

TITLE PAGE
FLORIDA DEPARTMENT OF HEALTH
DOH 14-013



3-2014

INVITATION TO NEGOTIATE (ITN)
FOR
Bureau of Tobacco Free Florida Surveillance and
Evaluation Services

Vendor Name: _____

Vendor Mailing Address: _____

City, State, Zip: _____

Telephone: () _____ Fax Number: () _____

E-Mail Address: _____

Federal Employer Identification Number (FEID): _____

BY AFFIXING MY SIGNATURE ON THIS REPLY, I HEREBY STATE THAT I HAVE READ THE ENTIRE ITN TERMS, CONDITIONS, PROVISIONS AND SPECIFICATIONS AND ALL ITS ATTACHMENTS, INCLUDING THE REFERENCED PUR 1000 AND PUR 1001. I hereby certify that my company, its employees, and its principals agree to abide to all of the terms, conditions, provisions and specifications during the competitive solicitation and any resulting contract including those contained in the attached Standard Contract (**Attachment F**).

Signature of Authorized Representative: _____

Printed (Typed) Name and Title: _____

*An authorized representative is an officer of the Vendor's organization who has legal authority to bind the organization to the provisions of the Replies. This usually is the President, Chairman of the Board, or owner of the entity. A document establishing delegated authority must be included with the Reply if signed by other than the authorized representative.

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SECTION 1.0: INTRODUCTORY MATERIALS

1.1 Statement of Purpose

The Department of Health is requesting Replies for surveillance and evaluation services of the programs of the Bureau of Tobacco Free Florida. The services will measure overall impact of the program and provide evaluation of all individual program components excluding cessation interventions.

Important background information including the current overall independent evaluation report, current evaluation contracts and Bureau of Tobacco Free Florida annual reports can be found at: http://fl.btpm.myhostedsolution.net/BTFF_Shared/ITN_DOH14-013_Overall_and_Media_Evaluation/default.aspx

The Tobacco Free Florida campaign website can be found at: www.tobaccofreeflorida.com

Vendors are encouraged to refer to the Centers for Disease Control and Prevention (CDC) Best Practices for Comprehensive Tobacco Control Programs, as amended: http://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm

1.1.1. Programmatic Authority

The Bureau of Tobacco Free Florida (BTFF) operates under Article X, Section 27, Florida Constitution, Section 381.84, Florida Statutes, and Part II, Chapter 386, Florida Statutes.

As the result of a 2006 ballot initiative, Florida voters passed a constitutional amendment requiring the Florida Legislature to fund a comprehensive, statewide tobacco education and use prevention program. Tobacco Free Florida is annually appropriated an amount equal to fifteen percent of the funds paid to Florida in 2005 under the Tobacco Settlement or approximately \$64 million, adjusted for inflation, with one-third of this amount for educational and counter-marketing mass media. The constitutional amendment requires that the tobacco program conform to the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended, to target youth and other at-risk Floridians. Currently, CDC Best Practices states the most effective population-based approaches have been within the following overarching components of a comprehensive tobacco control program:

- I. State and Community Interventions
- II. Health Communication Interventions
- III. Cessation Interventions
- IV. Surveillance and Evaluation
- V. Administration and Management

This ITN seeks to secure a vendor for the surveillance and evaluation program component.

1.2 Definitions

BTFF: Bureau of Tobacco Free Florida within the Division of Community Health Promotion. Also referred to as “Bureau” in this ITN.

Business hours: 8 A.M. to 5 P.M. Eastern Time on all business days.

Calendar days: All days, including weekends and holidays.

CDC Best Practices: *Centers for Disease Control and Prevention’s Best Practices for Comprehensive Tobacco Control Programs- 2014* is an evidence-based guide to assist states in developing and maintaining effective tobacco control programs.

Contract: The formal agreement that will be awarded to the successful Vendor under this ITN, unless indicated otherwise.

Contract Manager: An individual designated by the Department to be responsible for the monitoring and management of the Contract.

Department: The Department of Health; may be used interchangeably with DOH.

Evaluation: Evaluation is used to measure the overall impact of the program, as well as to measure the ability of each program component to achieve its goals and objectives. It is also used to monitor the level of exposure among Florida’s target populations to different programmatic interventions through population specific evaluation. The resulting data and recommendations provide ongoing feedback and options for modifying interventions to continuously improve the program.

Minor Irregularity: As used in the context of this solicitation, indicates a variation from the ITN terms and conditions which does not affect the price of the Reply, or give the Vendor an advantage or benefit not enjoyed by other vendors, or does not adversely impact the interests of the Department.

Provider: The business entity awarded a contract by the Department in accordance with the Reply submitted by that entity in response to this ITN.

Reply: The complete written response of the Vendor to the ITN (technical and cost replies), including properly completed forms, supporting documents, and attachments.

Surveillance: Surveillance is used to measure tobacco use behaviors and changing trends in tobacco use among Floridians. It is also used to measure Floridian’s knowledge and attitudes about tobacco use and tobacco control policies.

Tobacco Free Florida Media Campaign: Department’s statewide tobacco youth prevention and adult cessation media campaign which includes all campaign activities/services for the Tobacco Free Florida campaign, including but not limited to the following components: graphic design and printing, media production, media buying, public relations and web/interactive.

Vendor: The entity that submits materials to the Department in accordance with these instructions.

Vendor Bid System (VBS): Refers to the State of Florida internet-based vendor information system at: http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu.

SECTION 2.0: PROCUREMENT PROCESS, SCHEDULE & CONSTRAINTS

2.1 Procurement Officer

The Procurement Officer assigned to this solicitation is:

Florida Department of Health
Attention: Tammy Davis
4052 Bald Cypress Way, Bin B07
Tallahassee, FL 32399-1749
Fax: 850-412-1196
Email: Tammy.Davis@flhealth.gov

2.2 Restriction on Communications

“Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.” Section 287.057(23), Florida Statutes

2.3 Term

It is anticipated that the Contract resulting from this ITN will be for a five (5) year period beginning January 1, 2015 or the Contract execution date whichever is later, subject to renewal as identified in **Section 5.2**. The resulting Contract is contingent upon the availability of funds. As a guide only, refer to **Section 3.2** for the current fiscal year legislatively appropriated budget.

2.4 Timeline

<u>EVENT</u>	<u>DUE DATE</u>	<u>LOCATION</u>
ITN Advertised / Released	August 22, 2014	Posted to the Vendor Bid System at: http://vbs.dms.state.fl.us/vbs/main_menu
Questions Submitted in Writing	Must be received PRIOR TO: September 2, 2014 2:00 PM ET	Submit to: Florida Department of Health Central Purchasing Office Attention: Tammy Davis Suite 310 4052 Bald Cypress Way, Bin B07 Tallahassee, FL 32399-1749 Fax: 850-412-1196 E-mail: Tammy.Davis@flhealth.gov

Answers to Questions (Anticipated Date)	September 5, 2014	Posted to Vendor Bid System at: http://vbs.dms.state.fl.us/vbs/main_menu
Sealed Replies Due Technical Replies Opened	Must be received PRIOR TO: September 23, 2014 3:00 PM ET	PUBLIC MEETING Submit to: Florida Department of Health Central Purchasing Office Attention: Tammy Davis Suite 310 4052 Bald Cypress Way, Bin B07 Tallahassee, FL 32399-1749
Evaluation of Replies (Anticipated Date)	September 29, 2014	Evaluation Team Members to begin evaluations individually.
Cost Replies Opened	September 30, 2014 3:00 PM ET	PUBLIC MEETING Florida Department of Health 4052 Bald Cypress Way Suite 310 Tallahassee, FL 32399
Beginning of Negotiations (Anticipated Date)	October 14, 2014	Vendor negotiations are not public meetings; however they are recorded.
Posting of Intent to Award (Anticipated Date)	November 3, 2014	Posted to the Vendor Bid System at: http://vbs.dms.state.fl.us/vbs/main_menu

2.5 **Addenda**

If the Department finds it necessary to supplement, modify, or interpret any portion of the specifications or documents during the solicitation period a written addendum will be posted on the MyFlorida.com Vendor Bid System, http://vbs.dms.state.fl.us/vbs/main_menu. It is the responsibility of the Vendor to be aware of any addenda that might affect their Reply.

2.6 **Questions**

This provision takes precedence over General Instruction #5 in PUR1001.

Questions related to this solicitation must be received, in writing (either via U.S. Mail, courier, e-mail, fax, or hand-delivery), by the Procurement Officer identified in **Section**

2.1, by the time indicated in the Timeline. Verbal questions or those submitted after the period specified in the Timeline will not be addressed.

Answers to questions submitted in accordance with the ITN Timeline will be posted on the MyFlorida.com Vendor Bid System web site: http://vbs.dms.state.fl.us/vbs/main_menu.

2.7 Identical Tie Replies

Where there is identical pricing or scoring from multiple Vendors, the Department will determine the order of negotiations or award in accordance with Florida Administrative Code Rule 60A-1.011.

2.8 Protests

Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post a bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

Only documents delivered by the U.S. Postal Service, a private delivery service, in person, or by facsimile during business hours (8:00 a.m. - 5:00 p.m., Eastern Time) will be accepted. Documents received after hours will be filed the following business day. **No filings may be made by email or by any other electronic means.** All filings must be made with the Agency Clerk ONLY and are only considered "filed" when stamped by the official stamp of the Agency Clerk. It is the responsibility of the filing party to meet all filing deadlines.

The Agency Clerk's mailing address is:

Agency Clerk, Florida Department of Health
4052 Bald Cypress Way, BIN A-02
Tallahassee, Florida 32399-1703
Telephone No. (850) 245-4005

The Agency Clerk's physical address for hand deliveries is:

Agency Clerk, Department of Health
2585 Merchants Row Blvd.
Tallahassee, Florida 32399
Fax No. (850) 410-1448

SECTION 3.0: SCOPE OF SERVICES

3.1 Program Goals

The Florida Legislature determined that the primary goals of the BTFF are to reduce the prevalence of tobacco use among youth, adults and pregnant women; reduce per capita tobacco consumption; and, reduce exposure to secondhand smoke.

The Bureau established a surveillance and evaluation system to inform program and policy direction, monitor and document short, intermediate, and long term population outcomes, ensure accountability, and evaluate the effectiveness of the BTFF in meeting its goals. This system is also used to measure the ability of each individual program component to achieve its goals and objectives.

3.2 Scope of Services

Services will be independent surveillance and evaluation of the BTFF and evaluation of all individual program components as listed in **Section 1.1.1** excluding direct cessation interventions, which are evaluated separately.

The Provider will be responsible for developing surveillance systems, where needed, and conducting any surveillance necessary to provide the BTFF with an objective assessment of the BTFF's progress towards preventing and reducing tobacco use and exposure. This surveillance may be directed toward assessment of the overall program performance, assessment of performance of individual program components, and toward recommendations for program improvement.

The Provider will be responsible for conducting overall evaluation of the BTFF. This evaluation will provide a synthesis of all relevant information collected by the Provider or provided to the Provider by the Department and will address the individual components of the program and their respective contribution towards the progress in preventing and reducing tobacco use and exposure. The evaluation will provide recommendations for improvements to the overall BTFF program as well as all individual program components. Deliverables and tasks are subject to change within the scope of services each fiscal year based on variations in annual appropriations and the needs of the BTFF as it may include additional projects to be evaluated.

Vendors are encouraged to refer to the fiscal year 2013-2014 surveillance and evaluation contracts to examine the current contracted tasks, deliverables and activities. The Contract resulting from this ITN is anticipated to contain similar tasks and deliverables with variations in approach as offered by respondents.

As a guide only, the contracted amount for program surveillance and evaluation of the BTFF and all individual program components, excluding direct cessation interventions, for the current fiscal year is:

2013-2014: \$4,241,458.00

3.2.1. Desired Qualifications

Vendors should have a minimum of three years of experience in the following areas:

- Surveillance and evaluation of tobacco prevention and control programs, to include evaluation of community-based public health interventions.
- Evaluation of comprehensive public health media campaigns that include broadcast, out-of-home, print, public relations and web components.
- Creation of surveillance systems.
- Conducting surveillance and conducting data analysis.

The Department desires a Vendor that has a strong knowledge of Florida's population and demographics and demonstrable knowledge and experience with surveillance and evaluation of current CDC Best Practices in tobacco control-related health interventions.

3.3 Financial Specifications

Funding Source

This project is funded through state appropriated tobacco funding.

Allowable Costs

Section 381.84, Florida Statutes, sets specific expenditure limitations on certain purchases. The Provider will be responsible for ensuring that all expenses in these areas do not exceed the thresholds placed on legislatively mandated spending:

- a. Food and Promotional Items: no more than 2.5 percent of the total amount of the contract.
- b. Overhead or Indirect Costs: no more than 7.5 percent of the total amount of the contract.
- c. Production fees, buyer commissions and related costs: no more than 10 percent of the total contract amount.

The Provider must comply with all requirements and limitations set forth in Section 381.84, Florida Statutes.

3.4 Licenses, Permits, and Taxes

The Provider must pay for all licenses, permits, and taxes required to operate in the State of Florida. Also, the Provider must comply with all applicable federal, state, and local laws, ordinances, codes, regulations, action transmittals, program instructions, and other requirements at no cost to the Department.

SECTION 4.0: INSTRUCTIONS FOR REPLY SUBMITTAL

4.1 General Instructions to Respondents (PUR1001)

This section explains the general instructions of the solicitation process to Respondents (PUR 1001), and is a downloadable document incorporated into this solicitation by reference. This document should not be returned with the Reply:

<http://dms.myflorida.com/content/download/2934/11780>

The terms of this solicitation will control over any conflicting terms of the PUR1001.

4.2 Reply Format

The Department discourages lengthy Replies. Vendors should use the following format:

1. Replies should be on paper that is 8.5 by 11 inches.
2. The font size and style is at the discretion of the Vendor but should be at least 11 point.
3. The pages should be numbered and one-inch margins should be used.
4. Vendor Replies must be separated in sealed envelopes as follows (**Mandatory Requirement**):
 - a. Technical Reply
 - b. Cost Reply
5. Technical Replies should include an index identifying the page number/section where information can be located in the Reply.

4.3 Copies of Replies

Vendors are asked to submit the following copies:

4.3.1. Technical Reply

One (1) original and ten (10) paper copies of the Technical Reply must be submitted no later than the date and time set forth in the Timeline. In addition, the original should contain an electronic version of the Reply as submitted, including all supporting and signed documents, on a CD in single .pdf formatted document.

Refer to **Section 4.7** for information on redacting confidential information, if applicable.

The “original” paper copy of the Technical Reply will be considered the authority if there are any differences between the paper and electronic copies.

Vendors must not disclose cost information in the body of the Technical Reply. Including cost information will cause the Reply to be disqualified (Mandatory Requirement, refer to Section 4.3.2).

4.3.2. Cost Reply

One (1) original and nine (9) paper copies of the Cost Reply (**Mandatory Requirement, refer to Section 4.5**) must be submitted using **Attachment A: Cost Reply**, no later than the date and time set forth in the timeline.

The “original” paper copy of the Cost Reply will be considered the authority if there are any differences between the paper and electronic copies.

The Cost Reply must be enclosed in a separate sealed envelope and must be identified in accordance with **Section 4.4.2**.

4.4 Reply Labeling

4.4.1. Technical Reply

The Technical Reply is to be sealed and identified as follows:

DOH 14-013
Invitation to Negotiate for
Bureau of Tobacco Free Florida Surveillance and Evaluation Services
Due:
Vendor's Name
TECHNICAL REPLY

4.4.2. Cost Reply

It is **mandatory** that the Vendor's Cost Reply be in a separate sealed envelope and identified as follows:

DOH 14-013
Invitation to Negotiate for
Bureau of Tobacco Free Florida Surveillance and Evaluation Services
Due:
Vendor's Name
COST REPLY

4.4.3. All Replies must be sent or delivered to the Department of Health, Central Purchasing Office, 4052 Bald Cypress Way Bin B07, Tallahassee, Florida 32399.

4.5 Instructions for Submittal

1. Vendors are required to complete, sign, and return the “Title Page” with the Reply submittal. (**Mandatory Requirement**)
2. Vendors are required to complete, sign, and return the “Cost Reply” in a separate sealed envelope with the Reply submittal. **Cost information must not be contained in Vendor Technical Replies. (Mandatory Requirement)**
3. Vendors must submit all technical and cost data in the formats specified in the ITN.

4. Replies may be sent by U.S. Mail, courier, overnight, or hand delivered to the location indicated in the Timeline.
5. Replies submitted electronically will **not** be considered.
6. The Department is not responsible for improperly marked Replies.
7. It is the Vendor's responsibility to ensure its Reply is submitted at the proper place and time indicated in the ITN Timeline.
8. The Department's clocks will provide the official time for Reply receipt.
9. Materials submitted will become the property of the State of Florida and accordingly, the State reserves the right to use any concepts or ideas contained in Vendor Replies.

4.6 Cost of Preparation

Neither the Department nor the State is liable for any costs incurred by a Vendor in responding to this solicitation.

4.7 Public Records and Trade Secrets

Notwithstanding any provisions to the contrary, public records must be made available pursuant to the provisions of the Public Records Act. If the Vendor considers any portion of its Reply to be confidential, exempt, trade secret, or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, the Vendor must segregate and clearly mark the document(s) as "**CONFIDENTIAL**".

Simultaneously, the Vendor will provide the Department with a separate redacted paper and electronic copy of its Reply and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy must contain the solicitation name, number, and the name of the Vendor on the cover, and must be clearly titled "**REDACTED COPY**".

The redacted copy must be provided to the Department at the same time the Vendor submits its Reply and must only exclude or redact those exact portions which are claimed confidential, proprietary, or trade secret. The Vendor will be responsible for defending its determination that the redacted portions of its Reply are confidential, trade secret, or otherwise not subject to disclosure. Further, the Vendor must protect, defend, and indemnify the Department for any and all claims arising from or relating to the determination that the redacted portions of its Reply are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If the Vendor fails to submit a redacted copy with its Reply, the Department is authorized to produce the entire documents, data or records submitted by the Vendor in answer to a public records request for these records.

4.8 Compensation and Cost Reply

Each vendor must provide their proposed cost utilizing **Attachment A: Cost Reply**. The proposed cost should not be carried more than two (2) places to the right of the decimal point. The cost will not be scored, but may be used during negotiations.

4.9 Documentation

Vendors must complete and submit the following information or documentation as part of their Technical Reply:

4.9.1. Experience

Vendors must provide contact information for three (3) entities the Vendor has provided commodities or services of a similar size and nature of those requested in this solicitation. Vendors may use **Attachment B**, Experience Form of this ITN to provide the required information. The Department reserves the right to contact any and all entities, prior to execution of a contract, in order to verify experience. Information received may be considered in the Department's determination of the Vendor's responsibility. The Department's determination is not subject to review or challenge.

4.9.2. Required Certifications

Vendors must sign and return with their Reply the Required Certifications form, **Attachment C**.

4.9.3. Scrutinized Companies

In accordance with Section 287.135, Florida Statutes, agencies are prohibited from contracting with companies, for goods or services over \$1,000,000, that are either on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector List which have been combined to one PFIA List of Prohibited Companies which is updated quarterly. This list is created pursuant to Section 215.473, Florida Statutes, which provides that false certification may subject company to civil penalties, attorney's fees, and/or costs.

Vendors should execute and submit **Attachment C: Required Certifications** with their Reply certifying that they are not on the List of Prohibited Investments (Scrutinized Companies) located at:

<http://www.sbafla.com/fsb/Home/ProtectingFloridasInvestmentAct/tabid/751/Default.aspx>

4.10 Special Accommodations

Any person who requires special accommodations at DOH Purchasing because of a disability should call the DOH Purchasing Office at (850) 245-4199 at least five (5) work days prior to any pre-Reply conference, reply opening, or meeting. If hearing or speech impaired, contact Purchasing by using the Florida Relay Service, at 1-800-955-8771 (TDD).

4.11 Responsive and Responsible (Mandatory Requirement)

Vendors must complete and submit the following **mandatory** information or documentation as a part of their Reply. Any Reply which does not meet these requirements or contain this information below will be deemed non-responsive.

- a. Replies must be received by the time specified in the Timeline (**Section 2.4**).
- b. The Title Page of this ITN (as specified in **Section 4.5**)
- c. **Attachment A: Cost Reply** (as specified in **Section 4.3.2**) **Cost information must not be contained in Vendor Technical Replies.**

4.12 Late Replies

The Procurement Officer must receive Replies pursuant to this ITN no later than the date and time shown in the Timeline (Refer to **Section 2.4**). Replies that are not received by the time specified will not be considered.

SECTION 5.0: SPECIAL TERMS AND CONDITIONS

5.1 General Contract Conditions (PUR1000)

The General Contract Conditions (PUR 1000) form is a downloadable document incorporated in this solicitation by reference, which contains general contract terms and conditions that will apply to any contract resulting from this ITN, to the extent they are not otherwise modified. This document should not be returned with the Reply. <http://dms.myflorida.com/content/download/2933/11777>

The terms of this solicitation will control over any conflicting terms of the PUR1000. Paragraph 31 of PUR 1000 does NOT apply to this solicitation or any resulting contract.

5.2 Renewal

The Contract resulting from this solicitation may be renewed, in whole or in part, for a period not to exceed five (5) years or the term of the original Contract, whichever is longer. The renewal may not include any compensation for costs associated with the renewal. Any renewal shall be in writing and subject to the same terms and conditions of the original Reply. Renewal of the resulting Contract is subject to the Department's discretion. Any renewal shall be contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds.

5.3 Conflict of Interest

Section 287.057(17)(c), Florida Statutes, provides "A person who receives a contract that has not been procured pursuant to subsections (1)-(3) to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a solicitation or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract. However, this prohibition does not prevent a vendor who responds to a request for information from being eligible to contract with an agency."

The Department considers participation through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity to constitute participation in drafting of the solicitation.

Refer to **Section 4.9.2 Required Certifications**

5.4 Certificate of Authority

All corporations, limited liability companies, corporations not for profit, and partnerships seeking to do business with the State must be registered with the Florida Department of State in accordance with the provisions of Chapter 607, 608, 617, and 620, Florida Statutes, respectively prior to award.

5.5 Vendor Registration

Each vendor doing business with the State of Florida for the sale of commodities or contractual services as defined in Section 287.012, Florida Statutes must register in the MyFloridaMarketPlace system, unless exempted under Rule 60A-1.030, Florida Administrative Code. State agencies must not enter into an agreement for the sale of commodities or contractual services as defined in Section 287.012 Florida Statutes, with any vendor not registered in the MyFloridaMarketPlace system, unless exempted by rule. The successful Vendor must be registered in the MyFloridaMarketPlace system within 5 days after posting of intent to award.

Registration may be completed at:

http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/vendors.

Vendors lacking internet access may request assistance from MyFloridaMarketPlace Customer Service at 866-352-3776 or from State Purchasing, 4050 Esplanade Drive, Suite 300, Tallahassee, FL 32399.

5.6 Minority-, Woman-, Service-Disabled Veteran, and Veteran-Owned Business Enterprise Participation

The Department encourages Minority-, Women, Service-Disabled Veteran, and Veteran-Owned Business Enterprise participation in all its solicitations. Vendors are encouraged to contact the Office of Supplier Diversity at 850/487-0915 or visit their website at <http://osd.dms.state.fl.us> for information on becoming a certified business entity or for names of existing businesses that may be available for subcontracting or supplier opportunities.

The successful Vendor and their subcontractors must provide a monthly Vendor Diversity Expenditure Report (**Attachment D**) summarizing all subcontracting/material suppliers performed during the reporting period. This report will include the name and address, Federal Employment Identification Number (FEIN), and dollar amount expended for each identified subcontractor. A copy of this form must be submitted to the Department's Contract Manager and Vendor Diversity Coordinator.

Vendors do not have to return **Attachment D** with their Reply.

5.7 Subcontractors

The Provider may enter into written subcontracts for performance of specific services under the Contract resulting from this solicitation, as specified in the terms of the Standard Contract (**Attachment F**). Anticipated subcontract agreements known at the time of Reply submission and the amount of the subcontract must be identified in the Reply. If a subcontract has been identified at the time of Reply submission, a copy of the proposed subcontract must be submitted to the Department. No subcontract that the Vendor enters into with respect to performance under the Contract will in any way relieve the Vendor of any responsibility for performance of its contractual responsibilities with the Department. The Department reserves the right to request and review information in conjunction with its determination regarding a subcontract request.

5.8 Commercial General Liability Insurance

The Provider must secure and maintain, at its sole expense and for the duration of the contract, term insurance policies to protect himself, any subcontractor(s), and the State of Florida. The Provider must save and hold harmless and indemnify the Department against any and all liability, claims, judgments or costs of whatsoever kind or nature for injury to, or death of any person or persons and for loss or damage to any property resulting from the use, service operation, or performance of work under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of Contract, his subcontractor, or any of the employees, agents, or representatives of the contractor or subcontractor.

- A. Workers' Compensation in accordance with applicable state laws and regulations and Employer's Liability Insurance with a per occurrence limit of not less than \$100,000.
- B. General Liability Insurance covering all operations and services under the contract with limits of bodily injury and property damage coverage of not less than a per occurrence limit of \$1 million and an aggregate limit of \$2 million.
- C. Commercial Automobile Liability Insurance, including owner, non-owned and hired vehicle coverage of not less than \$1 million combined single limit, issued on a per occurrence basis, if operations and services under the contract involve the use of operation of automotive vehicles on the Purchaser's premises.

Certificates of insurance coverage described above must be furnished by the Provider on request of the Department.

No insurance will be acceptable unless written by a company licensed by the State of Florida Department of Financial Services, Division of Insurance Agent and Agency Services to do business in Florida, where the work is to be performed at the time policy is issued.

5.9 Financial Consequences

Pursuant to Section 287.058, Florida Statutes, all contracts entered into by state agencies must contain certain provisions, including one specifying the financial consequences that must apply if the Provider fails to perform in accordance with the Contract terms. The Department's contract resulting from this ITN will contain a provision requiring a reduction for each deliverable not met, subject to negotiation.

5.10 Performance Measures

Pursuant to Section 287.058(1)(d), Florida Statutes, the resulting contract must contain performance measures which specify the required minimum level of acceptable service to be performed. These will be established based on final determination of deliverables.

5.11 Standard Contract

Vendors must become familiar with the Department's Standard Contract which contains administrative, financial, and non-programmatic terms and conditions mandated by

federal law, state statute, administrative code rule, or directive of the Chief Financial Officer.

Use of the Standard Contract (**Attachment F**) is mandatory for Departmental contracts and the terms and conditions contained in the Standard Contract are non-negotiable.

5.12 Health Insurance Portability and Accountability Act of 1996 (HIPAA) Business Associate Agreement

The Provider will be required to execute a HIPAA Business Associate Agreement (**Attachment E**) and comply with all provisions of state and federal law regarding confidentiality of patient information.

5.13 Conflict of Law and Controlling Provisions

Any contract resulting from this ITN, plus any conflict of law issue, will be governed by the laws of the State of Florida. Venue must be Leon County, Florida.

SECTION 6.0: REPLY EVALUATION PROCESS AND CRITERIA

6.1 Introduction

The Department will evaluate and score Replies to establish a reference point from which to make negotiation decisions. The Department reserves the right to short list Vendors deemed to be in the competitive range to conduct negotiations prior to final determination of contract award. The Department may choose to enter into concurrent negotiations with more than one Vendor.

The Department may accept or reject any and all Replies, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interests. The Department may reject any Reply not submitted in the manner specified by this ITN.

Successful negotiations do not guarantee award of a Contract. Award of a Contract does not guarantee placement of order for services.

The Department reserves the right to award more than one contract as a result of this ITN.

6.2 Evaluation Team

The Department's Evaluation Team will consist of at least three (3) persons whom the Department determines to have experience and knowledge in the program areas and service requirements sought to conduct a comprehensive, fair, and impartial evaluation of Replies received in response to this ITN.

6.3 Evaluation Criteria

The Department will evaluate Replies against all evaluation criteria set forth in **Section 6.3.1** in order to establish a competitive range of Replies reasonably susceptible of award. **The maximum points possible for the total Reply submission is: 1000.**

6.3.1. **Scoring of Technical Reply**

Technical Replies will be scored by the Evaluation Team in the areas indicated below. The raw scores in each evaluation area from each Team member will be averaged together. These average scores will be added to determine each Vendor's Technical Reply score.

The below table identifies the evaluation criteria and maximum points, possible for award, associated with each criteria.

Evaluation Criteria	Maximum Points
<u>Executive Overview</u>	<u>50</u>
<u>Project Approach and Methodology</u>	<u>650</u>
<u>Organizational Experience</u>	<u>300</u>
TOTAL MAXIMUM POINTS POSSIBLE (Technical Reply)	<u>1,000</u>

6.4 **Cost Reply Opening**

Cost Replies will be opened, read aloud, and recorded in a public meeting after scoring and ranking of Technical Replies. Cost Replies will not be scored, but may be used during negotiations.

6.5 **Contract Negotiations**

Contract negotiations will begin with the highest ranked Vendor in descending rank order. The Department reserves the right, but is not obligated, to negotiate with all Vendors, simultaneously when it is determined to be in the best interest of the Department. If the Department is unable to negotiate a satisfactory contract with any of the ranked Vendors, negotiations may be reinstated following the original order of ranking. Negotiations will continue until an agreement is reached or all Replies are rejected. Successful negotiations do not guarantee award of a contract.

6.6 **Notice of Agency Decision**

At the conclusion of Reply evaluations and contract negotiations, the Department will announce its intended decision. Notice will be posted on the state's Vendor Bid System. The Department will award to the responsible, responsive Vendor determined to provide the best value, based upon the selection criteria.

**ATTACHMENT A
COST REPLY**

Vendor Name: _____

Vendor Mailing Address: _____

City, State, Zip: _____

Telephone: () _____ **Fax Number:** () _____

E-Mail Address: _____

Federal Employer Identification Number (FEID): _____

BY AFFIXING MY SIGNATURE ON THIS REPLY, I HEREBY STATE THAT I HAVE READ THE ENTIRE ITN TERMS, CONDITIONS, PROVISIONS AND SPECIFICATIONS AND ALL ITS ATTACHMENTS, INCLUDING THE REFERENCED PUR 1000 AND PUR 1001. I hereby certify that my company, its employees, and its principals agree to abide to all of the terms, conditions, provisions and specifications during the competitive solicitation and any resulting contract including those contained in the attached Standard Contract (**Attachment F**).

Signature of Authorized Representative: _____

Printed (Typed) Name and Title: _____

*An authorized representative is an officer of the Vendor's organization who has legal authority to bind the organization to the provisions of the Replies. This usually is the President, Chairman of the Board, or owner of the entity. A document establishing delegated authority must be included with the Reply if signed by other than the authorized representative.

**ATTACHMENT B
EXPERIENCE FORM**

Vendor's Name: _____

Vendors must provide contact information for three (3) entities the Vendor has provided commodities or services of a similar size and nature of those requested in this solicitation. Vendors may use this experience form to provide the required information. The Department of Health will not be accepted as a reference for this solicitation. The Department reserves the right to contact any and all entities in the course of this solicitation in order to verify experience. Information received may be considered in the Department's determination of the Vendor's responsibility. The Department's determination is not subject to review or challenge.

1.	Company/Agency Name:	
	Address:	
	City, State, Zip:	
	Contact Name:	
	Contact Phone:	
	Contact Email Address:	
	General Description of Work:	
	Service Dates:	
	Approximate Contract Value:	\$
2.	Company/Agency Name:	
	Address:	
	City, State, Zip:	
	Contact Name:	
	Contact Phone:	
	Contact Email Address:	
	General Description of Work:	
	Service Dates:	
	Approximate Contract Value:	\$

**ATTACHMENT B
EXPERIENCE FORM**

3.	Company/Agency Name:	
	Address:	
	City, State, Zip:	
	Contact Name:	
	Contact Phone:	
	Contact Email Address:	
	General Description of Work:	
	Service Dates:	
	Approximate Contract Value:	\$

**ATTACHMENT C
REQUIRED CERTIFICATIONS**

.....
**STATEMENT OF NO INVOLVEMENT
CONFLICT OF INTEREST STATEMENT (NON-COLLUSION)**

I hereby certify that my company, its employees, and its principals, had no involvement in performing a feasibility study of the implementation of the subject contract, in the drafting of this solicitation document, or in developing the subject program. Further, my company, its employees, and principals, engaged in no collusion in the development of the instant bid, proposal or reply. This bid, proposal or reply is made in good faith and there has been no violation of the provisions of Chapter 287, Florida Statutes, the Administrative Code Rules promulgated pursuant thereto, or any procurement policy of the Department of Health. I certify I have full authority to legally bind the Bidder, Respondent, or Vendor to the provisions of this bid, proposal or reply.

Signature of Authorized Representative*

Date

.....
SCRUTINIZED COMPANIES

I hereby certify that the my company is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List which have been combined to one [PFIA List of Prohibited Companies](#) which is updated quarterly. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.

Signature of Authorized Representative*

Date

.....

*An authorized representative is an officer of the Vendor's organization who has legal authority to bind the organization to the provisions of the Replies. This usually is the President, Chairman of the Board, or owner of the entity. A document establishing delegated authority must be included with the Reply if signed by other than the authorized representative.



**ATTACHMENT D
DEPARTMENT OF HEALTH (DOH) VENDOR DIVERSITY
SUBCONTRACTING EXPENDITURE REPORT**

INSTRUCTIONS:

PROVIDERS please complete this report and submit to the DOH Contract Manager.* **PROVIDERS** and their subcontractors (if any) must report **all** subcontracting expenditures.

DOH Providers' Name:

DOH Providers' Subcontractor Name: *(if applicable)*

DOH Contract or Order Number:

Reporting Month and Year:
(the period that your current invoice covers)

Subcontractor(s) Name and Address	FEIN No.	Expenditure Amount

NOTE: Separate sheets may be used, as needed.

**DEPARTMENT OF HEALTH USE ONLY
CONTRACT MANAGER INSTRUCTIONS:**

PLEASE FORWARD COMPLETED FORMS TO:
BUREAU OF GENERAL SERVICES, CENTRAL PURCHASING OFFICE
ATTENTION: VENDOR DIVERSITY COORDINATOR
4052 BALD CYPRESS WAY, STE. 310
TALLAHASSEE, FLORIDA 32399-1734
VendorDiversity@flhealth.gov

No later than the 7th of the month following the reporting month.

**ATTACHMENT D
DEPARTMENT OF HEALTH (DOH) VENDOR DIVERSITY
SUBCONTRACTING EXPENDITURE REPORT**

***PROVIDER INSTRUCTIONS:**

1. **DOH PROVIDERS' NAME:** Enter the Company Name as it appears on your DOH Contract.
2. **DOH PROVIDERS' SUBCONTRACTOR NAME:** Enter the Company Name of the DOH Providers' subcontractor, who expenditures are being reported for, if applicable.
3. **DOH CONTRACT OR ORDER NUMBER:** Enter DOH Contract Number or Purchase (Direct) Order Number.
4. **REPORTING MONTH AND YEAR:** Enter the time period that your current invoice covers.
5. **C/MBE Entity Name and Address:** Enter the CMBE or MBE Subcontractor's Name and Address.
6. **FEIN No.** Enter the Subcontractor's Federal Employment Identification Number. This information can be obtained from the subcontractor.
7. **EXPENDITURE AMOUNT:** Enter the amount expended with the subcontractor for the time period covered by the invoice.

ENCLOSE THE COMPLETED FORM AND SEND TO YOUR DOH CONTRACT MANAGER.

ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT

Combined HIPAA Privacy Business Associate Agreement and Confidentiality Agreement and HIPAA Security Rule Addendum and HI-TECH Act Compliance Agreement

This Agreement is entered into between the _____ (“Covered Entity”), and _____ (“Business Associate”). The parties have entered into this Agreement for the purpose of satisfying the Business Associate contract requirements in the regulations at 45 CFR 164.502(e) and 164.504(e), issued under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Security Rule, codified at 45 Code of Federal Regulations (“C.F.R.”) Part 164, Subparts A and C; Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations.

1.0 Definitions

Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR 160.103 and 164.501. Notwithstanding the above, "Covered Entity" shall mean the State of Florida Department of Health. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g); "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or his designee; and "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

Part I: Privacy Provisions

2.0 Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or further disclose Protected Health Information (“PHI”) other than as permitted or required by Sections 3.0 and 5.0 of this Agreement, or as required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity or an Individual, and in a prompt and reasonable manner consistent with the HIPAA regulations, to Protected Health Information in a designated record set, to the Covered Entity or directly to an Individual in order to meet the requirements under 45 CFR 164.524.
- (g) Business Associate agrees to make any Amendment(s) to Protected Health Information in a designated record set that the Covered Entity or an Individual directs or agrees to pursuant to 45 CFR 164.526, in a prompt and reasonable manner consistent with the HIPAA regulations.

ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT

- (h) Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or at the request of the Covered Entity, to the Secretary in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (i) Business Associate agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528, in a prompt and reasonable manner consistent with the HIPAA regulations.
- (k) Business Associate agrees to satisfy all applicable provisions of HIPAA standards for electronic transactions and code sets, also known as the Electronic Data Interchange (EDI) Standards, at 45 CFR Part 162 no later than October 16, 2003. Business Associate further agrees to ensure that any agent, including a subcontractor, that conducts standard transactions on its behalf, will comply with the EDI Standards.
- (l) Business Associate agrees to determine the Minimum Necessary type and amount of PHI required to perform its services and will comply with 45 CFR 164.502(b) and 514(d).

3.0 Permitted or Required Uses and Disclosures by Business Associate General Use and Disclosure.

- (a) Except as expressly permitted in writing by Department of Health, Business Associate may use Protected Health Information only to carry out the legal responsibilities of the Business Associate, but shall not disclose information to any third party without the expressed written consent of the Covered Entity.
- (b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (c) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j) (1).

4.0 Obligations of Covered Entity to Inform Business Associate of Covered Entity's Privacy Practices, and any Authorization or Restrictions.

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, Authorization by Individual or his or her personal representative to use or disclose Protected Health Information, if such changes affect Business Associate's uses or disclosures of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, if such changes affect Business Associate's uses or disclosures of Protected Health Information.

ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT

5.0 Confidentiality under State Law.

- (a) In addition to the HIPAA privacy requirements, Business Associate agrees to observe the confidentiality requirements of _____, Florida Statutes. (Program to supply applicable laws related to confidentiality)
- (b) Receipt of a Subpoena. If Business Associate is served with subpoena requiring the production of Department of Health records or information, Business Associate shall immediately contact the Department of Health, Office of the General Counsel, (850) 245-4005. A subpoena is an official summons issued by a court or an administrative tribunal, which requires the recipient to do one or more of the following:
 - 1. Appear at a deposition to give sworn testimony, and may also require that certain records be brought to be examined as evidence.
 - 2. Appear at a hearing or trial to give evidence as a witness, and may also require that certain records be brought to be examined as evidence.
 - 3. Furnish certain records for examination, by mail or by hand-delivery.
- (c) Employees and Agents. Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, against Department of Health, including costs and attorneys' fees, resulting from the breach of the confidentiality requirements of this Agreement.

6.0 Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

7.0 Term and Termination.

- (a) Term.

The Term of this Agreement shall be effective as of _____, and shall terminate on _____. Prior to the termination of this Agreement, the Business Associate shall destroy or return to the Covered Entity all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity. If it is infeasible or impossible to return or destroy Protected Health Information, the Business Associate shall immediately inform the Covered Entity of that and the parties shall cooperate in securing the destruction of Protected Health Information, or its return to the Covered Entity. Pending the destruction or return of the Protected Health Information to the Covered Entity, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause.

Without limiting any other termination rights the parties may have, upon Covered Entity's knowledge of a material breach by Business Associate of a provision under this Agreement, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If the Agreement of Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, the Covered Entity shall have the right to immediately terminate the Agreement. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (c) Effect of Termination.

ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT

1. Within sixty (60) days after termination of the Agreement for any reason, or within such other time period as mutually agreed upon in writing by the parties, Business Associate shall return to Covered Entity or destroy all Protected Health Information maintained by Business Associate in any form and shall retain no copies thereof. Business Associate also shall recover, and shall return or destroy with such time period, any Protected Health Information in the possession of its subcontractors or agents.
2. Within fifteen (15) days after termination of the Agreement for any reason, Business Associate shall notify Covered Entity in writing as to whether Business Associate elects to return or destroy such Protected Health Information, or otherwise as set forth in this Section 4.4. If Business Associate elects to destroy such Protected Health Information, it shall certify to Covered Entity in writing when and that such Protected Health Information has been destroyed. If any subcontractors or agents of the Business Associate elect to destroy the Protected Health Information, Business Associate will require such subcontractors or agents to certify to Business Associate and to Covered Entity in writing when such Protected Health Information has been destroyed. If it is not feasible for Business Associate to return or destroy any of said Protected Health Information, Business Associate shall notify Covered Entity in writing that Business Associate has determined that it is not feasible to return or destroy the Protected Health Information and the specific reasons for such determination. Business
3. Associate further agrees to extend any and all protections, limitations, and restrictions set forth in this Agreement to Business Associate's use or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.
4. If it is not feasible for Business Associate to obtain, from a subcontractor or agent, any Protected Health Information in the possession of the subcontractor or agent, Business Associate shall provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions set forth in this Agreement to the subcontractors' or agents' uses or disclosures of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.

Part II: Security Addendum

8.0 Security

WHEREAS, Business Associate and Department of Health agree to also address herein the applicable requirements of the Security Rule, codified at 45 Code of Federal Regulations ("C.F.R.") Part 164, Subparts A and C, issued pursuant to the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA-AS"), so that the Covered Entity may meet compliance obligations under HIPAA-AS, the parties agree:

(a) Security of Electronic Protected Health Information.

Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information (as defined in 45 C.F.R. § 160.103) that Business Associate creates, receives, maintains, or transmits on behalf of the Plans consistent with the Security Rule.

(b) Reporting Security Incidents.

**ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT**

1. Business Associate will report to Covered Entity within 24 hours of the discovery of any incident of which Business Associate becomes aware that is:
 - (a) a successful unauthorized access, use or disclosure of the Electronic Protected Health Information; or
 - (b) a successful major
 - (1) modification or destruction of the Electronic Protected Health Information or
 - (2) interference with system operations in an information system containing the Electronic Protected Health Information.
2. Upon the Department of Health's request, Business Associate will report any incident of which Business Associate becomes aware that is a successful minor
 - (a) modification or destruction of the Electronic Protected Health Information or
 - (b) interference with system operations in an information system containing the Electronic Protected Health Information.
 - (c) Compliance Date.
The parties to this Amendment will comply with Sections (a) through (c) of this Section 9 by the later of the (1) the last date set forth in the signature blocks below.
 - (d) Conflicts.
The provisions of this Section 9 will override and control any conflicting provision of this agreement.
 - (e) Corrective Action:
Business Associate agrees to take prompt corrective action and follow all provisions required in state and federal law to notify all individuals reasonably believed to be potentially affected by the breach.
 - (f) Cure:
Business Associate agrees to take prompt corrective action to cure any security deficiencies.

Part III

9.0 Miscellaneous

- (a) Regulatory References. A reference in this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended, and for which compliance is required.
- (b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, Standard Transactions, the security of Health Information, or other aspects of HIPAA-AS applicable or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either party may, by written notice to the other party, amend this Agreement in such manner as such party determines necessary to comply with such law or regulation. If the other party disagrees with such Amendment, it shall so notify the first party in writing within thirty (30) days of the notice. If the parties are unable to agree on an Amendment within thirty (30) days thereafter, then either of the parties may terminate the Agreement on thirty (30) days written notice to the other party.
- (c) Survival. The respective rights and obligations of Business Associate under Section 7.0 of this Agreement shall survive the termination of this Agreement.
- (d) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule and the confidentiality requirements of the State of Florida.

**ATTACHMENT E
HIPAA BUSINESS ASSOCIATE AGREEMENT**

- (e) No third party beneficiary. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assignees of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.
- (g) The laws of the State of Florida shall apply to the interpretation of this Agreement or in case of any disagreement between the parties; the venue of any proceedings shall be the appropriate federal or state court in Leon County, Florida.
- (h) Indemnification and performance guarantees. Business Associate shall indemnify, defend, and save harmless the State of Florida and Individuals covered for any financial loss as a result of claims brought by third parties and which are caused by the failure of Business Associate, its officers, directors or agents to comply with the terms of this Agreement.
- (i) Assignment: Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

For: **DEPARTMENT OF HEALTH**

By: _____

Title: _____

Date: _____

For: (Name of Business Associate)

By: _____

Title: _____

Date: _____

Approved as to form and legality:

_____ Office of the General Counsel

Date: _____

Solicitation Number: DOH14-013

Invitation to Negotiate

Bureau of Tobacco Free Florida Surveillance and Evaluation Services

ATTACHMENT F

CFDA No.
CSFA No.

STATE OF FLORIDA DEPARTMENT OF HEALTH STANDARD CONTRACT

Client Non-Client
 Multi-County

THIS CONTRACT is entered into between the State of Florida, Department of Health, hereinafter referred to as the *department*, and _____ hereinafter referred to as the *provider*.

THE PARTIES AGREE:

I. THE PROVIDER AGREES:

A. To provide services in accordance with the conditions specified in Attachment I.

B. Requirements of §287.058, Florida Statutes (FS)

To provide units of deliverables, including reports, findings, and drafts as specified in Attachment I, to be received and accepted by the contract manager prior to payment. To comply with the criteria and final date by which such criteria must be met for completion of this contract as specified in Section III, Paragraph A. of this contract. To submit bills for fees or other compensation for services or expenses in sufficient detail for a proper pre-audit and post-audit thereof. Where applicable, to submit bills for any travel expenses in accordance with §112.061, FS. The department may, if specified in Attachment I, establish rates lower than the maximum provided in §112.061, FS. To allow public access to all documents, papers, letters, or other materials subject to the provisions of Chapter 119, FS, made or received by the provider in conjunction with this contract. It is expressly understood that the provider's refusal to comply with this provision shall constitute an immediate breach of contract.

C. To the Following Governing Law

1. State of Florida Law

- a. This contract is executed and entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State of Florida. Each party shall perform its obligations herein in accordance with the terms and conditions of the contract.
- b. If this contract is valued at 1 million dollars or more, the provider agrees to refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in s.215.473, F.S. Pursuant to s.287.135 (5), F.S., the department shall bring a civil action against any company that falsely certifies its status on the Scrutinized Companies with Activities in Sudan or the Iran Petroleum Energy Sector Lists. The provider agrees that the department shall take civil action against the provider as described in s. 287.135(5)(a), F.S., if the provider fails to demonstrate that the determination of false certification was made in error.

2. Federal Law

- a. If this contract contains federal funds, the provider shall comply with the provisions of 45 CFR, Part 74, and/or 45 CFR, Part 92, and other applicable regulations as specified in Attachment I.
- b. If this agreement includes federal funds and more than \$2,000 of federal funds will be used for construction or repairs, the provider shall comply with the provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The act prohibits providers from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled. All suspected violations must be reported to the department.
- c. If this agreement includes federal funds and said funds will be used for the performance of experimental, developmental, or research work, the provider shall comply with 37 CFR, part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Governmental Grants, Contracts and Cooperative Agreements."
- d. If this contract contains federal funds and is over \$100,000, the provider shall comply with all applicable standards, orders, or regulations issued under §306 of the Clean Air Act, as amended (42 U.S.C. 1857(h) et seq.), §508 of the Clean Water Act, as amended (33 U.S.C. 1368 et seq.), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). The provider shall report any violations of the above to the department.
- e. If this contract contains federal funding in excess of \$100,000, the provider must, prior to contract execution, complete the Certification Regarding Lobbying form, Attachment _____. If a Disclosure of Lobbying Activities form, Standard Form LLL, is required, it may be obtained from the contract manager. All disclosure forms as required by

Solicitation Number: DOH14-013

Invitation to Negotiate

Bureau of Tobacco Free Florida Surveillance and Evaluation Services

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ATTACHMENT F

the Certification Regarding Lobbying form must be completed and returned to the contract manager.

f. Not to employ unauthorized aliens. The department shall consider employment of unauthorized aliens a violation of §§274A (e) of the Immigration and Naturalization Act (8 U.S.C. 1324 a) and section 101 of the Immigration Reform and Control Act of 1986. Such violation shall be cause for unilateral cancellation of this contract by the department. The provider agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired during the contract term by the Provider. The Provider shall also include a requirement in subcontracts that the subcontractor shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Contractors meeting the terms and conditions of the E-Verify System are deemed to be in compliance with this provision.

g. The provider shall comply with President's Executive Order 11246, Equal Employment Opportunity (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by President's Executive Order 11375, and as supplemented by regulations at 41 CFR, Part 60.

h. The provider and any subcontractors agree to comply with Pro-Children Act of 1994, Public Law 103-277, which requires that smoking not be permitted in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

i. HIPAA: Where applicable, the provider will comply with the Health Insurance Portability Accountability Act as well as all regulations promulgated thereunder (45CFR Parts 160, 162, and 164).

j. Provider is required to submit a W-9 to the Department of Financial Services (DFS) electronically prior to doing business with the State of Florida via the Vendor Website at <https://fivendor.myfloridacfo.com>. Any subsequent changes shall be performed through this website; however, if provider needs to change their FEID, they must contact the DFS Vendor Ombudsman Section at (850) 413-5519.

k. If the provider is determined to be a sub recipient of federal funds, the provider will comply with the requirements of the American Recovery and Reinvestment Act (ARRA) and the Federal Funding Accountability and Transparency Act, by obtaining a DUNS (Data Universal Numbering System) number and registering with the federal Central Contractor Registry (CCR). No payments will be issued until the provider has submitted a valid DUNS number and evidence of registration (i.e. a printed copy of the completed CCR registration) in CCR to the contract manager. To obtain registration and instructions, visit <http://fedgov.dnb.com/webform> and www.ccr.gov.

D. Audits, Records, and Records Retention

1. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the department under this contract.
2. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this contract for a period of six (6) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this contract.
3. Upon completion or termination of the contract and at the request of the department, the provider will cooperate with the department to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in Section I, paragraph D.2. above.
4. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the department.
5. Persons duly authorized by the department and Federal auditors, pursuant to 45 CFR, Part 92.36(i)(10), shall have full access to and the right to examine any of provider's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
6. To provide a financial and compliance audit to the department as specified in Attachment ___ and to ensure that all related party transactions are disclosed to the auditor.
7. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.
8. If Exhibit 2 of this contract indicates that the provider is a recipient or sub recipient, the provider will perform the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, and/or section 215.97 Florida Statutes, as applicable and conform to the following requirements:
 - a. Documentation. To maintain separate accounting of revenues and expenditures of funds under this contract and each CSFA or CFDA number identified on Exhibit 1 attached hereto in accordance with generally accepted accounting practices and procedures. Expenditures which support provider activities not solely authorized under

ATTACHMENT F

this contract must be allocated in accordance with applicable laws, rules and regulations, and the allocation methodology must be documented and supported by competent evidence.

Provider must maintain sufficient documentation of all expenditures incurred (e.g. invoices, canceled checks, payroll detail, bank statements, etc.) under this contract which evidences that expenditures are:

- 1) allowable under the contract and applicable laws, rules and regulations;
- 2) reasonable; and
- 3) necessary in order for the recipient or subrecipient to fulfill its obligations under this contract.

The aforementioned documentation is subject to review by the Department and/or the State Chief Financial Officer and the provider will timely comply with any requests for documentation.

- b. **Financial Report.** To submit an annual financial report stating, by line item, all expenditures made as a direct result of services provided through the funding of this contract to the Department within 45 days of the end of the contract. If this is a multi-year contract, the provider is required to submit a report within 45 days of the end of each year of the contract. Each report must be accompanied by a statement signed by an individual with legal authority to bind recipient or subrecipient by certifying that these expenditures are true, accurate and directly related to this contract.

To ensure that funding received under this contract in excess of expenditures is remitted to the Department within 45 days of the earlier of the expiration of, or termination of, this contract.

E. Monitoring by the Department

To permit persons duly authorized by the department to inspect any records, papers, documents, facilities, goods, and services of the provider, which are relevant to this contract, and interview any clients and employees of the provider to assure the department of satisfactory performance of the terms and conditions of this contract. Following such evaluation the department will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this contract. The provider will correct all noted deficiencies identified by the department within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the department, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this contract; (2) the withholding of payments to the provider by the department; and (3) the termination of this contract for cause.

F. Indemnification

NOTE: Paragraph I.F.1. and I.F.2. are not applicable to contracts executed between state agencies or subdivisions, as defined in §768.28, FS.

1. The provider shall be liable for and shall indemnify, defend, and hold harmless the department and all of its officers, agents, and employees from all claims, suits, judgments, or damages, consequential or otherwise and including attorneys' fees and costs, arising out of any act, actions, neglect, or omissions by the provider, its agents, or employees during the performance or operation of this contract or any subsequent modifications thereof, whether direct or indirect, and whether to any person or tangible or intangible property.
2. The provider's inability to evaluate liability or its evaluation of liability shall not excuse the provider's duty to defend and indemnify within seven (7) days after such notice by the department is given by certified mail. Only adjudication or judgment after highest appeal is exhausted specifically finding the provider not liable shall excuse performance of this provision. The provider shall pay all costs and fees related to this obligation and its enforcement by the department. The department's failure to notify the provider of a claim shall not release the provider of the above duty to defend.

G. Insurance

To provide adequate liability insurance coverage on a comprehensive basis and to hold such liability insurance at all times during the existence of this contract and any renewal(s) and extension(s) of it. Upon execution of this contract, unless it is a state agency or subdivision as defined by §768.28, FS, the provider accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the provider and the clients to be served under this contract. The limits of coverage under each policy maintained by the provider do not limit the provider's liability and obligations under this contract. Upon the execution of this contract, the provider shall furnish the department written verification supporting both the determination and existence of such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The department reserves the right to require additional insurance as specified in Attachment I where appropriate.

ATTACHMENT F

H. Safeguarding Information

Not to use or disclose any information concerning a recipient of services under this contract for any purpose not in conformity with state and federal law or regulations except upon written consent of the recipient, or his responsible parent or guardian when authorized by law.

I. Assignments and Subcontracts

1. To neither assign the responsibility of this contract to another party nor subcontract for any of the work contemplated under this contract without prior written approval of the department, which shall not be unreasonably withheld. Any sub-license, assignment, or transfer otherwise occurring shall be null and void.
2. The provider shall be responsible for all work performed and all expenses incurred with the project. If the department permits the provider to subcontract all or part of the work contemplated under this contract, including entering into subcontracts with vendors for services and commodities, it is understood by the provider that the department shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and the provider shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The provider, at its expense, will defend the department against such claims.
3. The State of Florida shall at all times be entitled to assign or transfer, in whole or part, its rights, duties, or obligations under this contract to another governmental agency in the State of Florida, upon giving prior written notice to the provider. In the event the State of Florida approves transfer of the provider's obligations, the provider remains responsible for all work performed and all expenses incurred in connection with the contract. In addition, this contract shall bind the successors, assigns, and legal representatives of the provider and of any legal entity that succeeds to the obligations of the State of Florida.
4. The contractor shall provide a monthly Minority Business Enterprise report summarizing the participation of certified and non-certified minority subcontractors/material suppliers for the current month, and project to date. The report shall include the names, addresses, and dollar amount of each certified and non-certified MBE participant, and a copy must be forwarded to the Contract Manager of the Department of Health. The Office of Supplier Diversity (850-487-0915) will assist in furnishing names of qualified minorities. The Department of Health, Minority Coordinator (850-245-4199) will assist with questions and answers.
5. Unless otherwise stated in the contract between the provider and subcontractor, payments made by the provider to the subcontractor must be within seven (7) working days after receipt of full or partial payments from the department in accordance with §§287.0585, FS. Failure to pay within seven (7) working days will result in a penalty charged against the provider and paid by the provider to the subcontractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due.

J. Return of Funds

To return to the department any overpayments due to unearned funds or funds disallowed and any interest attributable to such funds pursuant to the terms of this contract that were disbursed to the provider by the department. In the event that the provider or its independent auditor discovers that overpayment has been made, the provider shall repay said overpayment within 40 calendar days without prior notification from the department. In the event that the department first discovers an overpayment has been made, the department will notify the provider by letter of such a finding. Should repayment not be made in a timely manner, the department will charge interest of one (1) percent per month compounded on the outstanding balance after 40 calendar days after the date of notification or discovery.

K. Incident Reporting

Abuse, Neglect, and Exploitation Reporting

In compliance with Chapter 415, FS, an employee of the provider who knows or has reasonable cause to suspect that a child, aged person, or disabled adult is or has been abused, neglected, or exploited shall immediately report such knowledge or suspicion to the Florida Abuse Hotline on the single statewide toll-free telephone number (1-800-96ABUSE).

L. Transportation Disadvantaged

If clients are to be transported under this contract, the provider will comply with the provisions of Chapter 427, FS, and Rule Chapter 41-2, FAC. The provider shall submit to the department the reports required pursuant to Volume 10, Chapter 27, and DOH Accounting Procedures Manual.

ATTACHMENT F

M. Purchasing

1. It is agreed that any articles which are the subject of, or are required to carry out this contract shall be purchased from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) identified under Chapter 946, FS, in the same manner and under the procedures set forth in §§946.515(2) and (4), FS. For purposes of this contract, the provider shall be deemed to be substituted for the department insofar as dealings with PRIDE. This clause is not applicable to subcontractors unless otherwise required by law. An abbreviated list of products/services available from PRIDE may be obtained by contacting PRIDE, 1-800-643-8459.
2. Procurement of Materials with Recycled Content
It is expressly understood and agreed that any products or materials which are the subject of, or are required to carry out this contract shall be procured in accordance with the provisions of §403.7065, and §287.045, FS.
3. MyFloridaMarketPlace Vendor Registration

Each vendor doing business with the State of Florida for the sale of commodities or contractual services as defined in section 287.012, Florida Statutes, shall register in the MyFloridaMarketPlace system, unless exempted under Florida Administrative Code Rule 60A-1.030(3) (F.A.C.).

4. MyFloridaMarketPlace Transaction Fee

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to section 287.057(23), Florida Statutes (2008), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Provider shall pay to the State.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The Provider shall receive a credit for any Transaction Fee paid by the Provider for the purchase of any item(s) if such item(s) are returned to the Provider through no fault, act, or omission of the Provider. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor's failure to perform or comply with specifications or requirements of the agreement. Failure to comply with these requirements shall constitute grounds for declaring the vendor in default and recovering procurement costs from the vendor in addition to all outstanding fees. Providers delinquent in paying transaction fees may be excluded from conducting future business with the State.

N. Civil Rights Requirements

Civil Rights Certification: The provider will comply with applicable provisions of DOH publication, "Methods of Administration, Equal Opportunity in Service Delivery."

O. Independent Capacity of the Contractor

1. In the performance of this contract, it is agreed between the parties that the provider is an independent contractor and that the provider is solely liable for the performance of all tasks contemplated by this contract, which are not the exclusive responsibility of the department.
2. Except where the provider is a state agency, the provider, its officers, agents, employees, subcontractors, or assignees, in performance of this contract, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Nor shall the provider represent to others that it has the authority to bind the department unless specifically authorized to do so.
3. Except where the provider is a state agency, neither the provider, its officers, agents, employees, subcontractors, nor assignees are entitled to state retirement or state leave benefits, or to any other compensation of state employment as a result of performing the duties and obligations of this contract.
4. The provider agrees to take such actions as may be necessary to ensure that each subcontractor of the provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.
5. Unless justified by the provider and agreed to by the department in Attachment I, the department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, or clerical support) to the provider, or its subcontractor or assignee.
6. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds, and all necessary insurance for the provider, the provider's officers, employees, agents, subcontractors, or assignees shall be the responsibility of the provider.

ATTACHMENT F

P. Sponsorship

As required by §286.25, FS, if the provider is a non-governmental organization which sponsors a program financed wholly or in part by state funds, including any funds obtained through this contract, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: *Sponsored by (provider's name) and the State of Florida, Department of Health*. If the sponsorship reference is in written material, the words *State of Florida, Department of Health* shall appear in at least the same size letters or type as the name of the organization.

Q. Final Invoice

To submit the final invoice for payment to the department no more than ___ days after the contract ends or is terminated. If the provider fails to do so, all right to payment is forfeited and the department will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this contract may be withheld until all reports due from the provider and necessary adjustments thereto have been approved by the department.

R. Use of Funds for Lobbying Prohibited

To comply with the provisions of §216.347, FS, which prohibit the expenditure of contract funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

S. Public Entity Crime and Discriminatory Vendor

1. Pursuant to §287.133, FS, the following restrictions are placed on the ability of persons convicted of public entity crimes to transact business with the department: When a person or affiliate has been placed on the convicted vendor list following a conviction for a public entity crime, he/she may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, FS, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
2. Pursuant to §287.134, FS, the following restrictions are placed on the ability of persons convicted of discrimination to transact business with the department: When a person or affiliate has been placed on the discriminatory vendor list following a conviction for discrimination, he/she may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, FS, for CATEGORY TWO for a period of 36 months from the date of being placed on the discriminatory vendor list.

T. Patents, Copyrights, and Royalties

1. If any discovery or invention arises or is developed in the course or as a result of work or services performed under this contract, or in any way connected herewith, the provider shall refer the discovery or invention to the department to be referred to the Department of State to determine whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this contract are hereby reserved to the State of Florida.
2. In the event that any books, manuals, films, or other copyrightable materials are produced, the provider shall notify the Department of State. Any and all copyrights accruing under or in connection with the performance under this contract are hereby reserved to the State of Florida.
3. The provider, without exception, shall indemnify and save harmless the State of Florida and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured by the provider. The provider has no liability when such claim is solely and exclusively due to the Department of State's alteration of the article. The State of Florida will provide prompt written notification of claim of copyright or patent infringement. Further, if such claim is made or is pending, the provider may, at its option and expense, procure for the Department of State, the right to continue use of, replace, or modify the article to render it non-infringing. If the provider uses any design, device, or materials covered by letters, patent, or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

ATTACHMENT F

U. Construction or Renovation of Facilities Using State Funds

Any state funds provided for the purchase of or improvements to real property are contingent upon the provider granting to the state a security interest in the property at least to the amount of the state funds provided for at least (5) years from the date of purchase or the completion of the improvements or as further required by law. As a condition of a receipt of state funding for this purpose, the provider agrees that, if it disposes of the property before the department's interest is vacated, the provider will refund the proportionate share of the state's initial investment, as adjusted by depreciation.

Electronic Fund Transfer

The provider agrees to enroll in Electronic Fund Transfer, offered by the State Comptroller's Office. Copies of Authorization form and sample bank letter are available from the Department. Questions should be directed to the EFT Section at (850) 410-9466. The previous sentence is for notice purposes only.

Information Security

The provider shall maintain confidentiality of all data, files, and records including client records related to the services provided pursuant to this agreement and shall comply with state and federal laws, including, but not limited to, sections 384.29, 381.004, 392.65, and 456.057, Florida Statutes. Procedures must be implemented by the provider to ensure the protection and confidentiality of all confidential matters. These procedures shall be consistent with the Department of Health Information Security Policies, as amended, which is incorporated herein by reference and the receipt of which is acknowledged by the provider, upon execution of this agreement. The provider will adhere to any amendments to the department's security requirements provided to it during the period of this agreement. The provider must also comply with any applicable professional standards of practice with respect to client confidentiality.

II. THE DEPARTMENT AGREES:

A. Contract Amount

To pay for contracted services according to the conditions of Attachment I in an amount not to exceed ___ subject to the availability of funds. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The costs of services paid under any other contract or from any other source are not eligible for reimbursement under this contract.

B. Contract Payment

Pursuant to §215.422, FS, the department has five (5) working days to inspect and approve goods and services, unless the bid specifications, Purchase Order, or this contract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to §55.03, FS, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, contact the fiscal office/contract administrator. Payments to health care providers for hospitals, medical, or other health care services, shall be made not more than 35 days from the date eligibility for payment is determined, at the daily interest rate of 0.03333%. Invoices returned to a vendor due to preparation errors will result in a payment delay. Interest penalties less than one dollar will not be enforced unless the vendor requests payment. Invoice payment requirements do not start until a properly completed invoice is provided to the department.

C. Vendor Ombudsman

A *Vendor Ombudsman* has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or (800) 342-2762, the State of Florida Chief Financial Officer's Hotline.

III. THE PROVIDER AND THE DEPARTMENT MUTUALLY AGREE

A. Effective and Ending Dates

This contract shall begin on _____ or on the date on which the contract has been signed by both parties, whichever is later. It shall end on _____.

Solicitation Number: DOH14-013

Invitation to Negotiate

Bureau of Tobacco Free Florida Surveillance and Evaluation Services

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ATTACHMENT F

B. Termination

1. Termination at Will

This contract may be terminated by either party upon no less than thirty (30) calendar days' notice in writing to the other party, without cause, unless a lesser time is mutually agreed upon in writing by both parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

2. Termination Because of Lack of Funds

In the event funds to finance this contract become unavailable, the department may terminate the contract upon no less than *twenty-four (24) hours'* notice in writing to the provider. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The department shall be the final authority as to the availability and adequacy of funds. In the event of termination of this contract, the provider will be compensated for any work satisfactorily completed prior to notification of termination.

3. Termination for Breach

This contract may be terminated for the provider's non-performance upon no less than *twenty-four (24) hours'* notice in writing to the provider. If applicable, the department may employ the default provisions in Chapter 60A-1.006 (3), FAC. Waiver of breach of any provisions of this contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this contract. The provisions herein do not limit the department's right to remedies at law or in equity.

4. Termination for Failure to Satisfactorily Perform Prior Agreement

Failure to have performed any contractual obligations with the department in a manner satisfactory to the department will be a sufficient cause for termination. To be terminated as a provider under this provision, the provider must have: (1) previously failed to satisfactorily perform in a contract with the department, been notified by the department of the unsatisfactory performance, and failed to correct the unsatisfactory performance to the satisfaction of the department; or (2) had a contract terminated by the department for cause.

C. Renegotiation or Modification

Modifications of provisions of this contract shall only be valid when they have been reduced to writing and duly signed by both parties. The rate of payment and dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the department's operating budget.

D. Official Payee and Representatives (Names, Addresses and Telephone Numbers)

1. The name (provider name as shown on page 1 of this contract) and mailing address of the official payee to whom the payment shall be made is:

3. The name, address, and telephone number of the contract manager for the department for this contract is:

2. The name of the contact person and street address where financial and administrative records are maintained is:

4. The name, address, and telephone number of the provider's representative responsible for administration of the program under this contract is:

4. Upon change of representatives (names, addresses, and telephone numbers) by either party, notice shall be provided in writing to the other party and said notification attached to originals of this contract.

ATTACHMENT F

E. All Terms and Conditions Included

This contract and its attachments as referenced, _____, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of the contract is found to be illegal or unenforceable, the remainder of the contract shall remain in full force and effect and such term or provision shall be stricken.

I have read the above contract and understand each section and paragraph.

IN WITNESS THEREOF, the parties hereto have caused this ___ page contract to be executed by their undersigned officials as duly authorized.

PROVIDER:

STATE OF FLORIDA, DEPARTMENT OF HEALTH

SIGNATURE: _____

SIGNATURE: _____

PRINT/TYPE NAME: _____

PRINT/TYPE NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

STATE AGENCY: _____

FEDERAL EID# (OR SSN): _____

PROVIDER FISCAL YEAR ENDING DATE: _____