copying upon the request of any individual pursuant to the Louisiana Public Records Law without notice to the Proposer.

3.10 Cost of Preparing Proposals

The State shall not be liable for any costs incurred by proposers prior to issuance of or entering into a contract. Costs associated with developing the proposal, preparing for oral presentations, and any other expenses incurred by the Proposer in responding to this RFP are entirely the responsibility of the Proposer and shall not be reimbursed in any manner by the State.

3.11 Errors and Omissions in Proposal

The State will not be liable for any errors in proposals. The State reserves the right to make corrections or amendments due to minor errors identified in proposals by State or the Proposer. The State, at its option, has the right to request clarification or additional information from the proposers.

3.12 Contract Award and Execution

The State reserves the right to enter into a contract without further discussion of the proposal submitted based on the initial offers received.

The State reserves the right to contract for all or a partial list of services offered in the proposal.

The RFP and proposal of the selected Proposer shall become part of any contract initiated by the State.

The selected Proposer shall be expected to enter into a contract that is substantially the same as the sample contract included in Attachment IV. In no event shall a Proposer submit its own standard contract terms and conditions as a response to this RFP. The Proposer should submit with its proposal any exceptions or exact contract deviations that its firm wishes to negotiate. Negotiations may begin with the announcement of the selected Proposer.

If the contract negotiation period exceeds 10 business days or if the selected Proposer fails to sign the final contract within 5 business days of delivery, the State may elect to cancel the award and award the contract to the next-highest-ranked Proposer.

3.13 Code of Ethics

Proposers are responsible for determining that there will be no conflict or violation of the Ethics Code if their company is awarded the contract. The Louisiana Board of Ethics is the only entity which can officially rule on ethics issues.

4 RESPONSE INSTRUCTIONS

4.1 Proposal Submission

Firms/individuals who are interested in providing services requested under this RFP must submit a proposal containing the mandatory information specified in this section. The proposal must be received in hard copy (printed) version by the RFP Coordinator on or before 5pm (Central Time Zone) on the date specified in the Schedule of Events. FAX or e-mail submissions are not acceptable. Proposers mailing their proposals should allow sufficient mail delivery time to ensure receipt of their proposal by the time specified. The proposal package must be delivered at the proposer's expense to:

Bill Guerra
Office of Group Benefits
7389 Florida Blvd., Suite 400
Baton Rouge, LA 70806
(225) 925-4207

It is solely the responsibility of each Proposer to ensure that their proposal is delivered at the specified place and prior to the deadline for submission. Proposals received after the deadline will not be considered.

The State requests that one (1) Original (clearly marked "Original") and seven (7) numbered copies of the proposal be submitted to the RFP Coordinator at the address specified. The original copy of the proposal shall contain original signatures of those company officials or agents duly authorized to sign proposals or contracts on behalf of the organization. A certified copy of a board resolution granting such authority should be submitted if proposer is a corporation. The copy of the proposal with original signatures will be retained for incorporation in any contract resulting from this RFP.

Note: The Proposer must also submit a redacted version of the proposal. In addition, the Proposer must provide 2 CDs of the proposal.

4.2 Proposal Format

Proposers should respond to this RFP with one proposal which includes a Technical Proposal and a Cost Proposal.

4.3 Cover Letter

A cover letter should be submitted on the Proposer's official business letterhead explaining the intent of the Proposer.

4.4 Technical and Cost Proposal

Proposals should be submitted as specified in Section 5, and should include enough information to satisfy evaluators that the Proposer has the appropriate experience and qualifications to perform the scope of services as described herein. Proposers should respond to all requested areas.

4.5 Certification Statement

The Proposer must sign and submit the Certification Statement shown in Attachment III.

5 PROPOSAL CONTENT

5.1 Executive Summary

This section should serve to introduce the scope of the proposal. It should include administrative information including, at a minimum, Proposer contact name and phone number, and the stipulation that the proposal is valid for a time period of at least 90 calendar days from the date of submission. This section should also include a summary of the Proposer's qualifications and ability to meet the State agency's overall requirements in the timeframes set by the agency. The Proposer should identify key services provided that distinguishes the services provided from Proposer's competitors'.

It should include a positive statement of compliance with the contract terms. If the Proposer cannot comply with any of the contract terms, an explanation of each exception should be supplied. The Proposer should address the specific language in Attachment III, Sample Contract, and submit whatever exceptions or exact contract modifications that its firm may seek. While final wording will be resolved during contract negotiations, the intent of the provisions will not be substantially altered.

5.2 Corporate Background and Experience

The Proposer should give a description of their company including a brief history, corporate structure and organization, number of years in business, capabilities and specializations, and copies of its latest financial statement, preferably audited.

This section should provide a detailed discussion of the Proposer's prior experience in working on projects similar in size, scope, and function to the proposed contract. Proposers should describe their experience in other states or in corporate/governmental entities of comparable size and diversity with references from previous clients including names and telephone numbers.

If subcontractors will be utilized, the Proposer should provide the same information requested above for each subcontractor.

Proposer should indicate the number of self-funded plan sponsor accounts currently being serviced. The Proposer should provide the approximate number of plan members currently being served under such accounts.

The Proposer should provide detail relating to any mergers or acquisitions scheduled for the next twelve (12) months.

Proposers should clearly describe their ability to meet or exceed the minimum qualifications in Section 3.1.

5.2.1 Request for Proposal (RFP) Veteran-Owned and Service-Connected Small Entrepreneurships (Veteran Initiative) and Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) Programs

The State of Louisiana Veteran and Hudson Initiatives are designed to provide additional opportunities for Louisiana-based small entrepreneurships (sometimes referred to as LaVet's and SE's respectively) to participate in contracting and procurement with the state. A certified Veteran-Owned and Service-Connected Disabled Veteran-Owned small entrepreneurship (LaVet) and a Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) small entrepreneurship are businesses that have been certified by the Louisiana Department of Economic Development. All eligible vendors are encouraged to become certified. Qualification requirements and online certification are available at https://smallbiz.louisianaforward.com/index_2.asp.

Ten percent (10%) of the total evaluation points on this RFP are reserved for proposers who are themselves a certified Veteran or Hudson Initiative small entrepreneurship or who will engage the participation of one or more certified Veteran or Hudson Initiatives small entrepreneurships as subcontractors.

Reserved points shall be added to the applicable proposers' evaluation score as follows:

Proposer Status and Reserved Points

- Proposer is a certified small entrepreneurship: Full amount of the reserved points
- Proposer is not a certified small entrepreneurship but has engaged one or more certified small entrepreneurships to participate as subcontractors or distributors. Points will be allocated based on the following criteria:
 - the number of certified small entrepreneurships to be utilized
 - the experience and qualifications of the certified small entrepreneurship(s)
 - the anticipated earnings to accrue to the certified small entrepreneurship(s)

If a proposer is not a certified small entrepreneurship as described herein, but plans to use certified small entrepreneurship(s), proposer shall include in their

proposal the names of their certified Veteran Initiative or Hudson Initiative small entrepreneurship subcontractor(s), a description of the work each will perform, and the dollar value of each subcontract.

During the term of the contract and at expiration, the Contractor will also be required to report Veteran-Owned and Service-Connected Disabled Veteran-Owned and Hudson Initiative small entrepreneurship subcontractor or distributor participation and the dollar amount of each.

The statutes (R.S 39:2171 *et. seq.*) concerning the Veteran Initiative may be viewed at <http://legis.la.gov/lss/lss.asp?doc=671504>; and the statutes (R.S 39:2001 *et. seq.*) concerning the Hudson Initiative may be viewed <http://legis.la.gov/lss/lss.asp?doc=96265>. The rules for the Veteran Initiative (LAC 19:VII. Chapters 11 and 15) and for the Hudson Initiative (LAC 19:VIII Chapters 11 and 13) may be viewed at <http://www.doa.louisiana.gov/osp/se/se.htm>.

A current list of certified Veteran-Owned and Service-Connected Disabled Veteran-Owned and Hudson Initiative small entrepreneurships may be obtained from the Louisiana Economic Development Certification System at https://smallbiz.louisianaforward.com/index_2.asp. Additionally, a list of Hudson and Veteran Initiative small entrepreneurships, which have been certified by the Louisiana Department of Economic Development and who have opted to register in the State of Louisiana LaGov Supplier Portal https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg may be accessed from the State of Louisiana Procurement and Contract (LaPAC)Network <http://wwwprd.doa.louisiana.gov/osp/lapac/vendor/srchven.asp>. When using this site, determine the search criteria (i.e. alphabetized list of all certified vendors, by commodities, etc.) and select SmallE, VSE, or DVSE.

5.3 Proposed Project Staff

The Proposer should provide detailed information about the experience and qualifications of the Proposer's assigned personnel considered key to the success of the project. If subcontractors are utilized, the Proposer should provide the same information for each subcontractor.

This information should include education, training, technical experience, functional experience, specific dates and names of employers, relevant and related experience, past and present projects with dates and responsibilities and any applicable certifications. This should also specifically include the role and responsibilities of each person on this project, their planned level of effort, their anticipated duration of involvement, and their on-site availability.

Proposers should identify the name of the primary actuary who will be assigned to perform the work under this contract, with documentation that the actuary meets or exceeds the minimum qualifications in Section 3.1.

In Attachment II Cost Proposal, the Proposer shall provide the name, position title, and hourly rate for each project staff member to be assigned to perform the work under this contract. The Proposer shall also provide the percentage of hours each staff member will typically work per 100 hours. If subcontractors are utilized, the Proposer should provide the same information for each subcontractor.

5.4 Products, Services, and Methodology

The Proposer should:

- Provide its understanding of the nature of the proposed services and how its proposal will best meet the needs of the state agency.
- Define its functional approach in providing the services, including all plans and procedures to be utilized.
- Provide a proposed Project Work Plan for implementation that reflects the approach and methodology, tasks and services to be performed, deliverables, timetables, and staffing.
- Provide a detailed description of data analysis and revenue and expenditure forecasting.
- Define its approach for defining system and data security.
- Identify areas of project risk and procedures to mitigate these risks.
- Describe procedures in place to handle Protected Health Information.
- Provide a sample of a current HIPAA “business associate” agreement.
- Provide a copy of implementation checklist for each of the nine deliverables identified in Attachment I, Scope of Services.

NOTE: The Proposer should refer to Attachment I, Scope of Services for the full list of products and services requested and/or required for this RFP.

5.5 Cost Information

The proposer must document in Attachment II Cost Proposal the proposed cost to provide all services described in Attachment I Scope of Services.

All hourly rates identified in Attachment II Cost Proposal shall be all-inclusive, and shall include, but not be limited to all travel, lodging, meals, taxes, direct and indirect expenses.

5.5.1 Best Value per 100 Hours

In Attachment II Cost Proposal, the Proposer shall provide the name, position title, and hourly rate for each project staff member to be assigned to perform the work under this contract. The Proposer shall also provide the percentage of hours each staff member will typically work per 100 hours. If subcontractors are utilized, the Proposer should provide the same information for each subcontractor.

5.5.2 Best Guarantee Value

In Attachment II Cost Proposal, the Proposer shall provide the name, position title, and hourly rate for each project staff member to be assigned to perform the work under this contract. This information shall be provided for each deliverable task listed in Attachment I Scope of Services. The Proposer shall also provide the number of hours each staff member is estimated to work on each deliverable task, and calculate both the cost per staff member and per task deliverable (these calculations are defined in Attachment II).

If subcontractors are utilized, the Proposer shall provide the same information for each subcontractor.

5.5.3 Best per Month Value

In Attachment II Cost Proposal, the Proposer shall provide the maximum monthly fee to be charged, regardless of which services or number of services listed in Attachment I Scope of Services the Proposer is providing in any billable month. The Proposer must agree to provide all services required under the contract at the Proposer's risk, despite reaching the maximum monthly fee.

If subcontractors are utilized, the cost of the use of subcontractors shall be included in the maximum monthly fee.

5.6 Innovative Concepts

Alternative options, creative ideas, and/or cost-saving measures for (including but not limited to) enrollment and plan tools are expected and encouraged. The Proposer should clearly denote innovative capabilities provided by the Proposer compared to options available in the marketplace and specific suggested services separate from the requirements in Attachment 1, Scope of Services. Points in this section of the evaluation will be considered for those Proposers who provide alternatives and/or additional services.

The state shall not incur additional cost to use these services.

6 EVALUATION AND SELECTION

6.1 Evaluation Team

The evaluation of proposals will be accomplished by an evaluation team, to be designated by the State, which will determine the proposal most advantageous to the state, taking into consideration price and the other evaluation factors set forth in the RFP.

6.2 Administrative and Mandatory Screening

All proposals will be reviewed to determine compliance with administrative and mandatory requirements as specified in the RFP. Proposals that are not in compliance with mandatory requirements shall be rejected from further consideration.

6.3 Clarification of Proposals

The State reserves the right to seek clarification of any proposal for the purpose of identifying and eliminating minor irregularities or informalities.

6.4 Oral Presentations/Discussions May be Required

The State, at its sole discretion, may require all proposers reasonably susceptible of being selected for the award to provide an oral presentation of how it proposes to satisfy the State's requirements in an efficient, cost-effective manner, taking into account quality of service with minimal tolerance for error. Commitments made by the Proposer at the oral presentation, if any, will be considered binding.

Proposal's original score may be adjusted to reflect any additional information provided in the oral presentation/demonstration which demonstrates proposer's subject matter knowledge, ability to respond to questions and overall organization, per the criteria in Section 6.5.1.

6.5 Evaluation and Review

6.5.1 Evaluation Procedure

Proposals that pass the preliminary screening and mandatory requirements review will be evaluated based on the information provided in the proposal. The evaluation will be conducted according to the following:

CRITERIA	MAXIMUM SCORE
1. Corporate Background and Experience/Proposed Project Staff	250
2. Products, Services and Methodology	250
3. Hudson and Veteran Initiative	100
4. Cost Information	300
5. Innovative Services	100
TOTAL SCORE	1,000

As stated in Section 6.4, at the discretion of OGB, oral presentations/discussions may be held with all proposers reasonably susceptible of being selected for award. Such discussions may be in the form of email, telephone or physical meetings, as determined by OGB.

Proposals may be reviewed and scores adjusted utilizing information provided during oral presentations/discussions based on the evaluation criteria provided above.

Proposal with the highest Total Score will be recommended for award.

6.5.2 Veteran-Owned and Service-Connected Small Entrepreneurships (Veteran Initiative) and Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) Programs Participation (Value of 10% of the total evaluation points)

Ten percent (10%) of the total evaluation points on this RFP are reserved for proposers who are themselves a certified Veteran or Hudson Initiative small entrepreneurship or who will engage the participation of one or more certified Veteran or Hudson Initiatives small entrepreneurships as subcontractors.

Reserved points shall be added to the applicable proposers' evaluation score as follows:

Proposer Status and Reserved Points:

- Proposer is a certified small entrepreneurship: Full amount of the reserved points.
- Proposer is not a certified small entrepreneurship but has engaged one or more certified small entrepreneurships to participate as subcontractors or distributors. Points will be allocated based on the following criteria:
 - the number of certified small entrepreneurships to be utilized
 - the experience and qualifications of the certified small entrepreneurship(s)
 - the anticipated earnings to accrue to the certified small entrepreneurship(s)

6.5.3 Cost Evaluation

Each of the three methods of calculating cost as provided for in Section 5.5 and in Attachment II will be used to evaluate the Proposer's total cost. Each method of calculating cost shall be worth 100 points.

For each of the three methods of calculating cost in Section 5.5 and Attachment II, the Proposer with the lowest total cost shall receive 100 points. Other proposers shall receive cost points based upon the following formula.

$$\text{BCS} = (\text{LPC}/\text{PC} \times 100)$$

Where: BCS = Computed cost score (points) for proposer being evaluated
LPC = Lowest proposed cost of all proposers
PC = Total cost of proposer being evaluated

The sum of the computed cost scores (points) for all three methods of calculating cost in Section 5.5 and Attachment II shall be equal the Proposers total cost score.

6.6 Announcement of Contractor

The Evaluation Team will compile the scores and make a recommendation to the head of the agency on the basis of the responsible proposer with the highest score.

The State will notify the successful Proposer and proceed to negotiate terms for final contract. Unsuccessful proposers will be notified in writing accordingly.

The proposals received (except for that information appropriately designated as confidential in accordance with R.S. 44.1 et seq), selection memorandum along with list of criteria used along with the weight assigned each criteria; scores of each proposal considered along with overall scores of each proposal considered, and a narrative justifying selection shall be made available, upon request, to all interested parties after the “Notice of Intent to Award” letter has been issued.

Any Proposer aggrieved by the proposed award has the right to submit a protest in writing to the head of the agency issuing the proposal within 14 days after the award has been announced by the agency.

The award of a contract is subject to the approval of the Division of Administration, Office of Contractual Review.

7 SUCCESSFUL CONTRACTOR REQUIREMENTS

7.1 Corporation Requirements

If the contractor is a corporation not incorporated under the laws of the State of Louisiana, the contractor shall have obtained a certificate of authority pursuant to R. S. 12:301-302 from the Secretary of State of Louisiana.

If the contractor is a for-profit corporation whose stock is not publicly traded, the contractor shall ensure that a disclosure of ownership form has been properly filed with the Secretary of State of Louisiana.

7.2 Billing and Payment

Itemized invoices containing the tasks, deliverables completed, hours worked, and the personnel who performed the work shall be submitted to OGB by the 20th of the month following the month in which the work was performed.

7.3 Confidentiality

All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the contractor in order to carry out this contract, or which become available to the contractor in carrying out this contract, shall be protected by the contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the contractor. If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The contractor shall not be required under the provisions of the paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the contractor's possession, is independently developed by the contractor outside the scope of the contract, or is rightfully obtained from third parties.

Under no circumstance shall the contractor discuss and/or release information to the media concerning this project without prior express written approval of the Office of Group Benefits.

ATTACHMENT I: SCOPE OF SERVICES

The Contractor shall perform the following services:

1. Work directly with OGB's third-party health plan administrators and prescription benefit manager on development of rates, trend, reporting or any function necessary where the Contractor's expertise may be necessary.
2. Develop actuarially-sound rates for health plan benefits and alternative plan options each year.
3. Develop benefit plan alternatives for OGB's third-party health plan administrators and prescription benefit manager, to be priced and scored in an RFP.
4. Develop and produce quarterly Medical Expense Review (MER) reporting for detailing cost trends within the plan, identifying the causes, and recommending corresponding corrective actions. MER reporting shall consist of detailed spending trend and run rate details by health care delivery service line.
5. Apply its broad base of knowledge of federal and state statutes and economic systems using mathematical models and techniques to ensure sound rates shall be applied to benefit plans appropriately.
6. Provide actuarial opinions and testimony on reimbursement methodology and benefit plans that have actuarial value in accordance with the principles and guidelines of the American Academy of Actuaries.
7. Apply its broad base of knowledge of federal and state policies, procedures and economic and payment systems for the support and implementation of employee plan benefits.
8. Assist in the development and ongoing implementation of a risk adjustment methodology for measuring and tracking the health of the employee population over periods of time.
9. Prepare analyses and reports of cost effectiveness and related issues.
10. Provide consultation on Pharmacy Plan and Utilization Formulary Plan Design.
11. Attend up to 12 board meetings per year in Baton Rouge, Louisiana.
12. Attend quarterly meetings with OGB and DOA executive staff.
13. Review pending legislation and provide fiscal impact review and summary.
14. Provide ACA consultation and fee analysis in compliance with Federal guidelines.
15. Provide cost savings plan analysis resulting from implementation of plan changes.
16. Provide a copy of Statement on Standards for Attestation on an annual basis.
17. Provide actuarial certifications for any project requiring such.
18. Audit OGB's third-party health plan administrators and prescription benefit manager deliverables, when requested.
19. Provide other related assistance as requested by OGB.

Deliverables

The Contractor shall provide the following deliverables:

1. Actuarial Rate Development

The Contractor shall perform premium rate setting according to generally accepted actuarial principles and practices that use a variety of parameters including recipients' age, gender, eligibility category, illness burden, and geographic location. The Contractor shall complete rate development and submit documents required on a date mutually agreed upon by OGB and the Contractor each year. The Contractor shall:

- Provide OGB with a certification, at the conclusion of each specific rate setting cycle, which states that Federal regulations regarding rate setting were complied with (as necessary) and which includes a detailed description of the rate setting methodology, including all necessary assurances and explanations or other material specified by OGB including but not limited to:
 - The rates and time period for the rates;
 - Trend assumptions used;
 - A projection of expenditures;
 - An explanation of rate setting;
 - Documentation and assurance that all plan rates are based only upon services covered under the specified Plan or costs related to providing these services, such as health plan administration;
 - Documentation of any adjustments to the base year data including detailing the policy assumptions, size, and effect of the adjustments. Adjustments shall include, but shall not be limited to, services covered, administration, medical service cost, trend inflation and utilization;
 - Documentation that the Contractor has examined base year data for distortions and anomalies, such as special populations with catastrophic costs, and adjusted rates in a cost-neutral manner; and
 - Analysis and recommendations on the use of state provided reinsurance and other risk-sharing mechanisms.
- Follow the parameters and priorities of health plan rate development, as set by OGB, in each rate period and advise OGB if there appears to be any conflict with other requirements herein.
- Meet the work plan timeline, as agreed upon by OGB and the Contractor, of health plan rate development in each rating period.
- Perform actuarial analyses to make recommendations on proposed rates for subsequent health plan contract year(s).

- Reviews encounter data and financial performance of OGB health plans for use in determining rates and fees.
- Ensure that the methodology developed and rates calculated under all tasks meet all federal and state requirements. All reports and rate setting methodologies will be submitted to OGB for approval.
- Incorporate federal requirements, including those required by the Affordable Care Act (ACA), into health plan rates, and assist OGB in the reporting and reconciliation of such requirements as requested by OGB.
- Provide consulting and technical assistance concerning the health plan rate setting methodology to OGB as needed. Technical assistance shall include, but shall not be limited to, include statistical data analysis and litigation support if litigation involves rates or rate setting as determined by OGB.
- Provide actuarial assistance in development of trends for employees and/or retirees.
- Assist OGB in budget projections pertaining to health plan rates.
- Assist in answering any and all rate-related questions.
- Perform any other duties as agreed upon by both parties required to ensure health plan performance.
- Prepare GASB 45 and other liability disclosures as necessary
- Provide renewal and cost analysis (including claims projections, IBNR liability, and premium-equivalent adjustments).
- Provide a dedicated service team.
- Provide consultation on Pharmacy Plan and Utilization Formulary Plan Design.
- Attend up to 12 board meetings per year in Baton Rouge, Louisiana.
- Within three (3) months of award of the contract and semi-annually thereafter, provide an assessment report of OGB's plans, including but not limited to:
 - Best Practices/Industry Benchmarks
 - Data driven model
 - Essential performance metrics identified with a tracking model
 - Review managed care options, including capitation
 - Benefit Design, including changes to limitations and life time maximums

2. Data Quality

The Contractor shall:

- Perform reasonable reliability and validity checks not requiring an audit on all health rate development data provided by OGB and Administrator. The Contractor shall work directly with OGB and Benefit Administrators to collect financial and encounter data to provide guidance to assist OGB and Benefit Administrators in resolving reliability and validity problems with their data.

- Provide an actuarial analysis of the claims encounter data collected from OGB and/or Benefit Administrators.
- Provide supporting documentation to OGB and offer mechanisms to verify the accuracy of analysis completed and base data.
- Evaluate and validate encounter data completeness for risk adjustment calculation purposes.

3. Risk Adjustments

The mission of OGB is to improve the health and wellbeing of its employees. Tracking and monitoring the progress of employees' health is a critical factor.

The Contractor shall:

- Develop initial individual risk scores based on the health of recipients using the diagnostic data captured within the relevant claims and encounter data.
- Develop plan risk scores based on the individual risk scores and enrollment data to assign members to the appropriate plan.
- Provide periodic updates of risk adjustments over time.
- Evaluate and validate encounter data completeness for risk factor calculations.

4. Pay for Performance Plan

The Contractor shall provide assistance with evaluation and/or validation of the actuarial value of enhanced payments to providers and expanded benefits to members that may be proposed by prospective health plans in response to the Request for Proposals for benefit administration.

5. Procurement

The Contractor shall consult with and guide OGB in the development of Requests for Proposals (RFPs), RFP proposal evaluation, contracts, benefit designs, ROI projections, and budget projections for new programs and re-procurement of existing programs, in accordance with state law and regulations.

6. Reports

The Contractor shall:

- Provide OGB with reports, data sets, analysis, and documents relevant to the rate setting process and calculations in the format(s) specified by OGB. The Contractor shall provide all documents and data in the electronic media format(s) designated by OGB, and the Contractor shall be required to accept and be able to process electronic documents and files in the electronic media format(s) by OGB.

- Provide complete explanations of all calculations as requested by OGB and provide all formulas to OGB as requested.
- Provide personnel and documentation of formulas and methodologies to document and explain challenges by OGB or other parties relative to the matters herein contracted.
- Provide rate certification letters and benchmark letters and related documents as prescribed by OGB.
- Respond timely to *ad hoc* data requests.
- Provide all data, program and regulatory analysis requested by OGB.
- Submit all reports within timeframes agreed upon by OGB and the Contractor.

7. Participation in Meetings and Work Groups

The Contractor shall:

- Participate in periodic meetings with OGB staff throughout each rate cycle to discuss the Medical Expense Reviews, parameters, priorities, methodology, and ongoing results rate development in each rate cycle. Provide documents and data, as directed by OGB to discuss at these meetings.
- Participate in meetings with OGB and legislative committees as requested. Meetings may be scheduled on very short notice.
- Participate in meetings with Benefit Administrators and other concerned parties as requested by OGB.

8. Technical, Clinical and Policy Assistance

The Contractor shall perform technical, clinical and policy assistance and ongoing support of OGB. This shall include but shall not be limited to assistance with *ad hoc* requests, interpretation of new federal regulations, preparation of waiver and state plan amendments in accordance with state and/or federal policy requirements, and other assistance as requested by OGB.

9. Transition Plan/Period

At the end of the contract period, the Contractor shall work cooperatively with OGB and any of their contracting organizations to develop and successfully implement a plan to turn over all non-proprietary data, methodologies, documentation, and ongoing projects to the succeeding contracting organization, vendor, or firm. The transition plan must be delivered to OGB 90 calendar days prior to the scheduled termination date of the contract unless OGB advises otherwise.

10. Contractor's Personnel

The Contractor must provide at least one consultant, one actuary, and one data analyst, capable of providing the following services:

- **The consultant must have a proven track record in benefit design and premium rate development.**
- The primary actuary must be a Fellow in the Society of Actuaries (FSA) and a Member of the American Academy of Actuaries (MAAA) with proven experience with a health plan programs.
- One actuary must be either an ASA or FSA and MAAA and have proven experience with a Medicaid/or CHIP program.
- Non-actuaries must work under the supervision of the primary actuary to perform actuarial work.
- At least one actuary must be available either in person or by phone within four hours every Monday through Friday between the hours of 7:30 AM and 5:00 PM CT to discuss actuarial matters and work on pressing issues.
- At least one actuary must be available in person, within 72 hours, seven days a week during any State Legislative Session to discuss and testify on actuarial matters and work on pressing issues.
- As requested by OGB, during the term of the contract, the Contractor shall provide resumes for all key personnel, including the project manager, who will be involved in providing the services of this contract. The resumes must include: name, education, designations, and years of experience and employment history.

Performance Measure

The Contractor will submit detailed monthly invoices due on the 20th of each month documenting the activities performed and the status of outstanding deliverables.

Monitoring Plan

The OGB contract monitor will:

1. Be available for consultation by phone, e-mail, and face-to-face meetings to discuss priorities and provide direction;
2. Meet with the Contractor on a weekly basis, if needed, by telephone to ensure that work toward the completion of deliverables is being accomplished; and
3. Review and approve monthly detailed invoices.

Actuarial Errors, Corrective Action Plans, & Monetary Penalties

In the event of an actuarial error in a final deliverable, within 24 hours after the Contractor's discovery of the error, the Contractor shall provide written notice of the error to OGB. The notice shall include a detailed description of the error, including its scope and severity.

The Contractor shall correct actuarial errors at its own expense and without significant delay to the schedule for Contract deliverables. The Contractor shall not bill nor will OGB pay for the cost of correcting actuarial errors.

In the event of an actuarial error significant enough to require revision of a major deliverable, such as capitation rate certification, risk adjustment, or Shared Savings benchmark or determination, OGB shall require submission of a corrective action plan and may assess monetary penalties as defined below.

The purpose of establishing and imposing monetary penalties shall be to provide a means for OGB to obtain the services and level of performance required for successful operation of the Contract.

The decision to impose monetary penalties shall include consideration of some or all of the following factors:

- The duration of the violation;
- Whether the error (or one that is substantially similar) has previously occurred;
- The Contractor's history of errors;
- The severity of the error;
- The "good faith" exercised by the Contractor in attempting to avoid errors.

If assessed, the penalties will be used to reduce OGB's payments to the Contractor or if the penalties exceed amounts due from OGB, the Contractor will be required to make cash payments to OGB for the amount in excess.

At OGB's discretion, for each occurrence of a significant actuarial error, the Contractor shall be liable to OGB for monetary penalties in an amount as specified in the table below. Monetary penalties shall escalate by occurrence over the term of this Contract. Any penalty assessed shall not constitute a cap and shall not limit the liability of contractor under the Contract.

Occurrence	Penalty Per Occurrence
1-2	\$25,000
3-4	\$50,000
5 and beyond	\$75,000

Excessive actuarial errors may result in termination of the contract.

ATTACHMENT II: COST PROPOSAL

Best Value per 100 Hours

In the exact format below (more rows may be added to accommodate the listing of all applicable staff members), the Proposer shall provide the name, position title, and hourly rate for each project staff member to be assigned to perform the work under this contract. The Proposer shall also provide the percentage of hours each staff member will typically work per 100 hours. If subcontractors are utilized, the Proposer should provide the same information for each subcontractor. The Proposer shall provide a total blended hourly rate cost for evaluation purposes.

Hourly billable rates shall be all-inclusive, and shall include, but not be limited to all travel, lodging, meals, taxes, direct and indirect expenses.

Staff Member Name	Position Title	Hourly Billable Rate	% of 100 Hours	Cost
Total				

Best Guarantee Value

In the exact format below (more rows may be added to accommodate the listing of all applicable staff members), the Proposer shall provide the name, position title, and hourly rate for each project staff member to be assigned to perform the work under this contract. This information shall be provided for each deliverable task listed in Attachment I Scope of Services. The Proposer shall also provide the number of hours each staff member is estimated to work on each deliverable task, and calculate both the cost per staff member and per task deliverable. The Proposer shall provide a total cost for tasks 1-9, for evaluation purposes.

If subcontractors are utilized, the Proposer shall provide the same information for each subcontractor.

Staff Member Name	Position Title	Hourly Billable Rate	Estimated Number of Hours	Cost
Task 1. Actuarial Rate Development				
				Subtotal Task #1
Task 2. Data Quality				
				Subtotal Task #2
Task 3. Risk Adjustments				
				Subtotal Task #3
Task 4. Pay for Performance Plan				
				Subtotal Task #4

Staff Member Name	Position Title	Hourly Billable Rate	Estimated Number of Hours	Cost
Task 5. Procurement				
				Subtotal Task #5
Task 6. Reports				
				Subtotal Task #6
Task 7. Participation in Meetings and Work Groups				
				Subtotal Task #7
Task 8. Technical, Clinical and Policy Assistance				
				Subtotal Task #8

Staff Member Name	Position Title	Hourly Billable Rate	Estimated Number of Hours	Cost
Task 9. Turnover				
			Subtotal Task #9	
Total Price for Tasks #1-9				

Best per Month Value

In the exact format below, the Proposer shall provide the maximum monthly fee to be charged, regardless of which services or number of services listed in Attachment I Scope of Services the Proposer is providing in any billable month. The Proposer must agree to provide all services required under the contract at the Proposer’s risk, despite reaching the maximum monthly fee.

If subcontractors are utilized, the cost of the use of subcontractors shall be included in the maximum monthly fee. The Proposer shall provide this monthly cost for evaluation purposes.

Maximum Monthly Fee: \$ _____

ATTACHMENT III: CERTIFICATION STATEMENT

The undersigned hereby acknowledges she/he has read and understands all requirements and specifications of the Request for Proposals (RFP), including attachments.

OFFICIAL CONTACT. The State requests that the Proposer designate one person to receive all documents and the method in which the documents are best delivered. Identify the Contact name and fill in the information below: (Print Clearly)

Date _____ Official Contact Name: _____

A. E-mail Address: _____

B. Facsimile Number with area code: () _____

C. US Mail Address: _____

Proposer certifies that the above information is true and grants permission to the State or Agencies to contact the above named person or otherwise verify the information provided.

By its submission of this proposal and authorized signature below, Proposer certifies that:

1. The information contained in its response to this RFP is accurate;
2. Proposer complies with each of the mandatory requirements listed in the RFP and will meet or exceed the functional and technical requirements specified therein;
3. Proposer accepts the procedures, evaluation criteria, mandatory contract terms and conditions, and all other administrative requirements set forth in this RFP.
4. Proposer's quote is valid for at least *90 calendar* days from the date of proposal's signature below;
5. Proposer understands that if selected as the successful Proposer, he/she will have 5 business days from the date of delivery of final contract in which to complete contract negotiations, if any, and execute the final contract document
6. Proposer certifies, by signing and submitting a proposal for \$25,000 or more, that *their* company, any subcontractors, or principals are not suspended or debarred by the General Services Administration (GSA) in accordance with the requirements in OMB Circular A-133. (A list of parties who have been suspended or debarred can be viewed via the internet at <https://www.sam.gov> .)

Authorized Signature: _____

Typed or Printed Name: _____

Title: _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

SIGNATURE of Proposer's Authorized Representative	DATE
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ATTACHMENT IV: SAMPLE CONTRACT

STATE OF LOUISIANA CONTRACT

On this ____day of 20__, the State of Louisiana, [STATE AGENCY NAME], hereinafter sometimes referred to as the "State", and [CONTRACTOR'S NAME AND LEGAL ADDRESS INCLUDING ZIP CODE], hereinafter sometimes referred to as the "Contractor", do hereby enter into a contract under the following terms and conditions.

1 SCOPE OF SERVICES

1.1 CONCISE DESCRIPTION OF SERVICES

[COMPLETE A DESCRIPTION OF SERVICES TO BE PROVIDED OR ATTACH SOW]

1.2 STATEMENT OF WORK

{Define work/services/deliverables to be provided by contractor composed from RFP & proposer's response. May be included in an attachment if detail is lengthy.}

1.2.1. GOALS AND OBJECTIVES

[LIST GOALS AND OBJECTIVES OF THIS CONTRACT]

1.2.2. PERFORMANCE MEASURES

The performance of the contract will be measured by the State Project Manager, authorized on behalf of the State, to evaluate the contractor's performance against the criteria in the Statement of Work and are identified as:

[LIST PERFORMANCE MEASURES WHICH SHOULD BE MEASURABLE AND TIME BOUND]

1.2.3. MONITORING PLAN

[Name and Title or Position] will monitor the services provided by the contractor and the expenditure of funds under this contract. [Name and Title or Position] will be primarily responsible for the day-to-day contact with the contractor and day-to-day monitoring of the contractor's performance. The monitoring plan is the following:

(PROVIDE MONITORING PLAN)

1.2.4. DELIVERABLES

The Contract will be considered complete when Contractor has delivered and State has accepted all deliverables specified in the Statement of Work.

1.2.5. Veteran-Owned and Service-Connected Small Entrepreneurships (Veteran Initiative) and Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) Programs Reporting Requirements

During the term of the contract and at expiration, the Contractor will be required to report Veteran-Owned and Service-Connected Disabled Veteran-Owned and Hudson Initiative small entrepreneurship subcontractor or distributor participation and the dollar amount of each.

1.2.6. SUBSTITUTION OF KEY PERSONNEL

The Contractor's personnel assigned to this Contract shall not be replaced without the prior written consent of the State. Such consent shall not be unreasonably withheld or delayed provided an equally qualified replacement is offered. In the event that any State or Contractor personnel become unavailable due to resignation, illness, or other factors, excluding assignment to project outside this contract, outside of the State's or Contractor's reasonable control, as the case may be, the State or the Contractor shall be responsible for providing an equally qualified replacement in time to avoid delays in completing tasks. The contractor will make every reasonable attempt to assign the personnel listed in his proposal.

2 ADMINISTRATIVE REQUIREMENTS

2.1 TERM OF CONTRACT

This contract shall begin on [DATE] and shall end on [DATE]. State has the right to contract for up to a total of ___years with the concurrence of the Contractor and all appropriate approvals.

2.2 STATE FURNISHED RESOURCES

State shall appoint a Project Coordinator for this Contract identified in Section 1.2.4 who will provide oversight of the activities conducted hereunder. Notwithstanding the Contractor's responsibility for management during the performance of this Contract, the assigned Project Coordinator shall be the principal point of contact on behalf of the State and will be the principal point of contact for Contractor concerning Contractor's performance under this Contract.

2.3 TAXES

Contractor is responsible for payment of all applicable taxes from the funds to be received under this contract. Contractor's federal tax identification number is _____.

3 COMPENSATION AND MAXIMUM AMOUNT OF CONTRACT

3.1 PAYMENT TERMS

In consideration of the services required by this contract, State hereby agrees to pay to Contractor a maximum fee of \$[TO BE INSERTED]. Payments are predicated upon successful completion and written approval by the State of the described tasks and deliverables as provided in Section 1.0. Payments will be made to the Contractor after written acceptance by the State of the payment task and approval of an invoice. State will make every reasonable effort to make payments within 30 days of the approval of invoice and under a valid contract. Payment will be made only on approval of (Name of Designee).

During the execution of tasks contained in the Statement of Work, the Contractor may submit invoices, not more frequently than monthly. The payment terms are as follows:

(ENTER THE NEGOTIATED HOURLY RATES OR PAYMENT TERMS)

Such payment amounts for work performed must be based on at least equivalent services rendered, and to the extent practical, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices. Contractor will not be paid more than the maximum amount of the contract.

4 TERMINATION

4.1 TERMINATION FOR CAUSE

State may terminate this Contract for cause based upon the failure of Contractor to comply with the terms and/or conditions of the Contract; provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and the Contract shall terminate on the date specified in such notice. Failure to perform within the time agreed upon in the contract may constitute default and may cause cancellation of the contract.

Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this contract provided that the Contractor shall give the State written notice specifying the State agency's failure and a reasonable opportunity for the state to cure the defect.

4.2 TERMINATION FOR CONVENIENCE

State may terminate the Contract at any time without penalty by giving thirty (30) days written notice to the Contractor of such termination or negotiating with the Contractor an effective date. Contractor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

4.3 TERMINATION FOR NON-APPROPRIATION OF FUNDS

The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act of Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated.

5 INDEMNIFICATION AND LIMITATION OF LIABILITY

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under Contract.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State and its Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State. If applicable, Contractor will indemnify, defend and hold the State and its Authorized Users harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State or its Authorized Users may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: i) Authorized User's unauthorized modification or alteration of a Product, Material or Service; ii) Authorized User's use of the Product in combination with other products not furnished by Contractor; iii) Authorized User's use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the Authorized User's exclusive remedy to

take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part (s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract.

For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges rendered by the Contractor under the Contract. Unless otherwise specifically enumerated herein or in the work order mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State and Authorized User may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

6 CONTRACT CONTROVERSIES

Any claim or controversy arising out of the contract shall be resolved by the provisions of Louisiana Revised Statutes 39:1524-26.

7 FUND USE

Contractor agrees not to use contract proceeds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority.

8 ASSIGNMENT

No contractor shall assign any interest in this contract by assignment, transfer, or novation, without prior written consent of the State. This provision shall not be construed to prohibit the contractor from assigning to a bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

9 RIGHT TO AUDIT

The State Legislative Auditor, agency, and/or federal auditors and internal auditors of the Division of Administration shall have the option to audit all accounts directly pertaining to the contract for a period of three (3) years from the date of the last payment made under this contract. Records shall be made available during normal working hours for this purpose.

10 CONTRACT MODIFICATION

No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.

11 CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the contractor in order to carry out this contract, or which become available to the contractor in carrying out this contract, shall be protected by the contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the contractor. If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The contractor shall not be required under the provisions of the paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the contractor's possession, is independently developed by the contractor outside the scope of the contract, or is rightfully obtained from third parties.

12 SUBCONTRACTORS

The Contractor may, with prior written permission from the State, enter into subcontracts with third parties for the performance of any part of the Contractor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the State and/or State Agency for any breach in the performance of the Contractor's duties. The contractor will be the single point of contact for all subcontractor work.

13 COMPLIANCE WITH CIVIL RIGHTS LAWS

The contractor agrees to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of

the Education Amendments of 1972, the Age Act of 1975, and contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Contractor agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

14 INSURANCE

Insurance shall be placed with insurers with an A.M. Best's rating of no less than A-: VI.

This rating requirement shall be waived for Worker's Compensation coverage only.

Contractor's Insurance: The Contractor shall not commence work under this contract until he has obtained all insurance required herein. Certificates of Insurance, fully executed by officers of the Insurance Company written or countersigned by an authorized Louisiana State agency, shall be filed with the State of Louisiana for approval. The Contractor shall not allow any sub-contractor to commence work on his subcontract until all similar insurance required for the subcontractor has been obtained and approved. If so requested, the Contractor shall also submit copies of insurance policies for inspection and approval of the State of Louisiana before work is commenced. Said policies shall not hereafter be canceled, permitted to expire, or be changed without thirty (30) days' notice in advance to the State of Louisiana and consented to by the State of Louisiana in writing and the policies shall so provide.

Compensation Insurance: Before any work is commenced, the Contractor shall maintain during the life of the contract, Workers' Compensation Insurance for all of the Contractor's employees employed at the site of the project. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in work under the contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide for any such employees, and shall further provide or cause any and all subcontractors to provide Employer's Liability Insurance for the protection of such employees not protected by the Workers' Compensation Statute.

Commercial General Liability Insurance: The Contractor shall maintain during the life of the contract such Commercial General Liability Insurance which shall protect him, the State, and any subcontractor during the performance of work covered by the contract from claims or damages for personal injury, including accidental death, as well as for claims for property damages, which may arise from operations under the contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them, or in such a manner as to impose liability to the State. Such insurance shall name the State as additional insured for claims arising from or as the result of the operations of the Contractor or his subcontractors. In the absence of specific regulations, the amount of coverage shall be as follows: Commercial General

Liability Insurance, including bodily injury, property damage and contractual liability, with combined single limits of \$1,000,000.

Insurance Covering Special Hazards: Special hazards as determined by the State shall be covered by rider or riders in the Commercial General Liability Insurance Policy or policies herein elsewhere required to be furnished by the Contractor, or by separate policies of insurance in the amounts as defined in any Special Conditions of the contract included therewith.

Licensed and Non-Licensed Motor Vehicles: The Contractor shall maintain during the life of the contract, Automobile Liability Insurance in an amount not less than combined single limits of \$1,000,000 per occurrence for bodily injury/property damage. Such insurance shall cover the use of any non-licensed motor vehicles engaged in operations within the terms of the contract on the site of the work to be performed there under, unless such coverage is included in insurance elsewhere specified.

Subcontractor's Insurance: The Contractor shall require that any and all subcontractors, which are not protected under the Contractor's own insurance policies, take and maintain insurance of the same nature and in the same amounts as required of the Contractor.

15 APPLICABLE LAW

This contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

16 CODE OF ETHICS

The contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this contract. The contractor agrees to immediately notify the state if potential violations of the Code of Governmental Ethics arise at any time during the term of this contract.

17 SEVERABILITY

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

18 INDEPENDENT ASSURANCES

The State of Louisiana /State Agency will also require the Contractor and /or subcontractors, if performing a key internal control, to submit to an independent SSAE 16 SOC 1, Type II and Type III audit of its internal controls and other financial and performance audits from outside companies to assure both the financial viability of the (outsourced) program and the operational viability, including the policies and procedures placed into operation. The audit firm will conduct tests and render an independent opinion on the operating effectiveness of the controls and procedures.

The contractor shall be required to provide a quality control plan, such as third party Quality Assurance (QA), Independent Verification and Validation (IV &V), and other internal project/ program reviews and audits.

These audits will require the Contractor to provide any assistance, records access, information system access, staff access, and space access to the party selected to perform the indicated audit. The audit firm will submit a final report on controls placed in operations for the project and include a detailed description of the audit firm's tests of the operating effectiveness of controls.

The Contractor shall supply the OGB with an exact copy of the report within thirty (30) calendar days of completion. Such audits shall be performed annually during the term of the contract. The Contractor shall agree to implement recommendations as suggested by the audits within three months of report issuance at no cost to the OGB. The cost of the SSAE 16 audit shall be borne by the contractor.

19 COMPLETE CONTRACT

This is the complete Contract between the parties with respect to the subject matter and all prior discussions and negotiations are merged into this contract. This Contract is entered into with neither party relying on any statement or representation made by the other party not embodied in this Contract and there are no other agreements or understanding changing or modifying the terms. This Contract shall become effective upon final statutory approval.

20 ENTIRE AGREEMENT

This contract, together with the RFP and addenda issued thereto by the State, the proposal submitted by the Contractor in response to the State's RFP, and any exhibits incorporated herein by reference, shall constitute the entire agreement between the parties with respect to the subject matter.

21 ORDER OF PRECEDENCE

In the event of any inconsistent or incompatible provisions, this signed agreement (excluding the RFP and the Contractor's proposal) shall take precedence, followed by the provisions of the RFP, and then by the terms of the Contractor's proposal.

THUS DONE AND SIGNED on the date(s) noted below:

CONTRACTOR

STATE OF LOUISIANA
OFFICE OF GROUP BENEFITS

BY: _____

BY: _____

DATE: _____

DATE: _____

ATTACHMENT V: PROTECTED HEALTH INFORMATION ADDENDUM

State of Louisiana, Division of Administration
Office of Group Benefits
HIPAA Business Associate Addendum

THIS HIPAA BUSINESS ASSOCIATE ADDENDUM (the “Addendum”) is entered into effective the _____ day of _____, 20____ (the “Effective Date”), by and between _____, (“Business Associate”) and the State of Louisiana, Division of Administration, Office of Group Benefits, on behalf of itself and its affiliates, if any (individually and collectively, the “Covered Entity”) and adds to the Agreement dated _____, 20____, entered into between Covered Entity and Business Associate (the “Agreement”).

WHEREAS, pursuant to the Agreement, Business Associate performs functions or activities on behalf of Covered Entity involving the use and/or disclosure of protected health information that Business Associate accesses, creates, receives, maintains or transmits on behalf of Covered Entity (“PHI”); and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI in compliance with the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“HHS”), as amended from time to time including by the Health Information Technology for Economic and Clinical Health Act (“HITECH”) (collectively “HIPAA”).

Business Associate, therefore, agrees to the following terms and conditions set forth in this Addendum.

1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms are defined under HIPAA.
2. Compliance with Applicable Law. The parties acknowledge and agree that, beginning with the Effective Date, Business Associate shall comply with its obligations under this Addendum and with all obligations of a business associate under HIPAA and other applicable laws and regulations, as they exist at the time this Addendum is executed and as they are amended, for so long as this Addendum is in place.
3. Uses and Disclosures of PHI. Except as otherwise limited in the Agreement or this Addendum, Business Associate shall not, and shall ensure that its directors, officers, employees, contractors, and agents do not, use or disclose PHI other than as follows:
 - (a) Business Associate may use Covered Entity’s PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- (b) Business Associate may disclose Covered Entity's PHI for the proper management and administration, or to carry out the legal responsibilities, of the Business Associate, provided that disclosures are required by HIPAA, or Business Associate obtains reasonable written assurances from the person or entity to whom the PHI is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person or entity, and the person or entity notifies the Business Associate of any instances of which it is aware or suspects in which the confidentiality of the PHI has been breached. In such case, Business Associate shall report such known or suspected breaches to Covered Entity as soon as possible and in accordance with timeframes set forth in this Agreement.
- (c) Business Associate, upon written request by Covered Entity, may use Covered Entity's PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B). For purposes of this Section, Data Aggregation means, with respect to Covered Entity's PHI, the combining of such PHI by Business Associate with the PHI received by Business Associate in its capacity as a Business Associate of another Covered Entity to permit data analyses that relate to the health care operations of the respective Covered Entities.
- (d) Business Associate may de-identify any and all PHI created or received by Business Associate under this Agreement; provided, however, that the de-identification conforms to the requirements of HIPAA and in accordance with any guidance issued by the Secretary. Such resulting de-identified information would not be subject to the terms of this Agreement.
- (e) Business Associate may create a Limited Data Set, as defined in HIPAA, and use such Limited Data Set pursuant to a Data Use Agreement that meets the requirements of HIPAA.

4. Required Safeguards To Protect PHI. Business Associate shall implement appropriate safeguards in accordance with HIPAA to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of the Agreement. To the extent that Business Associate creates, receives, maintains, or transmits electronic PHI ("ePHI") on behalf of Covered Entity, Business Associate shall comply with the HIPAA Security Rule as of the relevant effective date and further, shall implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI.

5. Reporting to Covered Entity. Business Associate shall immediately report to Covered Entity any use or disclosure of PHI not provided for by this Addendum, including breaches of unsecured PHI in accordance with the Breach Notification Rule (45 CFR Subpart D), and any security incident of which it becomes aware. Business Associate shall cooperate with Covered Entity's investigation, analysis, notification and mitigation activities, and shall be responsible for all costs incurred by Covered Entity for those activities.

6. Mitigation of Harmful Effects. Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum, including, but not limited to, compliance with any state law or contractual data breach requirements.

7. Agreements by Third Parties. Business Associate shall enter into an agreement with any agent or subcontractor of Business Associate that will create, receive, maintain, or transmit PHI on behalf of Business Associate. Pursuant to such agreement, the agent or subcontractor shall agree to be bound by the same restrictions, terms, and conditions that apply to Business Associate under this Addendum with respect to such PHI.
8. Access to Information. Within ten (10) days of a request by Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such PHI for so long as such information is maintained by Business Associate in the Designated Record Set, as required by 45 C.F.R. § 164.524. In the event any individual delivers directly to Business Associate a request for access to PHI, Business Associate shall within five (5) days forward such request to Covered Entity.
9. Availability of PHI for Amendment. Within ten (10) days of receipt of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a Designated Record Set (for so long as the PHI is maintained in the Designated Record Set), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. § 164.526.
10. Documentation of Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. At a minimum, Business Associate shall provide Covered Entity with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.
11. Accounting of Disclosures. Within ten (10) days of notice by Covered Entity to Business Associate that it has received a request for an accounting of disclosures of PHI regarding an individual, Business Associate shall make available to Covered Entity information collected in accordance with Section 10 of this Addendum, to permit Covered Entity to respond to the request for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within five (5) days forward such request to Covered Entity. Business Associate hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section.
12. Other Obligations. To the extent that Business Associate is to carry out Covered Entity's obligation under HIPAA, Business Associate shall comply with the requirements of HIPAA that apply to the Covered Entity in the performance of such obligation.
13. Availability of Books and Records. Business Associate hereby agrees to make its internal practices, books, and records relating 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 for purposes of determining Covered Entity's compliance with HIPAA.

14. Effect of Termination of Agreement.

- (a) Upon the termination of the Agreement or this Addendum for any reason, Business Associate shall return to Covered Entity, or, at Covered Entity's direction, destroy, all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form, recorded on any medium, or stored in any storage system, unless said information has been de-identified and is no longer PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (b) In the event that Business Associate reasonably determines that returning or destroying the PHI is not feasible, Business Associate shall notify Covered Entity of the conditions that make return or destruction not feasible, and shall extend the protections of this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such PHI.

15. Breach of Contract by Business Associate. In addition to any other rights Covered Entity may have in the Agreement, this Addendum or by operation of law or in equity, Covered Entity may (i) immediately terminate the Agreement if Covered Entity determines that Business Associate has violated a material term of this Addendum, or (ii) at Covered Entity's option, permit Business Associate to cure or end any such violation within the time specified by Covered Entity. Covered Entity's exercise of its option to permit Business Associate to cure a breach of this Addendum shall not be construed as a waiver of any other rights Covered Entity has in the Agreement, this Addendum or by operation of law or in equity.

16. Indemnification. Business Associate shall defend, indemnify and hold harmless Covered Entity and its officers, trustees, employees, subcontractors and agents from and against any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate or its subcontractors of Business Associate's obligations under this Addendum or HIPAA. This Section 16 of the Addendum shall survive the termination of the Agreement or this Addendum.

17. Exclusion from Limitation of Liability. To the extent that Business Associate has limited its liability under the terms of the Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate's breach of its obligations relating to the use and disclosure of PHI. This Section 17 of the Addendum shall survive the termination of the Agreement and this Addendum.

18. Injunctive Relief. Business Associate acknowledges and stipulates that the unauthorized use or disclosure of PHI by Business Associate or its subcontractors while performing services pursuant to the Agreement or this Addendum would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in

equity, to obtain damages and injunctive relief, together with the right to recover from Business Associate costs, including reasonable attorneys' fees, for any such breach of the terms and conditions of the Agreement or this Addendum.

19. Third Party Rights. The terms of this Addendum are not intended, nor should they be construed, to grant any rights to any parties other than Business Associate and Covered Entity.

20. Owner of PHI. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any PHI used or disclosed by or to Business Associate pursuant to the terms of the Agreement.

21. Changes in the Law. Covered Entity may amend either the Agreement or this Addendum, as appropriate, to conform to any new or revised legislation, rules and regulations to which Covered Entity is subject now or in the future including, without limitation, HIPAA.

22. Judicial and Administrative Proceedings. In the event Business Associate receives a subpoena, court, or administrative order or other discovery request or mandate for release of PHI, Covered Entity shall have the right to control Business Associate's response to such request. Business Associate shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within five (5) business days of receipt of such request.

23. Conflicts. If there is any direct conflict between the Agreement and this Addendum, the terms and conditions of this Addendum shall control.

IN WITNESS WHEREOF, the parties have executed this Addendum effective the day and year first above written.

BUSINESS ASSOCIATE:

COVERED ENTITY:

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____