



RICK SCOTT
GOVERNOR

JUSTIN M. SENIOR
SECRETARY

Tuesday, May 15, 2018

Prospective Vendor(s):

Subject: Solicitation Number: AHCA ITB 015-17/18

Title: FLORIDA NURSING HOME GENERATOR PLAN REVIEW

This solicitation is being issued by the State of Florida, Agency for Health Care Administration, hereinafter referred to as “**AHCA**” or “**Agency**”, to select a vendor to provide Florida Nursing Home Generator Plan Review services. The solicitation package consists of this transmittal letter and the following attachments and exhibits:

Attachment A	Instructions and Special Conditions
Exhibit A-1	Transmittal Letter
Exhibit A-2	Required Statements and Certifications
Exhibit A-2-a	Required Vendor and Key Staff Certification
Exhibit A-3	Cost Proposal
Exhibit A-4	Questions Template Instructions
Exhibit A-5	Certification of Drug-Free Workplace Program
Exhibit A-6	AHCA Purchase Order Terms and Conditions
Exhibit A-7	Standard Contract Language
Attachment B	Scope of Services
Exhibit B-1	Project Comments/Deficiencies

Your response must comply fully with the instructions that stipulate what is to be included in the response. Respondents shall identify the solicitation number, date and time of opening on the package transmitting their response. This information is used only to put the Agency mailroom on notice that the package received is a response to an Agency solicitation and therefore should not be opened, but delivered directly to the Procurement Officer.

The designated Agency Procurement Officer for this solicitation is the undersigned. All communications from respondents shall be made in writing and directed to my attention at the address provided in **Attachment A**, Instructions and Special Conditions, **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 5.**, Procurement Officer unless otherwise instructed in this solicitation.

The term “Proposal”, “Response” or “Reply” may be used interchangeably and mean the respondent’s submission to this solicitation.

Section 120.57(3)(b), Florida Statutes and Section 28-110.003, Florida Administrative Code require that a Notice of Protest of the solicitation documents shall be made within seventy-



two hours after the posting of the solicitation. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

Sincerely,

Emilly Leffler

Emilly Leffler, Purchasing Agent III
Bureau of Support Services

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A.1. Instructions

A. Overview

1. Solicitation Number

AHCA ITB 015-17/18

2. Solicitation Type

Invitation to Bid (ITB)

3. Solicitation Title

FLORIDA NURSING HOME GENERATOR PLAN REVIEW

4. Date of Issuance

Tuesday, May 15, 2018

5. Procurement Officer

Emilly Leffler
 Agency for Health Care Administration
 Building 2, Suite 203, Mail Stop 15
 2727 Mahan Drive
 Tallahassee, FL 32308-5403
 Email: solicitation.questions@ahca.myflorida.com

6. Solicitation Timeline

The projected solicitation timeline is shown below (all times are Eastern Time). The Agency for Health Care Administration (Agency) reserves the right to amend the timeline in the State's best interest. If the Agency finds it necessary to change any of the activities/dates/times listed, all interested parties will be notified by addenda to the original solicitation document posted on the Vendor Bid System (VBS) (http://myflorida.com/apps/vbs/vbs_main_menu).

ACTIVITY	DATE/TIME	LOCATION
Solicitation Issued by Agency	Tuesday, May 15, 2018	Electronically Posted http://myflorida.com/apps/vbs/vbs_main_menu
Deadline for Receipt of Written Questions	Tuesday, May 22, 2018 2:00 p.m.	solicitation.questions@ahca.myflorida.com
Anticipated Date for Agency Responses to Written Questions	Friday, May 25, 2018	Electronically Posted http://myflorida.com/apps/vbs/vbs_main_menu

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ACTIVITY	DATE/TIME	LOCATION
Deadline for Receipt of Responses	Friday, June 1, 2018 2:00 p.m.	Emilly Leffler Agency for Health Care Administration Building 2, Suite 203, Mail Stop 15 2727 Mahan Drive Tallahassee, FL 32308-5403
Public Opening of Responses	Friday, June 1, 2018 2:30 p.m.	Agency for Health Care Administration Building 2, Suite 203, Mail Stop 15 2727 Mahan Drive Tallahassee, FL 32308-5403
Anticipated Posting of Notice of Intent to Award	Wednesday, June 6, 2018	Electronically Posted http://myflorida.com/apps/vbs/vbs_main_menu

7. PUR 1000, General Contract Conditions

PUR 1000, General Contract Conditions, is incorporated by reference and is available for prospective respondents to download at:

<http://www.dms.myflorida.com/content/download/2933/11777/version/6/file/1000.pdf>

8. PUR 1001, General Instructions to Respondents

PUR 1001, General Instructions to Respondents, is incorporated by reference and is available for prospective respondents to download at:

<http://www.dms.myflorida.com/content/download/2934/11780/1001.pdf>

Unless otherwise noted, instructions in this **Attachment A** shall take precedence over the **PUR 1001**, General Instructions to Respondents.

9. Restriction on Communications

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of this solicitation and the end of the seventy-two (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 or as provided in this solicitation. **Violation of this provision may be grounds for rejecting a response. See Section 287.057(23), Florida Statutes (F.S.).**

10. Respondent Questions

- a. The Agency will receive all questions pertaining to this solicitation no later than the date and time specified for written questions in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline.

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- b. Prospective respondents must submit all questions by email at solicitation.questions@ahca.myflorida.com, utilizing **Exhibit A-4**, Questions Template. **Exhibit A-4**, Questions Template, is a Microsoft excel document and is available for prospective respondents to download at:

<http://ahca.myflorida.com/procurements/index.shtml>.

- c. The Agency will not accept questions by telephone, surface mail, hand delivery or fax.
- d. The Agency's response to questions received will be posted as an addendum to this solicitation as specified in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline and may be grouped as to not repeat the same answer multiple times.
- e. The Agency reserves the right to post an addendum to this solicitation in order to address questions received after the written question submission deadline. It is the sole discretion of the Agency to consider questions received after the written questions submission deadline.

11. Solicitation Addenda

If the Agency finds it necessary to supplement, modify, or interpret any portion of this solicitation during this solicitation period, a written addendum will be posted on the VBS as addenda to this solicitation. **It is the respondent's responsibility to check the VBS periodically for any information or updates to this solicitation. The Agency bears no responsibility for any resulting impacts associated with a prospective respondent's failure to obtain the information made available through the VBS.**

12. Public Opening of Responses

Responses shall be opened on the date, time and at the location indicated in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline. Respondents may, but are not required to, attend. The Agency will only announce the respondent(s) name at the public opening. Pursuant to Section 119.071(1)(b), F.S., no other materials will be released. Any person requiring a special accommodation because of a disability must contact the Procurement Officer at least five (5) business days prior to this solicitation opening. If you are hearing or speech impaired, contact the Agency by using the Florida Relay Service at (800) 955-8771 (TDD).

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13. Type and Amount of Contract Contemplated

- a.** The Contracts resulting from this solicitation will be a fixed rate unit cost contract. The total of all Contracts resulting from this solicitation shall not exceed **\$200,000.00**.
- b.** The awarded Respondent shall be paid upon successful completion of each assigned survey and/or full plan review, as described in this solicitation.
- c.** The State of Florida's performance and obligation to pay under the Contract resulting from this solicitation is contingent upon an annual appropriation by the Legislature.

14. Term of Contract

- a.** The anticipated term of the resulting Contract is June 1, 2018 through June 30, 2019. The term of the resulting Contract is subject to change based on the actual execution date of the resulting Contract.
- b.** In accordance with Section 287.057(13), F.S., the Contract resulting from this solicitation may be renewed for a period that may not exceed three (3) years or the term of the resulting original Contract period whichever is longer. Renewal of the resulting Contract shall be in writing and subject to the same terms and conditions set forth in the resulting original Contract. A renewal Contract may not include any compensation for costs associated with the renewal. Renewals are contingent upon satisfactory performance evaluations by the Agency, are subject to the availability of funds, and optional to the Agency.
- c.** Respondents shall offer renewal year pricing in its response. The Agency will not evaluate renewal year Proposals as part of the evaluation and scoring process, however proposed cost will be applied in the event the resulting Contract is renewed.
- d.** If the resulting Contract is renewed, it is the Agency's policy to reduce the overall payment amount by the Agency to the successful respondent by at least five percent (5%) during the period of the Contract renewal, unless it would affect the level and quality of services.

B. Response Preparation and Content

1. General Instructions

- a.** The instructions for this solicitation have been designed to help ensure that all responses are reviewed and evaluated in a consistent manner, as well as to minimize costs and response time.

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Information submitted in variance with these instructions may not be reviewed or evaluated.

- b. The Agency has established certain requirements with respect to responses submitted to competitive solicitations. The use of “shall”, “must”, or “will” (except to indicate futurity) in this solicitation, indicates a requirement or condition from which a material deviation may not be waived by the Agency. A deviation is material if, in the Agency’s sole discretion, the deficient response is not in substantial accord with this solicitation’s requirements, provides a significant advantage to one respondent over another, or has a potentially significant effect on the quality of the response or on the cost to the Agency. Material deviations cannot be waived. The words “should” or “may” in this solicitation indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such desirable features will not in and of itself cause rejection of a response.

- c. Respondents shall not retype and/or modify required forms and must submit required forms in the original format. Required forms are available for respondents to download at:

<http://ahca.myflorida.com/procurements/index.shtml>.

A respondent shall not, directly or indirectly, collude, consult, communicate or agree with any other respondent as to any matter related to the response each is submitting. Additionally, a respondent shall not induce any other respondent to submit or not to submit a response.

- d. The costs related to the development and submission of a response to this solicitation is the full responsibility of the respondent and is not chargeable to the Agency.

- e. Joint ventures and legal partnerships shall be viewed as one (1) respondent. However, all parties to the joint venture/legal partnership shall submit all mandatory attachments and documentation required by this solicitation from respondents, unless otherwise stated. **Failure to submit all required documentation from all parties included in a joint venture/legal partnership, signed by an authorized official, if applicable, will result in the rejection of a prospective vendor’s response.**

- f. Pursuant to Section 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted Vendor list following a conviction for a public entity crime may not submit a Bid, Proposal, or Reply on a contract to provide any goods or services to a public entity; may not submit a Bid, Proposal, or Reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit Bids, Proposals, or Replies on leases of real

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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 Section 287.017, F.S. for category two for a period of thirty-six (36) months following the date of being placed on the convicted Vendor list.

2. **Mandatory Response Content**

The respondent shall include the documents listed in this Item with the submission of the Original Response. Violation of this provision may result in the rejection of a response.

a. **Exhibit A-1, Transmittal Letter**

The respondent shall complete and submit **Exhibit A-1**, Transmittal Letter as part of its response in accordance with the instructions contained therein.

b. **Exhibit A-2, Required Certifications and Statements**

The respondent shall complete and submit **Exhibit A-2**, Required Certifications and Statements as part of its response in accordance with the instructions contained therein.

c. **Exhibit A-2-a, Required Vendor and Key Staff Certification**

The respondent shall complete and submit **Exhibit A-2-a**, Required Vendor and Key Staff Certification as part of its response in accordance with the instructions contained therein.

d. **Original Proposal Guarantee**

1) The respondent's Original Response must be accompanied by an Original Proposal Guarantee payable to the State of Florida in the amount of **\$5,000.00**. The proposal guarantee is a firm commitment the respondent shall, upon the Agency's acceptance of its response, execute such contractual documents as may be required within the time specified.

2) The respondent must be the guarantor. If responding as a joint venture/legal partnership, at least one party of the joint venture/legal partnership shall be the guarantor.

3) The proposal guarantee shall be in the form of a bond, cashier's check, treasurer's check, bank draft or certified check. The Agency will not accept a letter of credit in lieu of the Proposal Guarantee.

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- 4) The Agency will not accept a copy of the Proposal Guarantee.
- 5) All Proposal Guarantees will be returned upon execution of the legal Contract with the successful respondent and receipt of the performance bond required under this solicitation (See **Section A.1.**, Instructions, **Sub-Section D.**, Response Evaluation and Contract Award, **Item 7.**, Performance Bond).
- 6) If the successful respondent fails to execute a contract within ten (10) consecutive calendar days after a contract has been presented to the successful respondent for signature, the proposal guarantee shall be forfeited to the State.
- 7) The proposal guarantee must not contain any provisions that shorten the time from bringing an action to a time less than that provided by the applicable Florida Statute of Limitations (see Section 95.03, F.S.).

e. Exhibit A-3 Cost Proposal

The respondent shall complete and submit **Exhibit A-3**, Cost Proposal, as part of its response in accordance with the instructions contained therein.

3. Additional Response Content

The State supports and encourages initiatives to keep the workplace of Florida's suppliers and contractors drug free. Section 287.087, F.S. provides that, where identical tie Proposals are received, preference shall be given to a Proposal received from a respondent that certifies it has implemented a drug-free workplace program. If applicable, the respondent shall sign and submit **Exhibit A-5**, Certification of Drug-Free Workplace Program, to certify that the respondent has a drug-free workplace program.

C. Response Submission Requirements

1. Hardcopy and Electronic Submission Requirements

a. General Provision

Electronic submissions via MyFloridaMarketPlace will not be accepted for this solicitation.

b. Hardcopies of the Response

1) Original Response

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The respondent shall submit **one (1) Original Response**. All forms requiring signature shall bear an original signature with the original response.

2) Packaging and Delivery

- a) Hard copy responses shall be bound individually and submitted in one (1), one and one half inch (1.5”), three-ring binder or secured in a similar fashion to contain pages that turn easily for review.
- b) Each component of the hard copy response shall be clearly labeled and tabbed in the order specified below:
 - (1) **Exhibit A-1**, Transmittal Letter;
 - (2) **Exhibit A-2**, Required Certifications and Statements;
 - (3) **Exhibit A-2-a**, Required Vendor and Key Staff Certification;
 - (4) Original Proposal Guarantee;
 - (5) **Exhibit A-3**, Cost Proposal;
 - (6) **Exhibit A-5**, Certification of Drug-Free Workplace Program (if applicable).
- c) The hard copy response shall be double sided.
- d) The hard copy response must be submitted in a sealed package (i.e., outer box must be sealed, the individual binder within the box does not require individual sealing), to the Procurement Officer identified in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 5.**, Procurement Officer, no later than the time indicated in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline.
- e) The hard copy response shall be submitted via United States (U.S.) mail, courier, or hand delivery. Responses sent by fax or email will not be accepted.
- f) The Agency will not consider responses received after the date and time specified in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline, and any such responses will be returned to the respondent unopened.

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c. **Electronic Copy of the Response**

- 1) The respondent shall submit one (1) electronic copy of the entire response on a USB flash drive.
- 2) The electronic copy of the response, including all attachments, shall be submitted as Portable Document Format (PDF) documents. The PDF documents must be searchable, allow printing and must not be password protected (unlocked).
- 3) The electronic copy of the PDF documents shall be saved on the USB flash drive, with each component listed below saved separately in individual file folders:
 - (a) **Exhibit A-1**, Transmittal Letter;
 - (b) **Exhibit A-2**, Required Certifications and Statements;
 - (c) **Exhibit A-2-a**, Required Vendor and Key Staff Certification;
 - (d) **Exhibit A-3**, Cost Proposal;
 - (e) **Exhibit A-5**, Certification of Drug-Free Workplace Program; and,
- 4) In addition to the PDF submission, the following exhibit shall also be submitted in Microsoft Excel 2016, utilizing the Agency provided template and shall be saved on the USB flash drive:

Exhibit A-3, Cost Proposal;

5) **Electronic Redacted Copies**

- (a) The respondent shall submit an electronic redacted copy of the response suitable for release to the public in one (1) PDF document on the USB flash drive. The electronic copy shall be saved in a separate file folder on the USB flash drive from the rest of the response. The file folder shall be identified as "Redacted Version Suitable for Public Release".
- (b) The PDF document must be searchable, allow printing, and must not be password protected (unlocked).
- (c) Any confidential or trade secret information covered under Section 812.081, F.S., should be redacted as

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described below. The redacted response shall be marked as the “redacted” copy.

2. Confidential or Exempt Information

- a. All submittals received by the date and time specified in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 6.**, Solicitation Timeline, become the property of the State of Florida and are public records subject to the provisions of Chapter 119, F.S. The State of Florida shall have the right to use all ideas, or adaptations of the ideas, contained in any response received in relation to this solicitation. Selection or rejection of the response shall not affect this right.

- b. A respondent that asserts that any portion of the response is confidential or exempt from disclosure under Chapter 119, F.S., shall clearly mark each page of such portion as follows:
 - 1) Pages containing trade secret shall be marked “Trade secret as defined in Section 812.081, Florida Statutes”. Respondents who fail to identify trade secret as directed herein acknowledge and agree that they waive any right or cause of action, civil or criminal, against the Agency, its employees, and its representatives, for the release or disclosure of trade secret information not so identified. Respondents shall not mark their entire response as trade secret. The Agency may reject a response that is so marked.

 - 2) Pages that do not contain trade secret but are otherwise exempt or confidential shall be marked “exempt” or “confidential,” followed by the statutory basis for such claim. For example: “The information on this page is exempt from disclosure pursuant to Section 119.071(3)(b), Florida Statutes.” Failure to identify and mark such portions as directed above shall constitute a waiver of any claimed exemption and the Agency will provide any unmarked records in response to public records requests for those records without notifying the respondent. Designating material simply as “proprietary” will not necessarily protect it from disclosure under Chapter 119, F.S.

- c. All information included in the response (including, without limitation, technical and cost information) and any resulting Contract that incorporates the successful response (fully, in part, or by reference) shall be a matter of public record regardless of copyright status. Submission of a response to this solicitation that contains material for which the respondent holds a copyright shall constitute permission for the Agency to reproduce and disclose such material for the Agency’s internal use, and to make such

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material available for inspection pursuant to a public records request.

- d. If a public records request is submitted to the Agency for responses submitted to this solicitation, the respondent agrees that the Agency may release the redacted response without conducting any pre-release review of the redacted response.
- e. Unless otherwise prohibited by law, the Agency will notify the respondent if a requestor contests the respondent's determination that information is confidential or exempt and asserts a right to the information under Chapter 119, F.S. or other law. The respondent bears sole responsibility for supporting and defending its determination. If an action is brought against the Agency in any appropriate judicial forum contesting the respondent's determination of confidentiality or the redactions made by the respondent to its response, the respondent agrees that the Agency has no duty to defend against such claims and may elect not to do so, and may elect to release an un-redacted version of the response. By submitting a response, the respondent agrees to protect, defend, hold harmless and indemnify the Agency for any and all claims arising from or relating to the respondent's determinations of confidentiality or redaction, including the payment of any attorneys' fees or costs assessed against the Agency.

D. Response Evaluation and Contract Award

1. Response Clarification

The Agency reserves the right to seek written clarification from a respondent of any information contained in the response or to request missing items from a response. However, it is a respondent's obligation to submit an adequately written reply to the Agency.

2. Responsive Reply Determination

A "responsive reply" means a reply submitted by a **responsive and responsible vendor**, which conforms in all material aspects to the solicitation [Section 287.012(26), F.S.]. A "responsible vendor" means a vendor who has the capacity in all respects to fully perform the Contract requirements and the integrity and reliability that will assure good faith performance [287.012(25), F.S.]. The Procurement Officer may rely on any facts available to make a determination at any time prior to award as to whether a vendor is a responsible vendor. The Agency reserves the right to contact sources outside the reply to obtain information regarding past performance or other matters relevant to responsibility.

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3. Mandatory Requirements

The Procurement Office and other Agency staff will review responses to this solicitation against the mandatory criteria found in **Table 1**, Mandatory Criteria Questions, below. Responses failing to comply with all mandatory criteria may not be considered for further evaluation.

TABLE 1			
MANDATORY CRITERIA QUESTIONS			
		YES	NO
1)	Does the response include Exhibit A-1 , Transmittal Letter from each required party as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item a. ?		
2)	Does Exhibit A-1 , Transmittal Letter contain the following information from each required party as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item a. ? <ul style="list-style-type: none"> • Respondent's name; • Respondent's address; • Respondent's FEID Number; • Respondent's Firm Certification Number • The name of the respondent's official contact person who has the authority to bind the respondent to a contract, along with his/her title, address, email address, telephone number, and official signature.; and, • The name of the respondent's alternate contact person who has the authority to bind the respondent to a contract, along with his/her title, address, , email address, telephone number, and official signature. 		
3)	Does the response include Exhibit A-2 , Required Certifications and Statements, as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item b. ?		
4)	Does the response include Exhibit A-2-a , Required Vendor and Key Staff Certification, as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item c. ?		
5)	Does the response include the Original Proposal Guarantee in the amount of \$5,000.00 , as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item d. ?		
6)	Does the response include Exhibit A-3 , Cost Proposal, as specified in Section A.1. , Instructions, Sub-Section B. , Response Preparation and Content, Item 2. , Mandatory Response Content, Sub-Item e. ?		

4. Basis for Award

The Agency will award to the responsible and responsive respondent(s) that submits the lowest total price per region (as described in **Attachment**

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B, Scope of Services, **Section B.3**, Services Provided by the Vendor, **Sub-Section C.**, **Nursing Home Regions**), in accordance with **Exhibit A-3**, Cost Proposal. The Agency shall also consider the requirements listed in **Table 1**, Mandatory Criteria Questions, in determination of award.

5. Number of Awards

The Agency anticipates the issuance of nine (9) contracts as a result of this solicitation for all services included within the Scope of Services. The Agency, at its sole discretion, shall make this determination.

6. Posting of Notice of Intent to Award

Tabulation of Results, with the recommended Contract award, will be posted and will be available for review by interested parties at the time and location specified in **Section A.1.**, Instructions, **Sub-Section A.** Overview, **Item 6.**, Solicitation Timeline, and will remain posted for a period of seventy-two (72) hours, not including weekends or State observed holidays. Any respondent desiring to protest the recommended Contract award must file a notice of protest to the Procurement Officer identified in **Section A.1.**, Instructions, **Sub-Section A.** Overview, **Item 5.**, Procurement Officer, and any formal protest with the Agency for Health Care Administration, Agency Clerk, 2727 Mahan Drive, Mail Stop 3, Building 3, Room 3407C, Tallahassee, Florida 32308, within the time prescribed in Section 120.57(3) F.S. and Rule 28-110, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), F.S., or failure to post the bond or other security required by law, shall constitute a waiver of proceedings under Chapter 120, F.S.

7. Performance Bond

- a. A performance bond in the amount of five-thousand dollars (**\$5,000.00**) shall be furnished to the Agency by the successful respondent. The bond must be furnished to the Procurement Officer identified in **Section A.1.**, Instructions, **Sub-Section A.**, Overview, **Item 5.**, Procurement Officer, within thirty (30) calendar days after execution of the resulting Contract and prior to commencement of any work under the resulting Contract. Thereafter, the bond shall be furnished on an annual basis, thirty (30) calendar days prior to the new Contract year and be in the amount of five-thousand dollars (**\$5,000.00**) of the current annual Contract amount. A copy of all performance bonds shall be submitted to the Agency's Contract Manager. The performance bond must not contain any provisions that shorten the time for bringing an action to a time less than that provided by the applicable Florida Statute of Limitations. See Section 95.03, F.S.
- b. No payments will be made to the successful respondent until an acceptable performance bond is furnished to the Agency. The performance bond shall remain in effect for the full term of the

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resulting Contract, including any renewal period. The Agency shall be named as the beneficiary of the successful respondent's bond. The bond shall provide that the insurer or bonding company(s) pay losses suffered by the Agency directly to the Agency.

- c.** The cost of the performance bond will be borne by the successful respondent.
- d.** Should the successful respondent terminate the resulting Contract prior to the end of the resulting Contract period, an assessment against the bond will be made by the Agency to cover the costs of issuing a new solicitation and selecting a new Vendor. The successful respondent agrees that the Agency's damages in the event of termination by the successful respondent shall be considered to be for the full amount of the bond. The Agency need not prove the damage amount in exercising its right of recourse against the bond.

8. Contract Execution

- a.** The Agency will not consider modifications proposed by the respondent to **Exhibit A-6**, AHCA Purchase Order Terms and Conditions, or **Exhibit A-7**, Standard Contract Language.
- b.** This solicitation, including all its addenda, the Agency's written response to written questions, and the successful respondent's response, shall be incorporated by reference in the final Contract document.
- c.** The successful respondent shall perform its contracted duties in accordance with the resulting Contract, this solicitation, including all addenda, and the successful respondent's response to this solicitation. In the event of conflict among resulting Contract documents, any identified inconsistency in the resulting Contract shall be resolved by giving precedence in the following order:
 - 1)** The resulting Contract, including all attachments, exhibits and any subsequent amendments;
 - 2)** This solicitation, including all addenda; and
 - 3)** The successful respondent's response to this solicitation.
- d.** The successful respondent shall be registered with the Florida Department of State as an entity authorized to transact business in the State of Florida by the effective date of the resulting Contract.
- e.** The Agency reserves the right to amend the resulting Contract within the scope set forth in this solicitation (to include the original Contract and all attachments) in order to clarify requirements.

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9. Transition of Resulting Contract

- a.** At the time of the resulting Contract completion, the successful respondent shall cooperate with the Agency in transitioning responsibilities of the resulting Contract to the Agency or another Vendor.
- b.** The successful respondent shall deliver to the Agency, or its authorized representative, all Contract-related records and data in a format specified by the Agency, within sixty (60) calendar days from the expiration or termination of the resulting Contract. This obligation survives termination of the Contract.
- c.** Prior to the ending or termination of the resulting Contract, the successful respondent shall meet with the new Vendor or the Agency's designated representative(s) to develop a Health Insurance Portability and Accountability Act (HIPAA) compliant, written agreement that sets forth how the entities will cooperate to ensure an effortless transition. The agreement must be approved by the Agency prior to execution and shall include at a minimum the following:
 - 1)** Designated point of contact for each entity;
 - 2)** A calendar of regularly scheduled meetings;
 - 3)** A detailed list of data that will be shared;
 - 4)** A mechanism and timeframe for transmitting records and data from the successful respondent's system;
 - 5)** A mechanism and timeframe for transmitting documents produced under the resulting Contract, as requested by the Agency;
 - 6)** A clear description of the mutual needs and expectations of both entities; and
 - 7)** Identification of risks and barriers associated with the transition of services to a new Vendor and solutions for overcoming them.

A.2 Special Terms and Conditions

A. Subcontracting

- 1.** The successful respondent shall not subcontract, assign, or transfer any work identified under this solicitation or the resulting Contract, with the

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exception of those subcontractors identified in the respondent's response, without prior written consent of the Agency.

2. The successful respondent shall not subcontract with any provider that would be a conflict of interest to the successful respondent during the term of the resulting Contract in accordance with Federal and State conflict of interest laws.
3. All subcontracts must comply with applicable State and/or Federal law.
4. Any subcontract changes subsequent to the resulting Contract award, constitutes a change in the approved subcontractor. Changes in subcontracts require approval in writing by the Agency's Contract Manager prior to the effective date of any subcontract.

B. System Functionality

1. The successful respondent shall have the capacity (hardware, software, and personnel) sufficient to access and generate all data and reports needed for the Contract resulting from this solicitation.
2. The successful respondent shall comply with HIPAA and the HITECH Act.
3. The successful respondent shall have protocols and internal procedures for ensuring system security and the confidentiality of recipient identifiable data.
4. The successful respondent shall ensure an annual Service Organization Controls (SOC) 2 Type II audit is performed on the application hosting center. The successful respondent shall provide a copy of the most recent audit report to the Agency.

C. Information Technology

1. The successful respondent shall have the necessary information technology (IT) resources needed to fully manage the product required in this solicitation, and resulting Contract.
2. Agency Contract Managers shall be responsible for submitting and managing the successful respondent's staff requests or needs for access connectivity to the Agency's data communications network, and the relevant information systems attached to this network, in accordance with all applicable Agency policies, standards and guidelines. The successful respondent shall notify the Agency of termination of any staff with access to the Agency's network within twenty-four (24) hours of the termination.
3. Successful respondent staff that have access connectivity to the Agency's data communications network shall be required to complete Agency Security Awareness Training and Agency HIPAA Training. The successful

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respondent shall also be required to sign an Acceptable Use Acknowledgement Form and submit the completed form to the Agency's Information Security Manager. The requirements described in this Item must be completed before access to the Agency's network is provided.

4. Development Requirements

- a.** The successful respondent shall provide the Agency, providers, and others as identified in this solicitation, with the necessary software to execute the requested system.
- b.** The successful respondent's software when implemented, shall meet the implementation day's industry's best practices and standards NIST (National Institute for Standards and Technology), and W3C (World Wide Web Consortium) which includes development tools.
- c.** The successful respondent shall develop a system that allows Agency staff to access the system from the Agency network and mobile devices.
- d.** The successful respondent shall allow Agency access to the data for reporting purposes. Data exports shall comply with the National Information Exchange Model (NIEM) format.
- e.** The successful respondent's architecture and design document will be reviewed by the Agency's Division of IT before coding starts. This will require a personal presentation by the successful respondent's architect(s).
- f.** Comments will be used in the code to help other developers to understand the coding methodology/logic that was used.
- g.** Proper exception handling is required.
- h.** Logging and Auditing may be required for some systems.
- i.** Usage of Session and Cache should be limited.
- j.** Hard coded values are not allowed for referencing the shared resource address and name. This includes: URL (Uniform Resource Locator) name, file path, email address, database connection string, etc.
- k.** The website shall be Section 508 compliant and follow W3C industry standards and best practices.
- l.** The website shall contain the Agency header and footer that are currently on ahca.myflorida.com.

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- m. Chrome, Firefox, Safari and Internet Explorer are the most commonly used browsers. Internet applications must be compatible with all internet browsers recognized by the World Wide Web Consortium, <http://www.w3.org/>. The successful respondent shall deploy the system to be browser agnostic while keeping up with the most current versions of Internet browser releases in coordination with the Agency's Division of IT standards. Compatibility is required by the successful respondent with all supported versions within six (6) months of the browser's official release.
- n. All code shall be submitted to the Agency by the successful respondent for standards review prior to user testing. This code review requires a personal presentation by the successful respondent's coder(s).
- o. The successful respondent's test plan shall be prior-approved by the Agency's Division of IT. The system will be tested on and off site using different browsers and different devices.
- p. The documents listed below are required as part of the successful respondent's application development:
 - Architecture design;
 - Security model;
 - Technical specifications;
 - Database entity relationship diagram;
 - Data Dictionary;
 - User documentation;
 - Test plan;
 - Deployment plan; and
 - Maintenance requirements.

5. Below is the Agency's current environment:

- HIPAA and CJIS (Criminal Justice Information System) compliance;
- Microsoft office;
- SQL (Structured Query Language) server;
- Microsoft Azure and Office 365;
- SFTP (Secure File Transfer Protocol);
- WEB Services;
- MVC (Model View Controller);
- C#;
- TFS (Team Foundation Server);
- WEB Applications;
- Laserfiche;
- SharePoint;

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- SSL (Secure Sockets Layer) and TLS (Transport Layer Security); Mobile devices; and
 - SSRS (SQL Server Report Services) and Tableau.
6. The successful respondent must adhere and comply with the Agency's Division of IT standards regarding SSL Web interface(s) and TLS.
 7. The successful respondent must adhere to the Driver Privacy Protection Act (DPPA) rules that address a memorandum of understanding and security requirements as well as other requirements contained in Rule.
 8. The successful respondent, its employees, subcontractors and agents shall provide immediate notice to the Agency Information Security Manager (ISM) in the event it becomes aware of any security breach and any unauthorized transmission or loss of any or all of the data collected or created for or provided by the Agency ("State Data") or, to the extent the successful respondent is allowed any access to the Agency's IT resources, provide immediate notice to the ISM, of any allegation or suspected violation of security procedures of the Agency. Except as required by law and after notice to the Agency, the successful respondent shall not divulge to third parties any confidential information obtained by the successful respondent or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing resulting Contract work according to applicable rules, including, but not limited to, Rule 74-2, F.A.C., and its successor regulation, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Agency. After the conclusion of the resulting Contract unless otherwise provided herein, the successful respondent shall not be required to keep confidential information that is publicly available through no fault of the successful respondent, material that the successful respondent developed independently without relying on the State's confidential information, or information that is otherwise obtainable under State law as a public record.
 9. In the event of loss of any State Data or record where such loss is due to the negligence of the successful respondent or any of its subcontractors or agents, the successful respondent shall be responsible for recreating such lost data in the manner and on the schedule set by the Agency at the successful respondent's sole expense, in addition to any other damages the Agency may be entitled to by law or the resulting Contract. In the event lost or damaged data is suspected, the successful respondent will perform due diligence and report findings to the Agency and perform efforts to recover the data. If it is unrecoverable, the successful respondent shall pay all the related costs associated with the remediation and correction of the problems engendered by any given specific loss. Further, failure to maintain security that results in certain data release will subject the successful respondent to the administrative sanctions for failure to comply with Section 501.171, F.S., together with any costs to the Agency of such breach of security caused by the successful respondent. If State Data will reside in the successful respondent's system, the Agency may conduct, or

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request the successful respondent conduct at the successful respondent's expense, an annual network penetration test or security audit of the successful respondent's system(s) on which State Data resides. State-owned Data will be processed and stored in data centers that are located only in the forty-eight (48) contiguous United States. All successful respondent personnel who will have access to State-owned Data will undergo the background checks and screenings described in this solicitation.

10. The successful respondent must conform to current and updated publications of the principles, standards, and guidelines of the Federal Information Processing Standards (FIPS), the National Institute of Standards and Technology (NIST) publications, including but not limited to [Cybersecurity-Framework](#) and [NIST.SP.800-53r4](#).
11. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to identify obstacles to optimum performance.
12. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to identify email and Internet spam and scams and restrict or track user access to appropriate websites.
13. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to identify obstacles to detect and prevent hacking, intrusion and other unauthorized use of the successful respondent's resources.
14. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to prevent adware or spyware from deteriorating system performance.
15. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to update virus blocking software daily and aggressively monitor for and protect against viruses.
16. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to monitor bandwidth usage and identify bottlenecks that impede performance.
17. The successful respondent must employ traffic and network monitoring software and tools on a continuous basis to provide methods to flag recipient data to exclude protected health Information (PHI) from data exchanges as approved by the State, and to comply with recipient rights under the HIPAA privacy law for: 1) Requests for restriction of the uses and disclosures on PHI (45 CFR 164.522(a)); 2) Requests for confidential communications (45 CFR 164.522(b)); and 3) Requests for amendment of PHI (45 CFR 164.526). The successful respondent must also enter into a Business Associate Agreement ("BAA") with the Agency. The provisions of the BAA apply to HIPAA requirements and in the event of a conflict

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between the BAA and the provisions of this Sub-Section, the BAA shall control. (See **Exhibit A-6**, AHCA Purchase Order Terms and Conditions).

18. The successful respondent shall conduct all activities in compliance with 45 CFR 164 Subpart C to ensure data security, including, but not limited to encryption of all information that is confidential under Florida or Federal law, while in transmission and while resident on portable electronic media storage devices. Encryption is required and shall be consistent with Federal Information Processing Standards (FIPS), and/or the National Institute of Standards and Technology (NIST) publications regarding cryptographic standards.
19. In order to enable the Agency to effectively measure and mitigate the successful respondent's security risks, the successful respondent must annually obtain a security rating score from a vendor information security rating service (for example: BitSight Technologies, Security Scorecard, CORL Technologies or other comparable company which rates vendor information security.) If the successful respondent does not maintain a top tier security rating score, the Agency will impose liquidated damage(s) and/or other applicable sanction(s).

D. Disaster Recovery

1. The successful respondent shall develop and maintain a disaster recovery plan for restoring the application of software and current master files and for hardware backup in the event the production systems are disabled or destroyed. The disaster recovery plan shall limit service interruption to a period of twenty-four (24) clock hours and shall ensure compliance with all requirements under the resulting Contract. The records backup standards and a comprehensive disaster recovery plan shall be developed and maintained by the successful respondent for the entire period of the resulting Contract and submitted for review annually by the anniversary date of the resulting Contract.
2. The successful respondent shall maintain a disaster recovery plan for restoring day-to-day operations including alternative locations for the successful respondent to conduct the requirements of the resulting Contract. The disaster recovery plan shall limit service interruption to a period of twenty-four (24) clock hours and shall ensure compliance with all requirements of the resulting Contract.
3. The successful respondent shall maintain database backups in a manner that shall eliminate disruption of service or loss of data due to system or program failures or destruction.
4. The disaster recovery plan shall be finalized no later than thirty (30) calendar days prior to the resulting Contract effective date. The Agency shall review the successful respondent's disaster recovery plan during the readiness review.

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5. The Agency, at its discretion, reserves the right to direct the successful respondent to amend or update its disaster recovery plan in accordance with the best interests of the Agency and at no additional cost to the Agency.
6. The successful respondent shall make all aspects of the disaster recovery plan available to the Agency at all times.
7. The successful respondent shall conduct an annual Disaster Recovery Plan test and submit results for review to the Agency in the annual plan submitted in compliance with **Section A.2.**, Special Terms and Conditions, **Sub-Section D.**, Disaster Recovery, **Item 1.**

E. Smartphone Applications

The successful respondent shall receive written approval from the Agency Division of IT before implementation of a smartphone application. If the successful respondent uses smartphone applications (apps) to allow providers direct access to Agency-approved documents and/or content, the successful respondent shall comply with the following.

1. The smartphone application shall disclaim that the application being used is not private and that no PHI or PII should be published on this application by the successful respondent or provider;
2. The successful respondent shall ensure that software applications obtained, purchased, leased, or developed are based on secure coding guidelines; for example:
 - a. OWASP [Open Web Application Security Project] Secure Coding Principles –
http://www.owasp.org/index.php/Secure_Coding_Principles;
 - b. CERT Security Coding - <http://www.cert.org/secure-coding/>; and
 - c. Top10SecuritycodingPractices –
<https://www.securecoding.cert.org/confluence/display/seccode/Top+10+Secure+Coding+Practices>

F. Social Networking

1. All social networking applications, tools or media interactions and communications must be approved in writing by the Agency, prior to use.
2. Any successful respondent using social networking applications is responsible and accountable for the safeguarding of PHI and all HIPAA Privacy Rule related information must be maintained and monitored.
3. In addition to all other review and monitoring aspects of the Contract resulting from this solicitation, the Agency, at its discretion, reserves the

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right to monitor or review the successful respondent's monitoring of all social networking activity without notice.

4. The successful respondent shall not conduct business relating to the Contract resulting from this solicitation, that involves the exchange of personally identifying, confidential or sensitive information on the successful respondent's social network application. The successful respondent shall not post information, photos, links/URLs or other items online that would reflect negatively on any individual(s), its enrollees, the Agency or the State.
5. Any violations of this provision shall subject the successful respondent to administrative action by the Agency as determined by the Agency.

G. Method of Payment

1. Invoicing

- a. Invoices and all supporting documents shall be submitted on the successful respondent's letterhead to the Agency's designated Contract Manager within fifteen (15) calendar days of completion and Agency approval of deliverable(s). Invoice(s) shall include, at a minimum:
 - 1) Invoice date;
 - 2) Invoice number;
 - 3) Agency's Contract number;
 - 4) Description of the services rendered;
 - 5) Date(s) on which services were rendered;
 - 6) Payment remittance address; and
 - 7) Other supporting documentation as requested by the Agency.
- b. The successful respondent shall not charge the State for any travel expenses related to any portion of this solicitation or the resulting Contract without the Agency's prior written approval. Upon obtaining the Agency's written approval, the successful respondent shall be authorized to incur travel expenses payable by the Agency to the extent provided by Section 112.061, F.S.
- c. Payments will be authorized only for services that are in accordance with the terms and conditions of the resulting Contract.

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- d. Appropriate documentation as determined by the Agency shall be submitted to support invoices.
- e. Invoices shall not be approved for payment by the Agency until reports and deliverables from the successful respondent are received as specified in the resulting Contract.

2. Late Invoicing

- a. Unless written approval is obtained from the Agency, and at the discretion of the Agency, correct invoices with documentation received forty-six (46) to sixty (60) calendar days after the Agency's acceptance of the deliverable(s) will be paid at ninety percent (90%) of the amount of the invoice. Correct invoices with documentation received sixty-one (61) to ninety (90) calendar days after the Agency's acceptance of the deliverable(s) will be paid at seventy-five percent (75%) of the invoice. Invoices received ninety-one (91) calendar days or more after the Agency's acceptance of the deliverable(s) will **not** be paid.
- b. If the successful respondent is unable to meet the invoice submission deadlines specified in the resulting Contract, the successful respondent shall notify the Agency in writing prior to the deadline explaining the circumstances and requesting an extension to the deadline.

H. Performance Standards and Liquidated Damages

- 1. The successful respondent shall comply with all requirements and performance standards set forth in the Contract resulting from this solicitation.
- 2. The Agency's Contract Manager will monitor the successful respondent's performance in accordance with the monitoring requirements of the resulting Contract. Failure by the successful respondent to meet the established minimum performance standards may result in the Agency, in its sole discretion, finding the successful respondent to be out of compliance, and all remedies provided in the resulting Contract and under law, shall become available to the Agency.
- 3. If the Agency finds the successful respondent is in violation of the provisions of the resulting Contract, the Agency, at its discretion, may impose liquidated damages. Liquidated damages may be applied to all required components of the resulting Contract.
- 4. The Agency may impose liquidated damages as identified in the resulting Contract when the successful respondent has failed to meet a deadline or provide a deliverable as specified in the resulting Contract.

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5. The Agency may impose up to a one percent (1%) reduction of the total, monthly invoice amount for each incident in which the successful respondent has failed to perform as specified in this solicitation and/or resulting Contract, not to exceed five percent (5%) per month.

6. The Agency may impose upon the successful respondent liquidated damages of **\$500.00 to \$5,000.00**, per incident, per occurrence, depending upon the severity, if the successful respondent inappropriately releases PHI. The Agency will impose upon the successful respondent liquidated damages of **\$500.00 to \$5,000.00**, per incident, per occurrence, depending upon the severity, if the successful respondent violates provisions of HIPAA/HITECH. In addition, Federal penalties may apply in accordance with the HIPAA Act of 1996.

7. The Agency, at its discretion, reserves the right to impose liquidated damages upon the successful respondent for failure to comply with the performance standards requirements set forth in **Table 5**, Performance Standards and Liquidated Damages, below.

TABLE 5 PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES	
Performance Standard Requirement	Liquidated Damages to be Imposed
Performance Bond	
A performance bond in the amount of five-thousand dollars (\$5,000.00) of the total annual amount of the resulting Contract shall be furnished to the Agency by the successful respondent within thirty (30) calendar days after execution of the resulting Contract and prior to commencement of any work under the resulting Contract. (Section A.1. , Instructions, Sub-Section D. , Response Evaluation and Contract Award, Item 7. , Performance Bond)	\$500.00 per calendar day for each calendar day after the due date until an acceptable performance bond is furnished to the Agency.
A performance bond shall be furnished on an annual basis, thirty (30) calendar days prior to the new Contract year and be in the amount of five-thousand dollars (\$5,000.00) of the current annual Contract amount. (Section A.1. , Instructions, Sub-Section D. , Response Evaluation and Contract Award, Item 7. , Performance Bond)	\$500.00 per calendar day for each calendar day after the due date until an acceptable performance bond is furnished to the Agency.

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TABLE 5 PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES	
Performance Standard Requirement	Liquidated Damages to be Imposed
Records	
The successful respondent shall comply with public records laws, in accordance with Section 119.0701, F.S. (Exhibit A-6 , AHCA Purchase Order Terms and Conditions)	\$5,000.00 for each incident in which the successful respondent does not comply with a public records request.
Security Rating Score	
Failure to annually maintain a top tier security rating score from a vendor information security rating service. (Section A.2. , Special Terms and Conditions, Section C. , Information Technology, Item 19.)	\$5,000.00 per occurrence. An additional \$2,500.00 if the successful respondent does not improve to a top tier security rating score within six (6) months after its initial failure to annually obtain a top tier security rating score.
Failure to annually obtain a security rating score from a vendor information security rating service. (Section A.2. , Special Terms and Conditions, Section C. , Information Technology, Item 19.)	\$5,000.00 per occurrence. \$250.00 per calendar day, until the successful respondent obtains the security rating score.

I. Dispute of Liquidated Damages /Contract Interpretations

1. To dispute liquidated damages, sanctions and/or contract interpretations, the successful respondent must request that the Agency's Deputy Secretary for Health Quality Assurance (HQA) or designee, hear and decide the dispute.
2. The successful respondent must submit, a written dispute directly to the Deputy Secretary or designee by U.S. mail and/or commercial courier service (hand delivery will not be accepted). This submission must be received by the Agency within twenty-one (21) calendar days after the issuance of liquidated damages, sanctions and/or contract interpretations and shall include all arguments, materials, data, and information necessary to resolve the dispute (including all evidence, documentation and exhibits). The successful respondent submitting such written requests for appeal or dispute as allowed under the resulting Contract by U.S. mail and/or commercial courier service, shall submit such appeal or dispute to the following mailing address:

Deputy Secretary for Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 2

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Tallahassee, FL 32308

3. The successful respondent waives any dispute not raised within twenty-one (21) calendar days of issuance of liquidated damages, sanctions and/or contract interpretations. It also waives any arguments it fails to raise in writing within twenty-one (21) calendar days of receiving the liquidated damages, sanctions and/or contract interpretations, and waives the right to use any materials, data, and/or information not contained in or accompanying the successful respondent's submission submitted within the twenty-one (21) calendar days following its receipt of the liquidated damages, sanctions and/or contract interpretations in any subsequent legal, equitable, or administrative proceeding (to include Circuit Court, Federal court and any possible administrative venue).
4. The Deputy Secretary or his/her designee will decide the dispute under the reasonableness standard, reduce the decision to writing and serve a copy to the successful respondent. This written decision will be final.
5. The exclusive venue of any legal or equitable action that arises out of or relating to the resulting Contract, including an appeal of the final decision of the Deputy Secretary or his/her designee, will be Circuit Court in Leon County, Florida. In any such action, the successful respondent agrees to waive its right to a jury trial, and that the Circuit Court can only review the final decision for reasonableness, and Florida law shall apply. In the event the Agency issues any action under Florida Statutes or Florida Administrative Code apart from the resulting Contract, the Agency will notice the successful respondent of the appropriate administrative remedy.

J. Venue

1. By responding to this solicitation, in the event of any legal challenges to this procurement, respondents agree and will consent that hearings and depositions for any administrative or other litigation related to this procurement shall be held in Leon County, Florida. The Agency, in its sole discretion, may waive this venue for depositions.
2. Respondents (and their successors, including but not limited to their parent(s), affiliates, subsidiaries, subcontractors, assigns, heirs, administrators, representatives and trustees) acknowledge that this solicitation (including but not limited to the resulting Contract, exhibits, attachments, or amendments) is not a rule nor subject to rulemaking under Chapter 120 (or its successor) of the Florida Statutes and is not subject to challenge as a rule or non-rule policy under any provision of Chapter 120, F.S.
3. The Contract resulting from this solicitation shall be delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of the resulting Contract shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision shall be found ineffective, then to the extent of such

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prohibition or invalidity, that provision shall be severed without invalidating the remainder of such provision or the remaining provisions of the resulting Contract.

4. The exclusive venue and jurisdiction for any action in law or in equity to adjudicate rights or obligations arising pursuant to or out of this procurement or the resulting Contract for which there is no administrative remedy shall be the Second Judicial Circuit Court in and for Leon County, Florida, or, on appeal, the First District Court of Appeal (and, if applicable, the Florida Supreme Court). Any administrative hearings hereon or in connection herewith shall be held in Leon County, Florida.

5. **Attorney's Fees**

In the event of a dispute, each party to the Contract resulting from this solicitation shall be responsible for its own attorneys' fees, except as otherwise provided by law.

6. **Legal Action Notification**

The successful respondent shall give the Agency, by certified mail, immediate written notification (no later than thirty (30) calendar days after service of process) of any action or suit filed or of any claim made against the successful respondent by any subcontractor, vendor, or other party that results in litigation related to the Contract resulting from this solicitation for disputes or damages exceeding the amount of **\$50,000.00**. In addition, the successful respondent shall immediately advise the Agency of the insolvency of a subcontractor or of the filing of a petition in bankruptcy by or against a principal subcontractor.

7. **Damages for Failure to Meet Contract Requirements**

In addition to remedies available through the Contract resulting from this solicitation, in law or equity, the successful respondent shall reimburse the Agency for any Federal disallowances or sanctions imposed on the Agency as a result of the successful respondent's failure.

K. General Definitions

AHCA or AGENCY – State of Florida, Agency for Health Care Administration (AHCA), its employees acting in their official capacity, or its designee.

BUSINESS DAY – Also called Work Day. A day scheduled for regular State of Florida employees to work; Monday through Friday except holidays observed by regular State of Florida employees. Timeframes in this solicitation requiring completion within a number of business days shall mean by 5:00 P.M. Eastern Time on the last work day.

CALENDAR DAY – A twenty-four (24) hour period between midnight and midnight, regardless of whether or not it occurs on a weekend or holiday.

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CALENDAR YEAR – A twelve (12) month period of time beginning on January 1 and ending on December 31.

CAN – Used to express non-mandatory provisions; words denote the permissive.

CONTRACT – The Purchase Order (PO) within MyFloridaMarketPlace (MFMP) resulting from, and inclusion of, this solicitation, any subsequent amendments thereto and the respondent's Proposal.

CONTRACT MANAGER – The Agency individual responsible for providing overall project direction, act as liaison between the successful respondent and other Agency staff and monitors the successful respondent's performance.

DAY – Calendar day, unless specified as a business day.

EDT - Eastern Daylight Time

EST - Eastern Standard Time

DISASTER RECOVERY PLAN – A plan to ensure continued business processing through adequate alternative facilities, equipment, backup files, documentation and procedures in the event that the primary processing site is lost to the successful respondent.

FISCAL YEAR (FY) – The period used to calculate an annual budget or financial statements for a year. The State of Florida fiscal year is the twelve (12) month period beginning July 1 and ending June 30.

HIPAA (THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996) – A Federal law that includes requirements to protect patient privacy, to protect security of electronic medical records, to prescribe methods and formats for exchange of electronic medical information, and to uniformly identify providers.

RECIPIENT - A person who has been determined to be eligible for assistance in accordance with the State plan(s) under Title XIV and Title XIX of the Social Security Act, Title V of the Refugee Education Assistance Act, and/or Title IV of the immigration and Nationality Act.

STATE – State of Florida.

SUBCONTRACT – An agreement entered into for provision of services on behalf of the successful respondent as related to this solicitation.

SUBCONTRACTOR – Any entity contracting with the successful respondent to perform services or to fulfill any of the requirements requested in this solicitation or any entity that is a subsidiary of the successful respondent that performs the services or fulfills the requirements requested in this solicitation.

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WORK DAY – see *Business Day*.

VENDOR – the respondent awarded a contract resulting from this solicitation.

EXHIBIT A-1 TRANSMITTAL LETTER

All respondents to this solicitation shall utilize **Exhibit A-1**, Transmittal Letter, for submission of its response. **Exhibit A-1** is available for respondents to download at:

<http://ahca.myflorida.com/procurements/index.shtml>.

DATE: Click or tap to enter a date.

RESPONDENT NAME:

RESPONDENT ADDRESS:

RESPONDENT FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEID):

RESPONDENT FIRM CERTIFICATION NUMBER:

Both the official contact person and the alternate contact person must have the authority to bind the respondent to a contract. Both person's signatures must be included.

OFFICIAL CONTACT PERSON:

NAME:

TITLE:

ADDRESS:

EMAIL ADDRESS:

TELEPHONE NUMBER:

SIGNATURE: _____

ALTERNATE CONTACT PERSON:

NAME:

TITLE:

ADDRESS:

EMAIL ADDRESS:

TELEPHONE NUMBER:

SIGNATURE: _____

EXHIBIT A-2
REQUIRED CERTIFICATIONS AND STATEMENTS

RESPONDENT NAME: _____

1. ACCEPTANCE OF SOLICITATION REQUIREMENTS

I hereby certify that I understand and agree that my organization has read all requirements and Agency specifications provided in this solicitation, accepts said requirements, and that this Response is made in accordance with the provisions of such requirements and specifications. By my written signature below, I guarantee and certify that all items included in this Response shall meet or exceed any and all such requirements and Agency specifications. I further agree, if awarded a contract resulting from this solicitation, to deliver services that meet or exceed the requirements and specifications provided in this solicitation.

AND

2. ACCEPTANCE OF CONTRACT TERMS AND CONDITIONS

I hereby certify that should my organization be awarded a contract resulting from this solicitation, it will comply with all terms and conditions as specified in this solicitation and in the AHCA Purchase Order Terms and Conditions (**Exhibit A-6**).

AND

3. RELEASE OF REDACTED RESPONSE

I hereby authorize release of the redacted version of the response required by **Attachment A**, Instructions and Special Conditions, **Section A.1.**, Instructions, **Sub-Section C.**, Response Submission Requirements, **Item c.**, Electronic Copy of the Response, **Sub-Item 5**), Electronic Redacted Copies, in the event the Agency receives a public records request.

AND

4. STATEMENT OF NO INVOLVEMENT

I hereby certify that neither my organization nor any person with an interest in the organization had any prior involvement in performing a feasibility study of the implementation of the subject Contract, in drafting of this solicitation or in developing the subject program.

AND

5. PROHIBITION OF GRATUITIES

I hereby certify that no elected official or employee of the State of Florida has or shall benefit financially or materially from such Response or subsequent contract in violation of the provisions of Chapter 112, Florida Statutes. I understand that any contract issued as a result of this solicitation may be terminated if it is determined that gratuities of any kind were either offered or received by any of the aforementioned parties.

EXHIBIT A-2 REQUIRED CERTIFICATIONS AND STATEMENTS

AND

6. NON-COLLUSION CERTIFICATION

I hereby certify that all persons, companies, or parties interested in the Response as principals are named therein, that the Response is made without collusion with any other person, persons, organization, or parties submitting a Response; that it is in all respects made in good faith; and as the signer of the Response, I have full authority to legally bind the respondent to the provisions of this solicitation.

AND

7. PERFORMANCE OF SERVICES

I hereby certify my organization shall make a documented good faith effort to ensure all services, provided directly or indirectly under the Contract resulting from this solicitation, will be performed within the State of Florida.

AND

8. PERFORMANCE OF SERVICES

I hereby certify my organization shall ensure all services, provided directly or indirectly under the Contract resulting from this solicitation, will be performed within the borders of the United States and its territories and protectorates.

AND

9. ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION

The standards on organizational conflicts of interest in Chapter 48, Code of Federal Regulations (CFR) and Section 287.057(17), Florida Statutes apply to this solicitation. A respondent with an actual or potential organizational conflict of interest shall disclose the conflict. If the respondent believes the conflict of interest can be mitigated, neutralized or avoided, the respondent shall include with its Response a Conflict of Interest Mitigation Plan. The plan shall, at a minimum:

- a)** Identify any relationship, financial interest or other activity which may create an actual or potential organizational conflict of interest.
- b)** Describe the actions the respondent intends to take to mitigate, neutralize, or avoid the identified organizational conflicts of interest.
- c)** Identify the official within the respondent's organization responsible for making conflict of interest determinations.

The Conflict of Interest Mitigation Plan will be evaluated as acceptable or not acceptable and will be used to determine respondent responsibility, as defined in Section 287.012(25), Florida Statutes. The Agency reserves the right to request additional information from the respondent or other sources, as deemed necessary, to determine whether or not the plan adequately neutralizes, mitigates, or avoids the identified conflicts.

EXHIBIT A-2
REQUIRED CERTIFICATIONS AND STATEMENTS

Pursuant to the aforementioned requirements, I hereby certify that, to the best of my knowledge, my organization (including its subcontractors, subsidiaries and partners):

Please check the applicable paragraph below:

- Has no existing relationship, financial interest or other activity which creates any actual or potential organizational conflicts of interest relating to the award of a contract resulting from this solicitation.
- Has included information in its response to this solicitation detailing the existence of actual or potential organizational conflicts of interest and has provided a "Conflict of Interest Mitigation Plan", as outlined above.

AND

10. JOINT VENTURE OR PARTNERSHIPS

This response is made as a joint venture or partnership. The members of the joint venture or partnership are listed below.

AND

11. NAMES OF OPERATION

I hereby certify the following is a list of all names under which my organization has operated during the past five (5) years (five years prior to May 14, 2018).

**EXHIBIT A-2
REQUIRED CERTIFICATIONS AND STATEMENTS**

AND

12. CERTIFICATION REGARDING TERMINATED CONTRACTS

I hereby certify that my organization (including its subsidiaries and affiliates) has not unilaterally or willfully terminated any previous contract prior to the end of the Contract with a State or the Federal government and has not had a contract terminated by a State or the Federal government for cause, prior to the end of the Contract, within the past five (5) years (five years prior to May 14, 2018), other than those listed on **Page 4** of this Exhibit.

AND

13. LIST OF TERMINATED CONTRACTS

List the terminated Contracts in chronological order and provide a brief description (half-page or less) of the reason(s) for the termination. Additional pages may be submitted; however, no more than five (5) additional pages should be submitted in total.

The Agency is not responsible for confirming the accuracy of the information provided.

The Agency reserves the right within its sole discretion, to determine the respondent to be an irresponsible bidder based on any or all of the listed Contracts and therefore may reject the response.

Respondent Name:

Client's Name:

Term of Terminated Contract:

Description of Services:

Brief Summary of Reason(s) for Contract Termination:

Respondent Name:

Client's Name:

Term of Terminated Contract:

Description of Services:

Brief Summary of Reason(s) for Contract Termination:

**EXHIBIT A-2
REQUIRED CERTIFICATIONS AND STATEMENTS**

Signature below indicates the respondent's full acknowledgement of; understanding of; and agreement with all of the certifications and statements identified above in Items 1 through 13 as written and without caveat.

Respondent Name

Authorized Official Signature

Date

Authorized Official Printed Name

Authorized Official Title

Failure to submit, Exhibit A-2, Required Certifications and Statements, signed by an authorized official may result in the rejection of response.

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EXHIBIT A-2-a
REQUIRED VENDOR AND KEY STAFF CERTIFICATION

RESPONDENT NAME: _____

1. VENDOR ATTESTATION

I hereby certify that, to the best of my knowledge, my organization:

- Has a minimum of five (5) years of experience working on projects at hospitals or nursing homes; averaging five (5) or more projects per year;
- Has designed the electrical portion of and performed construction administration on a minimum of fifteen (15) projects submitted to the Agency for Health Care Administration's Office of Plans and Construction in the past ten (10) years, and;
- Has designed the electrical portion of and performed construction administration on a minimum of ten (10) installations of Level 1 Emergency Power Supply Systems.

AND

2. KEY STAFF DESIGNATION

As defined in **Attachment B**, Scope of Services, **Section B.**, Key Staff, the Vendor's Contract Manager and Electrical Engineer(s) to be used under the resulting Contract are to be listed below, including Name, Title, and valid Florida Registration Number, if applicable. If additional staff is needed, Agency approval is required prior to their assignment.

A. CONTRACT MANAGER

The Vendor's Contract Manager's contact information is as follows:

(Name)
(Title)
(Address - Line 1)
(Address - Line 2)
(Phone)
(Registration #)

B. ELECTRICAL ENGINEER(S)

The Vendor's Electrical Engineer's name(s), title(s), and valid Florida Registration Number(s) are as follows:

<u>(Name)</u>	<u>(Title)</u>	<u>(Registration #)</u>
<u>(Name)</u>	<u>(Title)</u>	<u>(Registration #)</u>
<u>(Name)</u>	<u>(Title)</u>	<u>(Registration #)</u>

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**EXHIBIT A-2-a
REQUIRED VENDOR AND KEY STAFF CERTIFICATION**

AND

3. ENGINEER EXPERIENCE CERTIFICATION

I hereby certify that, to the best of my knowledge, the aforementioned Florida Registered Engineers:

- Have a minimum of five (5) years' experience, each, working on projects at hospitals or nursing homes (averaging five (5) or more projects per year).

Signature below indicates the respondent's full acknowledgement of; understanding of; and agreement with all of the certifications and statements identified above in Items 1 through 3 as written and without caveat.

Respondent Name

Authorized Official Signature

Date

Authorized Official Printed Name

Authorized Official Title

Failure to submit, Exhibit A-2-a, Required Vendor and Key Staff Certification, signed by an authorized official may result in the rejection of response.

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EXHIBIT A-3 COST PROPOSAL

Pursuant to the terms outlined in **Attachment A**, Instructions and Special Conditions, **Section C.**, Response Submission Requirements, **Item 1.c.4**), the Cost Proposal shall be submitted in PDF and shall also be submitted in Microsoft Excel 2016, utilizing this template and shall be saved on the USB flash drive as **Exhibit A-3**, Cost Proposal.

The Vendor shall be required to provide a per project cost to include all expenses including time and travel.

Plan Review(s) shall be completed pursuant to the direction outlined in **Attachment B**, Scope of Services, **Section B.3.**, Services Provided by the Vendor, **Item A**. Plan Review - Construction Document Plan Review of Proposed Standby Power Systems at Nursing Homes.

Survey(s) shall be completed pursuant to the direction outlined in **Attachment B**, Scope of Services, **Section B.3.**, Services Provided by the Vendor, **Item B.**, Survey - Onsite Inspection of Nursing Home Generator Installations.

The Vendor shall include the cost amount in US Dollars for individual Plan Review and Survey for Regions 1 through 9 within the Cost Proposal Tab of this Exhibit. A maximum number of potential Nursing Home Generator Installation Plans to be reviewed or surveyed in each Region is included. Should a Vendor choose not to bid on a Region, the field(s) shall remain blank.

Attachment B, Scope of Services, **Section B.1**, General Overview, **Item B.**, Purpose, states that this solicitation carries no guaranteed minimum amount of work.

EXHIBIT A-3 COST PROPOSAL

Year One Pricing			
Region	Number of Nursing Homes	Plan Review	Survey
	Maximum to be Reviewed/ Surveyed	Includes ALL reviews until plan is approved without deficiencies.	Initial Survey ONLY. Follow-ups will be performed by AHCA.
Region 1	28		
Region 2	33		
Region 3	67		
Region 4	54		
Region 5	161		
Region 6	102		
Region 7	73		
Region 8	113		
Region 9	54		

Renewal Year Pricing			
Region	Number of Nursing Homes	Full Plan Review	Survey
	Maximum to be Reviewed/ Surveyed	Includes ALL reviews until plan is approved without deficiencies.	Initial Survey ONLY. Follow-ups will be performed by AHCA.
Region 1	28		
Region 2	33		
Region 3	67		
Region 4	54		
Region 5	161		
Region 6	102		
Region 7	73		
Region 8	113		
Region 9	54		

EXHIBIT A-5 CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM

In the event of Identical or Tie Bids/Proposals: Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free work place program shall be given preference in the award process. Established procedures for processing tied awards will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Respondent Name

Authorized Official Signature

Date

Authorized Official Printed Name

Authorized Official Title

EXHIBIT A-6 AHCA PURCHASE ORDER TERMS AND CONDITIONS

In addition to the [Terms and Conditions issued by the Department of Management Services \(DMS\)](#) on purchase orders issued via MyFloridaMarketplace, the following terms and conditions also apply to this transaction.

- A.** The vendor is an independent contractor for all purposes hereof and shall not be considered an employee or agent of the Agency.
- B.** The vendor's receipt of this purchase order and failure to reject the order by notice to the Agency in writing within five (5) days constitutes acceptance of the order by the vendor. The terms of this order may not be modified by the vendor.
- C.** Price(s) specified on the purchase order are all inclusive; no added fees, including travel expenses, are allowed.
- D. Background Screening**
 - 1. The Vendor shall ensure that all Vendor employees including managing employees that have direct access to personally identifiable information (PII), protected health information (PHI), or financial information have a County, State, and Federal criminal background screening comparable to a level 2 background screening as described in Section 435.04, Florida Statutes (F.S.) completed with results prior to employment.
 - 2. Per Section 435.04(1)(a), F.S., level 2 screening standards include, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies. If the Vendor is not authorized under the law to conduct a level 2 background screening, then completion of a level 1 background screening as defined in Section 435.03, F.S., is acceptable.
 - 3. If the Vendor employee or managing employee was employed prior to the execution of the resulting Contract, the Vendor shall ensure that the County, State, and Federal criminal background screening comparable to a level 2 background screening is completed with results prior to the employee accessing Medicaid recipient or provider PII, PHI, or financial information.
 - 4. Any Vendor employee or managing employee with background results that are unacceptable to the State as described in Section 435.04, F.S., or related to the criminal use of PII as described in Section 817, F.S., or has been subject to criminal penalties for the misuse of PHI under 42 USC 1320d-5, or has been subject to criminal penalties for the offenses described in Section 812.0195, F.S., Section 815, F.S., Section 815.04, F.S., or Section 815.06, F.S., shall be denied employment or be immediately dismissed from performing services under the resulting purchase order by the Vendor unless an exemption is granted.
 - 5. Direct access is defined as having, or expected to have, duties that involve access to personally identifiable information, protected health information, or financial information by any means including, but not limited to, network shared drives, email, telephone, mail, computer systems, and electronic or printed reports.

EXHIBIT A-6
AHCA PURCHASE ORDER TERMS AND CONDITIONS

6. The Vendor shall keep a record of all background screening records to be available for Agency review upon request.

E. Public Records

The Vendor shall comply with Section 119.0701, F.S., if applicable, and all other applicable parts of the Florida Public Records Act, as follows:

1. The Vendor shall keep and maintain public records that ordinarily and necessarily would be required in order to perform services under the resulting Contract;
2. The Vendor shall provide the public with access to public records on the same terms and conditions that the Agency would provide the records and at a cost that does not exceed the cost provided in Section 119.07, F.S., or as otherwise provided by law;
3. The Vendor shall upon request from the appropriate Agency custodian of public records, provide the Agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost in Section 119.07, F.S., or as otherwise provided by law;
4. The Vendor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the resulting Contract term and following completion of the resulting Contract if the Vendor does not transfer the records to the Agency;
5. The Vendor shall not collect an individual's social security number unless the Vendor has stated in writing the purpose for its collection. The Vendor collecting an individual's social security number shall provide a copy of the written statement to the Agency and otherwise comply with applicable portions of Section 119.071(5), F.S.;
6. The Vendor shall meet all requirements for retaining public records and transfer, at no cost, to the Agency all public records in possession of the Vendor upon termination of the resulting Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Agency in a format that is compatible with the information technology systems of the Agency;
7. If the Vendor does not comply with a public records request, the Agency shall enforce the resulting Contract provisions in accordance with this solicitation and the resulting Contract;
8. **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS**

**EXHIBIT A-6
AHCA PURCHASE ORDER TERMS AND CONDITIONS**

RELATING TO THE RESULTING CONTRACT, CONTACT THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THE RESULTING CONTRACT. THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THE RESULTING PURCHASE ORDER WILL BE THE PURCHASE ORDER MANAGER.

F. Health Insurance Portability and Accountability Act

1. To comply with the Department of Health and Human Services Privacy Regulations in the CFR, Title 45, Sections 160 and 164, regarding disclosure of protected health information as specified in the Business Associate Agreement contained herein, as required.
2. The Vendor must ensure it meets all Federal regulations regarding required standard electronic transactions and standards for privacy and individually identifiable health information as identified in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009 and associated regulations.
3. The Vendor shall conduct all activities in compliance with 45 CFR 164 Subpart C to ensure data security, including, but not limited to encryption of all information that is confidential under Florida or Federal law, while in transmission and while resident on portable electronic media storage devices. Encryption is required and shall be consistent with Federal Information Processing Standards (FIPS), and/or the National Institute of Standards and Technology (NIST) publications regarding cryptographic standards.

G. Confidentiality of Information

1. The Vendor shall not use or disclose any confidential information, including social security numbers that may be supplied under this Purchase Order pursuant to law, and also including the identity or identifying information concerning a Medicaid recipient or services under this Purchase Order for any purpose not in conformity with State and Federal laws, except upon written consent of the recipient, or his/her guardian.
2. All personally identifiable information, including Medicaid information, obtained by the Vendor shall be treated as privileged and confidential information and shall be used only as authorized for purposes directly related to the administration of this Purchase Order. The Vendor must have a process that specifies that patient-specific information remains confidential, is used solely for the purposes of data analysis or other Vendor responsibilities under this Purchase Order, and is exchanged only for the purpose of conducting a review or other duties outlined in this Purchase Order.
3. Any patient-specific information received by the Vendor can be shared only with those agencies that have legal authority to receive such information and cannot

EXHIBIT A-6

AHCA PURCHASE ORDER TERMS AND CONDITIONS

be otherwise transmitted for any purpose other than those for which the Vendor is retained by the Agency. The Vendor must have in place written confidentiality policies and procedures to ensure confidentiality and to comply with all Federal and State laws (including the HIPAA and HITECH Acts) governing confidentiality, including electronic treatment records, facsimile mail, and electronic mail).

4. The Vendor's subcontracts must explicitly state expectations about the confidentiality of information, and the subcontractor is held to the same confidentiality requirements as the Vendor. If provider-specific data are released to the public, the Vendor shall have policies and procedures for exercising due care in compiling and releasing such data that address statutory protections of quality assurance and confidentiality while assuring that open records requirements of Chapter 119, F.S., are met.
5. The Vendor and its subcontractors shall comply with the requirements of Section 501.171, F.S. and shall, in addition to the reporting requirements therein, report to the Agency any breach of personal information.
6. Any releases of information to the media, the public, or other entities require prior approval from the Agency.

H. Inspection of Records and Work Performed

1. The Agency and its authorized representatives shall, at all reasonable times, have the right to enter the Vendor's premises, or other places where duties under this Purchase order are performed. All inspections and evaluations shall be performed in such a manner as not to unduly delay work. Persons duly authorized by the Agency and federal auditors, pursuant to 45 CFR, Part 74 and/or 45 CFR, Part 92, shall have full access to and the right to examine any of said records and documents.
2. The Vendor shall retain all financial records, medical records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to performance under this Purchase Order for a period of ten (10) years after termination of this Purchase Order, or if an audit has been initiated and audit findings have not been resolved at the end of ten (10) years, the records shall be retained until resolution of the audit findings.
3. Refusal by the Vendor to allow access to all records, documents, papers, letters, other materials or on-site activities related to this Purchase Order performance shall constitute a breach of this Purchase Order.
4. The right of the Agency and its authorized representatives to perform inspections shall continue for as long as the Vendor is required to maintain records.
5. The Vendor shall be responsible for all storage fees associated with all records maintained under this Purchase Order. The Vendor is also responsible for the destruction of all records that meet the retention schedule noted above.

EXHIBIT A-6
AHCA PURCHASE ORDER TERMS AND CONDITIONS

6. Failure to retain all records as required may result in cancellation of this Purchase Order. The Agency shall give the Vendor advance notice of cancellation pursuant to this provision and shall pay the Vendor only those amounts that are earned prior to the date of cancellation in accordance with the terms and conditions of this Purchase Order. Performance by the Agency of any of its obligations under this Purchase Order shall be subject to the Vendor's compliance with this provision.
 7. In accordance with Section 20.055, F.S., the Vendor and its subcontractors shall cooperate with the Office of the Inspector General in any investigation, audit, inspection, review or hearing; and shall grant access to any records, data or other information the Office of the Inspector General deems necessary to carry out its official duties.
 8. The rights of access in this Section must not be limited to the required retention period but shall last as long as the records are retained.
- I. Vendors are expected to examine the specifications, delivery schedule(s), prices and all instructions pertaining to this purchase. Failure to do so will be at the Vendor's risk.
 - J. 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 DFS pursuant to subsection 55.03(1), F.S. will be due and payable in addition to the invoice amount. Payments to health care providers for hospitals, medical or other health care services, shall be made not more than 35 days from the date of the eligibility for payment is determined, and the daily interest rate is .03333%. Receipt by the agency of a properly completed invoice is a prerequisite to payment. Invoices returned to a vendor due to preparation errors will result in a payment delay.
 - K. The laws of the State of Florida shall govern this purchase order and venue for any legal actions arising therefrom is in the Circuit Court of Leon County, Florida.
 - L. The terms of this Purchase Order will supersede the terms of any and all prior or subsequent agreements the Vendor may have with the Agency with respect to this purchase. Accordingly, in the event of any conflict, the terms of this purchase order shall govern.

EXHIBIT A-6 AHCA PURCHASE ORDER TERMS AND CONDITIONS

Business Associate Agreement

The parties to this Attachment agree that the following provisions constitute a business associate agreement for purposes of complying with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This Attachment is applicable if the Vendor is a business associate within the meaning of the Privacy and Security Regulations, 45 C.F.R. 160 and 164.

The Vendor certifies and agrees as to abide by the following:

1. Definitions. Unless specifically stated in this Attachment, the definition of the terms contained herein shall have the same meaning and effect as defined in 45 C.F.R. 160 and 164.
 - 1a. Protected Health Information. For purposes of this Attachment, protected health information shall have the same meaning and effect as defined in 45 C.F.R. 160 and 164, limited to the information created, received, maintained or transmitted by the Vendor from, or on behalf of, the Agency.
 - 1b. Security Incident. For purposes of this Attachment, security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system and includes any event resulting in computer systems, networks, or data being viewed, manipulated, damaged, destroyed or made inaccessible by an unauthorized activity.
2. Applicability of HITECH and HIPAA Privacy Rule and Security Rule Provisions. As provided by federal law, Title XIII of the American Recovery and Reinvestment Act of 2009 (ARRA), also known as the Health Information Technology Economic and Clinical Health (HITECH) Act, requires a Business Associate (Vendor) that contracts with the Agency, a HIPAA covered entity, to comply with the provisions of the HIPAA Privacy and Security Rules (45 C.F.R. 160 and 164).
3. Use and Disclosure of Protected Health Information. The Vendor shall comply with the provisions of 45 CFR 164.504(e)(2)(ii). The Vendor shall not use or disclose protected health information other than as permitted by this Contract or by federal and state law. The sale of protected health information or any components thereof is prohibited except as provided in 45 CFR 164.502(a)(5). The Vendor will use appropriate safeguards to prevent the use or disclosure of protected health information for any purpose not in conformity with this Contract and federal and state law. The Vendor will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information the Vendor creates, receives, maintains, or transmits on behalf of the Agency.
4. Use and Disclosure of Information for Management, Administration, and Legal Responsibilities. The Vendor is permitted to use and disclose protected health information received from the Agency for the proper management and administration of the Vendor or to carry out the legal responsibilities of the Vendor, in accordance with 45 C.F.R. 164.504(e)(4). Such disclosure is only permissible where required by law, or where the Vendor obtains reasonable assurances from the person to whom the protected health information is disclosed that: (1) the protected health information will be held confidentially, (2) the protected health

EXHIBIT A-6

AHCA PURCHASE ORDER TERMS AND CONDITIONS

information will be used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and (3) the person notifies the Vendor of any instance of which it is aware in which the confidentiality of the protected health information has been breached.

5. **Disclosure to Third Parties.** The Vendor will not divulge, disclose, or communicate protected health information to any third party for any purpose not in conformity with this Contract without prior written approval from the Agency. The Vendor shall ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the Vendor on behalf of, the Agency agrees to the same terms, conditions, and restrictions that apply to the Vendor with respect to protected health information. The Vendor's subcontracts shall fully comply with the requirements of 45 CFR 164.314(a)(2)(iii).
6. **Access to Information.** The Vendor shall make protected health information available in accordance with federal and state law, including providing a right of access to persons who are the subjects of the protected health information in accordance with 45 C.F.R. 164.524.
7. **Amendment and Incorporation of Amendments.** The Vendor shall make protected health information available for amendment and to incorporate any amendments to the protected health information in accordance with 45 C.F.R. 164.526.
8. **Accounting for Disclosures.** The Vendor shall make protected health information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528. The Vendor shall document all disclosures of protected health information as needed for the Agency to respond to a request for an accounting of disclosures in accordance with 45 C.F.R. 164.528.
9. **Access to Books and Records.** The Vendor shall make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Vendor on behalf of the Agency, available to the Secretary of the Department of Health and Human Services ("HHS") or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations.
10. **Reporting.** The Vendor shall make a good faith effort to identify any use or disclosure of protected health information not provided for in this Contract.
 - 10a. **To Agency.** The Vendor will report to the Agency, within ten (10) business days of discovery, any use or disclosure of protected health information not provided for in this Contract of which the Vendor is aware. The Vendor will report to the Agency, within twenty-four (24) hours of discovery, any security incident of which the Vendor is aware. A violation of this paragraph shall be a material violation of this Contract. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the Vendor to have been, accessed, acquired, used, or disclosed during such breach.
 - 10b. **To Individuals.** In the case of a breach of protected health information discovered by the Vendor, the Vendor shall first notify the Agency of the pertinent details of the breach and upon prior approval of the Agency shall notify each individual whose unsecured protected health information has been, or is reasonably believed by the Vendor to have been, accessed, acquired, used or disclosed as a result of such breach. Such

EXHIBIT A-6 AHCA PURCHASE ORDER TERMS AND CONDITIONS

notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient, or out-of-date contract information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the Web site of the covered entity involved or notice in major print or broadcast media, including major media in the geographic areas where the individuals affected by the breach likely reside. In any case deemed by the Vendor to require urgency because of possible imminent misuse of unsecured protected health information, the Vendor may also provide information to individuals by telephone or other means, as appropriate.

- 10c. To Media. In the case of a breach of protected health information discovered by the Vendor where the unsecured protected health information of more than 500 persons is reasonably believed to have been, accessed, acquired, used, or disclosed, after prior approval by the Agency, the Vendor shall provide notice to prominent media outlets serving the State or relevant portion of the State involved.
- 10d. To Secretary of Health and Human Services (HHS). The Vendor shall cooperate with the Agency to provide notice to the Secretary of HHS of unsecured protected health information that has been acquired or disclosed in a breach.
- (i) Vendors Who Are Covered Entities. In the event of a breach by a contractor or subcontractor of the Vendor, and the Vendor is a HIPAA covered entity, the Vendor shall be considered the covered entity for purposes of notification to the Secretary of HHS pursuant to 45 CFR 164.408. The Vendor shall be responsible for filing the notification to the Secretary of HHS and will identify itself as the covered entity in the notice. If the breach was with respect to 500 or more individuals, the Vendor shall provide a copy of the notice to the Agency, along with the Vendor's breach risk assessment for review at least 15 business days prior to the date required by 45 C.F.R. 164.408 (b) for the Vendor to file the notice with the Secretary of HHS. If the breach was with respect to less than 500 individuals, the Vendor shall notify the Secretary of HHS within the notification timeframe imposed by 45 C.F.R. 164.408(c) and shall contemporaneously submit copies of said notifications to the Agency.
- 10e. Content of Notices. All notices required under this Attachment shall include the content set forth Section 13402(f), Title XIII of the American Recovery and Reinvestment Act of 2009 and 45 C.F.R. 164.404(c), except that references therein to a "covered entity" shall be read as references to the Vendor.
- 10f. Financial Responsibility. The Vendor shall be responsible for all costs related to the notices required under this Attachment.
11. Mitigation. Vendor shall mitigate, to the extent practicable, any harmful effect that is known to the Vendor of a use or disclosure of protected health information in violation of this Attachment.

EXHIBIT A-6
AHCA PURCHASE ORDER TERMS AND CONDITIONS

12. Termination. Upon the Agency's discovery of a material breach of this Attachment, the Agency shall have the right to assess liquidated damages as specified elsewhere in the contract to which this document is an attachment, and/or to terminate this Contract.

12a. Effect of Termination. At the termination of this Contract, the Vendor shall return all protected health information that the Vendor still maintains in any form, including any copies or hybrid or merged databases made by the Vendor; or with prior written approval of the Agency, the protected health information may be destroyed by the Vendor after its use. If the protected health information is destroyed pursuant to the Agency's prior written approval, the Vendor must provide a written confirmation of such destruction to the Agency. If return or destruction of the protected health information is determined not feasible by the Agency, the Vendor agrees to protect the protected health information and treat it as strictly confidential.

**EXHIBIT A-7
STANDARD CONTRACT LANGUAGE**

I. THE VENDOR HEREBY AGREES:

A. Monitoring

1. To provide reports as specified in **Attachment I**, Scope of Services. These reports will be used for monitoring progress or performance of the contractual services as specified in **Attachment I**, Scope of Services.
2. To permit persons duly authorized by the Agency to inspect any records, papers, documents, facilities, goods and services of the Vendor which are relevant to this Contract.

B. Indemnification

The Vendor shall save and hold harmless and indemnify the State of Florida and the Agency against any and all liability, claims, suits, judgments, damages or costs of whatsoever kind and nature resulting from the use, service, operation or performance of work under the terms of this Contract, resulting from any act, or failure to act, by the Vendor, its subcontractor, or any of the employees, agents or representatives of the Vendor or subcontractor.

C. Insurance

1. To the extent required by law, the Vendor shall be self-insured against, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all its employees connected with the work of this project and, in case any work is subcontracted, the Vendor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees engaged in work under this Contract are covered by the Vendor's self insurance program. Such self insurance or insurance coverage shall comply with the Florida Workers' Compensation law. In the event hazardous work is being performed by the Vendor under this Contract and any class of employees performing the hazardous work is not protected under Workers' Compensation statutes, the Vendor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Agency, for the protection of its employees not otherwise protected.
2. The Vendor shall secure and maintain Commercial General Liability insurance including bodily injury, property damage, personal & advertising injury and products and completed operations. This insurance will provide coverage for all claims that may arise from the services and/or operations completed under this Contract, whether such services and/or operations are by the Vendor or anyone directly employed by it. Such insurance shall include the State of Florida as an Additional Named Insured for the entire length of the Contract and hold the State of Florida harmless from subrogation. The Vendor shall set the limits of liability necessary to provide reasonable financial protections to the Vendor and the State of Florida under this Contract.

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

3. All insurance policies shall be with insurers licensed or eligible to transact business in the State of Florida. The Vendor's current insurance policy(ies) shall contain a provision that the insurance will not be canceled for any reason except after thirty (30) calendar days written notice. The Vendor shall provide thirty (30) calendar days written notice of cancellation to the Agency's Contract Manager.

D. Return of Funds

To return to the Agency any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Contract that were disbursed to the Vendor by the Agency. The Vendor shall return any overpayment to the Agency within forty (40) calendar days after either discovery by the Vendor, its independent auditor, or notification by the Agency, of the overpayment.

E. Purchasing

1. P.R.I.D.E.

It is expressly understood and agreed that any articles which are the subject of, or required to carry out this Contract shall be purchased from the corporation identified under Chapter 946, Florida Statutes, if available, in the same manner and under the same procedures set forth in Section 946.515(2), and (4), Florida Statutes; and, for purposes of this Contract, the person, firm or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this Agency insofar as dealings with such corporation are concerned.

The "Corporation identified" is PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (P.R.I.D.E.) which may be contacted at:

P.R.I.D.E.
12425 28th Street North, Suite
300 St. Petersburg, FL 33716
E-Mail: info@pride-enterprises.org
(727) 556-3300
Toll Free: 1-800-643-8459
Fax: (727) 570-3366

2. RESPECT of Florida

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and, for purposes of this Contract, the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this Agency insofar as dealings with such qualified nonprofit agency are concerned.

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

The "nonprofit agency" identified is RESPECT of Florida which may be contacted at:

RESPECT of Florida
2475 Apalachee Parkway, Suite 205
Tallahassee, Florida 32301-4946
(850) 487-1471
Website: www.respectofflorida.org

3. Procurement of Products or Materials with Recycled Content

It is expressly understood and agreed that any products which are required to carry out this Contract shall be procured in accordance with the provisions of Section 403.7065, Florida Statutes.

F. Civil Rights Requirements/Vendor Assurance

The Vendor assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin.
2. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.
3. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex.
4. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age.
5. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
6. The Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
7. All regulations, guidelines, and standards as are now or may be lawfully adopted under the above statutes.

The Vendor agrees that compliance with this assurance constitutes a condition of continued receipt of or benefit from funds provided through this Contract, and that it is binding upon the Vendor, its successors, transferees, and assignees for the period during which services are provided. The Vendor further assures that all contractors, subcontractors, subgrantees, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of the above statutes, regulations, guidelines, and standards.

G. Discrimination

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

H. Requirements of Section 287.058, Florida Statutes

1. To submit bills for fees or other compensation for services or expenses in detail sufficient for a proper pre-audit and post-audit thereof.
2. Where applicable, to submit bills for any travel expenses in accordance with Section 112.061, Florida Statutes. The Agency may establish rates lower than the maximum provided in Section 112.061, Florida Statutes.
3. To provide units of deliverables, including reports, findings, and drafts, in writing and/or in an electronic format agreeable to both Parties, as specified in **Attachment I**, Scope of Services, to be received and accepted by the Contract Manager prior to payment.
4. To comply with the criteria and final date, as specified herein, by which such criteria must be met for completion of this Contract.

This Contract shall begin upon execution by both Parties.

In accordance with Section 287.057(13), Florida Statutes, this Contract may be renewed for a period that may not exceed three (3) years or the term of the original Contract, whichever period is longer. Renewal of the Contract shall be in writing and subject to the same terms and conditions set forth in the initial contract. A renewal Contract may not include any compensation for costs associated with the renewal. Renewals are contingent upon satisfactory performance evaluations by the Agency, are subject to the availability of funds, and optional to the Agency.

Per the Agency's policy, employees will review existing contract renewals and re-procurements with the Vendor in an effort to reduce contract payments by at least five percent (5%), but not to affect the level and quality of services.

5. The Vendor agrees that the Agency may unilaterally cancel this Contract for refusal by the Vendor to allow public access to all documents, papers, letters, or other material made or received by the Vendor in conjunction with this Contract, unless the records are exempt from Section 24(a) of Art. I of the State Constitution and Section 119.07(1), Florida Statutes.
6. To comply with Patents, Royalties, Copyrights, Right to Data, and Works for Hire/Software requirements as follows:

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

The Vendor, without exception, shall indemnify and hold harmless the Agency and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unattended invention, process, or article manufactured or supplied by the Vendor. The Vendor has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by the Vendor or is based solely and exclusively upon the Agency's alteration of the article.

The Agency will provide prompt written notification of a claim of copyright or patent infringement and shall afford the Vendor full opportunity to defend the action and control the defense. Further, if such a claim is made or is pending, the Vendor may, at its option and expense procure for the Agency the right to continue the use of, replace or modify the article to render it non-infringing (if none of the alternatives is reasonably available, the Agency agrees to return the article on request to the Vendor and receive reimbursement, if any, as may be determined by a court of competent jurisdiction).

If the Vendor brings to the performance of this Contract a pre-existing patent, patent-pending and/or copyright at the time of Contract execution, the Vendor shall retain all rights and entitlements to that pre-existing patent, patent-pending and/or copyright, unless this Contract provides otherwise.

If the Vendor uses any design, device, or materials covered by letter, patent, or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work. Prior to the initiation of services under this Contract, the Vendor shall disclose, in writing, all intellectual properties relevant to the performance of this Contract which the Vendor knows, or should know, could give rise to a patent or copyright. The Vendor shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists. The Agency will then have the right to all patents and copyrights which arise as a result of performance under this Contract as provided in this section.

If any discovery or invention arises or is developed in the course of, or as a result of, work or services performed under this Contract, or in any way connected herewith, the Vendor shall refer the discovery or invention to the Agency for a determination 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. All materials to which the Agency is to have patent rights or copyrights shall be marked and dated by the Vendor in such a manner as to preserve and protect the legal rights of the Agency.

Where activities supported by this Contract produce original writing, sound

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Agency has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Agency to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim, or demand of any kind in and to any patent, trademark or copyright, or application for the same, shall vest in the State of Florida, Department of State for the exclusive use and benefit of the state. Pursuant to Section 286.021, Florida Statutes, no person, firm, corporation, including Parties to this Contract shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Florida Department of State.

The Agency will have unlimited rights to use, disclose, or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Vendor under this Contract.

All rights and title to works for hire under this Contract, whether patentable or copyrightable or not, shall belong to the Agency and shall be subject to the terms and conditions of this Contract.

The computer programs, materials and other information furnished by the Agency to the Vendor hereunder shall be and remain the sole and exclusive property of the Agency, free from any claim or right of retention by or on behalf of the Vendor. The services and products listed in this Contract shall become the property of the Agency upon the Vendor's performance and delivery thereof. The Vendor hereby acknowledges that said computer programs, materials and other information provided by the Agency to the Vendor hereunder, together with the products delivered and services performed by the Vendor hereunder, shall be and remain confidential and proprietary in nature to the extent provided by Chapter 119, Florida Statutes, and that the Vendor shall not disclose, publish or use same for any purpose other than the purposes provided in this Contract; however, upon the Vendor first demonstrating to the Agency's satisfaction that such information, in part or in whole, (1) was already known to the Vendor prior to its receipt from the Agency; (2) became known to the Vendor from a source other than the Agency; or (3) has been disclosed by the Agency to third parties without restriction, the Vendor shall be free to use and disclose same without restriction. Upon completion of the Vendor's performance or otherwise cancellation or termination of this Contract, the Vendor shall surrender and deliver to the Agency, freely and voluntarily, all of the above-described information remaining in the Vendor's possession.

The Vendor warrants that all materials produced hereunder will be of original development by the Vendor and will be specifically developed for the fulfillment of this Contract and will not knowingly infringe upon or violate any patent, copyright, trade secret or other property right of any third party, and the Vendor shall indemnify and hold the Agency harmless from and against any loss, cost, liability or expense arising out of any breach or claimed breach of this warranty.

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

The terms and conditions specified in this section shall also apply to any subcontract made under this Contract. The Vendor shall be responsible for informing the subcontractor of the provisions of this section and obtaining disclosures.

7. The financial consequences that the Agency must apply if the Vendor fails to perform in accordance with this Contract are outlined in **Attachment I**, Scope of Services.

I. Final Invoice

The Vendor must submit the final invoice for payment to the Agency no more than 15 calendar days after the Contract ends or is terminated. If the Vendor fails to do so, all right to payment is forfeited and the Agency 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 Vendor and necessary adjustments thereto have been approved by the Agency.

J. Use of Funds for Lobbying Prohibited

To comply with the provisions of Section 216.347, Florida Statutes, which prohibits the expenditure of Contract funds for the purpose of lobbying the Legislature, the judicial branch or a state agency.

K. Public Entity Crime

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime 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 Section 287.017, Florida Statutes, for category two, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

L. Employment

To comply with Section 274A (e) of the Immigration and Nationality Act. The Agency will consider the employment by any contractor of unauthorized aliens a violation of this Act. If the Vendor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Contract. The Vendor shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Contract.

M. Work Authorization Program

The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. The Vendor shall only employ individuals who may legally work in the United States (U.S.) – either U.S. citizens or foreign citizens who are authorized to work in the U.S. The Vendor shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired by the Vendor during

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

the term of this Contract and shall also include a requirement in its subcontracts that the subcontractor utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor performing work or providing services pursuant to this Contract.

II. THE AGENCY HEREBY AGREES:

Contract Payment

Section 215.422, Florida Statutes, provides that agencies have five (5) business days to inspect and approve goods and services, unless bid specifications, Contract or Purchase Order 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 forty (40) calendar 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 Section 55.03, Florida Statutes, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Agency's Fiscal Section at (850) 412-3901, or utilize the Department of Financial Services website at www.myfloridacfo.com/aadir/interest.htm. Payments to health care providers for hospital, medical or other health care services, shall be made not more than thirty-five (35) calendar days from the date eligibility for payment is determined, and the daily interest rate is .00033333%. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the Agency. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency, may be contacted at (850) 413-5516 or by calling the State Comptroller's Hotline, 1-800-848-3792.

III. THE VENDOR AND AGENCY HEREBY MUTUALLY AGREE:

A. Termination

1. Termination at Will

This Contract may be terminated by the Agency upon no less than thirty (30) calendar days written notice, without cause, unless a lesser time is mutually agreed upon by both Parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

2. Termination Due To Lack of Funds

In the event funds to finance this Contract become unavailable, the Agency may terminate the Contract upon no less than twenty-four (24) hours' written notice to the Vendor. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Agency will be the final authority as to the availability of funds. The Vendor shall be compensated for all work performed up to the time notice of termination is received.

3. Termination for Breach

EXHIBIT A-7 STANDARD CONTRACT LANGUAGE

Unless the Vendor's breach is waived by the Agency in writing, the Agency may, by written notice to the Vendor, terminate this Contract upon no less than twenty-four (24) hours' written notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. If applicable, the Agency may employ the default provisions in Florida Administrative Code Rule 60A-1.006(3).

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 Agency's right to remedies at law or to damages.

B. Renegotiation or Modification

1. Modifications of provisions of this Contract shall only be valid when they have been reduced to writing and duly signed during the term of the Contract. The Parties agree to renegotiate this Contract if federal and/or state revisions of any applicable laws, or regulations make changes in this Contract necessary.
2. The rate of payment and the total 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 Agency's operating budget.

ATTACHMENT B SCOPE OF SERVICES

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ATTACHMENT B

SCOPE OF SERVICES

B.1. General Overview

A. Background

Prior to the landfall of Hurricane Irma, new skilled nursing facilities (SNFs) were required to have a Level 1 essential electrical system to provide power for the life safety systems, critical systems and select equipment for at least seventy-two (72) hours following the loss of normal power. Since 2007, equipment for cooling spaces in new SNFs have been required to provide an optional standby power system or a quick connect allowing for the connection of mobile generator to provide normal power to the facility. Due to the great size, intensity, and shifting path of Irma, the movement of generators to impacted facilities proved difficult. Some facilities experienced power outages exceeding seventy-two (72) hours. Excessive temperatures following Irma resulted in tragic loss of life and exposed the need for a backup power supply for cooling systems.

In response, Governor Scott instructed the Agency for Health Care Administration (the Agency) to draft a rule requiring all SNFs to provide onsite back up power for systems needed to protect residents from the risks of heat related illnesses. On March 26, 2018, Rule 59A-4.1265, Florida Administrative Code (FAC), was passed requiring over five hundred (500) SNFs to add or replace generator and electrical distribution equipment. These new systems are required to be operational prior to the start of the 2018 hurricane season.

The Agency's Office of Plans and Construction (OPC) conducts plan reviews and surveys for all construction at hospital, nursing home and ambulatory surgery centers throughout the State. The large number of facilities requiring the installation of new generators in a short period of time will place great strains on OPC's resources.

B. Purpose

The purpose of this solicitation is to solicit assistance in conducting plan reviews and onsite inspections of the installation of new generators and electrical distribution equipment at nursing homes in specified areas/regions (See **Section B.3**, Services Provided by the Vendor, **Sub-Section C.**, Nursing Home Regions), on an as needed basis. This solicitation carries no guaranteed minimum amount of work.

B.2. Services Provided by the Agency

The Agency will provide a list of expectations of the services to be performed and the information to be reported by the Vendor. The Agency shall use the information provided by the Vendor to generate correspondence related to plan reviews and onsite inspections performed by the Vendor.

The Agency will provide interpretations of rules, codes, and standards related to the Vendor's work upon request.

The Agency will provide all plan submittals and OPC correspondence upon project assignment.

ATTACHMENT B SCOPE OF SERVICES

B.3. Services Provided by the Vendor

A. Plan Review - Construction Document Plan Review of Proposed Standby Power Systems at Nursing Homes

1. The Vendor shall receive plans and specifications from OPC for the purpose of conducting plan reviews. Plans may be mailed or transmitted through secure electronic methods, depending on the format of the submission received from the SNF.
2. The Vendor shall review the construction documents and specifications for compliance with Rule 59A-4.1265, F.A.C. Emergency Environmental Control for Nursing Homes and all other applicable rules, codes and standards.
3. The Vendor shall prepare a plan review report (see **Exhibit B-1**, Project Comments/Deficiencies) detailing all deficiencies observed and provide specific references to the section of rules, codes or standards for the deficiencies. The report shall include a recommendation of whether construction should be permitted to commence. Up to two (2) additional plan reviews may be required until the project is fully approved.
4. The Vendor shall keep records of the time spent reviewing the documents and preparing reports including the Name and Position Title of the individual completing the review. A report of time spent must accompany the plan review report.
5. All reports shall be received by OPC no later than ten (10) business days after the date the plans were received by the Vendor from OPC. Any hardcopies received by the Vendor from OPC must be returned to the Agency.

B. Survey - Onsite Inspection of Nursing Home Generator Installations

1. The Vendor shall contact facilities assigned by OPC to schedule an onsite inspection of the completed work. The Vendor schedule shall be independent of the OPC survey schedule. If architect or mechanical engineering expertise is required, the Vendor will collaborate with OPC in scheduling the survey.
2. The Vendor shall review the construction documents and correspondence from OPC prior to visiting the site to gain an understanding of the project and any outstanding comments or issues.
3. The Vendor shall conduct onsite inspections to verify that the equipment is installed in accordance with Rule 59A-4.1265, F.A.C., and all applicable codes and standards.
4. The Vendor shall prepare a survey report detailing all deficiencies observed during the inspection and provide specific references to the section of rules, codes or standards for the deficiencies. This report shall include a recommendation of whether the installation can be safely used for its intended purpose and will comply with the requirements of the rule.

ATTACHMENT B SCOPE OF SERVICES

5. The Vendor shall maintain records of the time spent on site, in the office, and travel expenses associated with each survey. A report of time and expenses must accompany the survey report for record-keeping only.
6. All reports shall be transmitted to OPC no later than five (5) business days after the date of the survey.

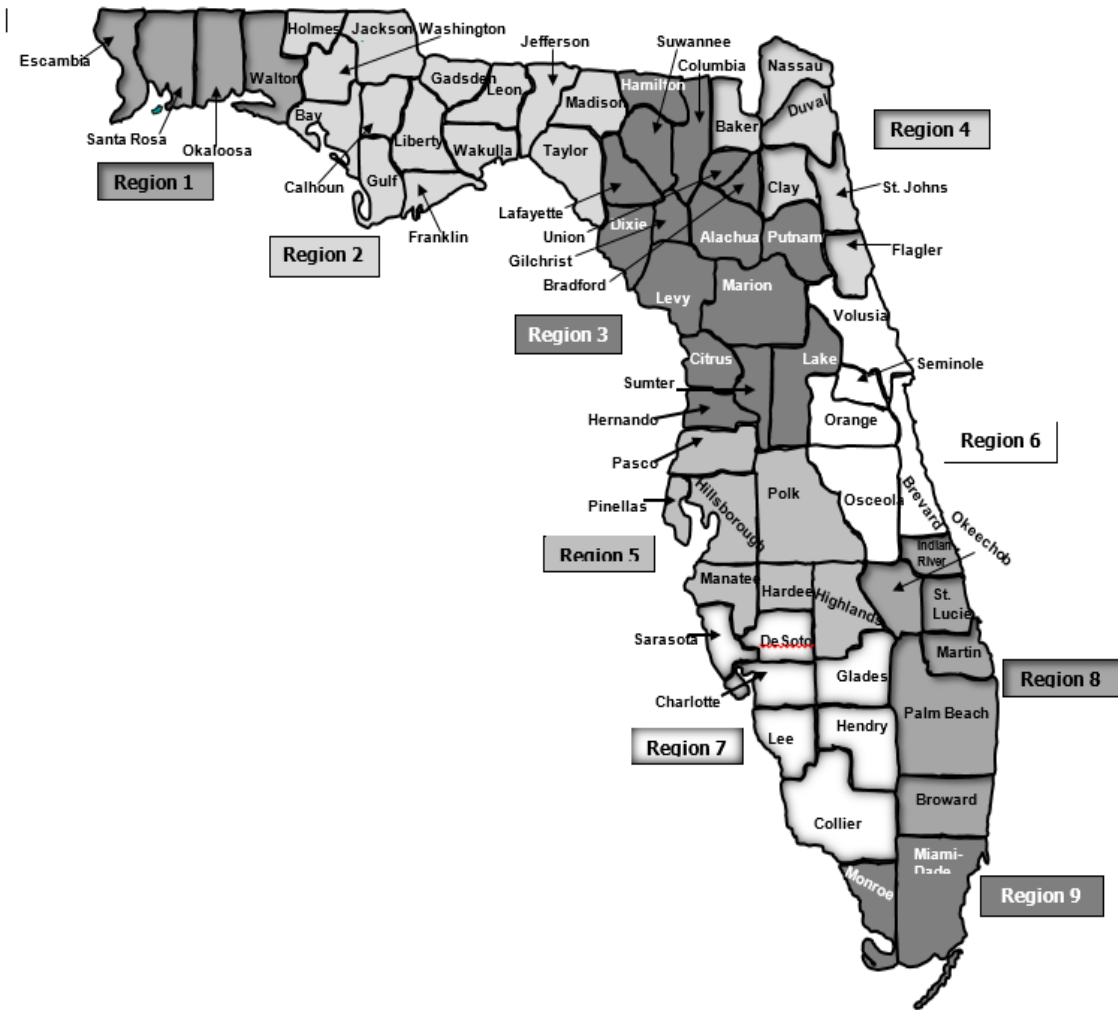
C. Nursing Home Regions

The following are the nursing home regions applicable to this solicitation.

Region	Counties
Region 1	Escambia, Okaloosa, Santa Rosa, and Walton
Region 2	Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Liberty, Leon, Madison, Taylor, Wakulla, and Washington
Region 3	Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Lake, Levy, Marion, Putnam, Sumter, Suwannee, and Union
Region 4	Baker, Clay, Duval, Flagler, Nassau, and St. Johns
Region 5	Hardee, Highlands, Hillsborough, Manatee, Pasco, Pinellas, and Polk
Region 6	Brevard, Orange, Osceola, Seminole, and Volusia
Region 7	Charlotte, Collier, DeSoto, Glades, Hendry, Lee, and Sarasota
Region 8	Broward, Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie
Region 9	Miami-Dade and Monroe

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ATTACHMENT B SCOPE OF SERVICES



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ATTACHMENT B SCOPE OF SERVICES

B.4. Vendor Qualifications

To be considered for the Contract resulting from this solicitation the Vendor shall:

1. Employ and assign a licensed professional engineer specializing in electrical engineering who has at least 5 years of experience working on projects at hospitals or nursing homes (averaging 5 or more projects per year),
2. Have at least 5 years of experience working on projects at hospitals or nursing homes (averaging 5 or more projects per year),
3. Have designed the electrical portion and performed construction administration on at least 15 projects submitted to the Office of Plans and Construction in the past 10 years, and,
4. Have designed the electrical portion and performed construction administration on at least ten (10) installations of a level I Emergency Power Supply Systems, as evidenced in **Attachment A**, Instructions and Special Conditions, **Exhibit A-2-a**, Required Vendor and Key Staff Certification.

B.5. Reporting Requirements

A. Ad Hoc Analysis and Reports

All Plan Review reports shall be transmitted to OPC no later than ten (10) business days after the date the plans were received from OPC.

All Survey reports shall be transmitted to OPC no later than five (5) business days after the date of the survey.

B.6. Customer Service

The Vendor shall return all telephone calls received after normal business hours on the following business day.

B.7. Vendor Staffing

A. General Staffing Requirements

1. The Vendor shall conduct all aspects of the resulting Contract in a timely, efficient, productive, consistent, courteous, and professional manner as representatives of the State. The Vendor shall recruit highly qualified staff to provide all aspects of the services required by the resulting Contract.
2. The Vendor shall maintain copies of qualifications, including current licenses and board certifications if applicable, for staff and sub-contracted personnel in a centralized administrative file.
3. In the event the Agency determines the Vendor's staff or staffing levels are not sufficient to properly complete the services specified in this solicitation and the

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resulting Contract, it shall advise the Vendor in writing. The Vendor shall have thirty (30) calendar days to remedy the identified staffing deficiencies.

4. The Vendor shall make its staff available to meet with Agency staff on a schedule, as agreed to by the Agency and the Vendor, to review reports and all other obligations under the resulting Contract as requested by the Agency. The Vendor shall meet in person or by telephone at the request of the Agency, at least monthly, to discuss the status of the resulting Contract, Vendor performance, benefits to the Agency, necessary revisions, reviews, reports, and planning.
5. The Vendor shall notify the Agency in writing of any key staff resignations, dismissals, or personnel changes within one (1) business day of the occurrence. Should the Contract Manager position become vacant, the Vendor shall notify the Agency immediately and provide information on the replacement within ten (10) business days.
6. The Vendor shall have staff available at its office location during normal business hours. Normal business hours are defined as 8:00 AM to 5:00 PM, ET, Monday through Friday, excluding State of Florida observed holidays. Staff who are approved to telecommute shall still be physically located in the State of Florida, unless approved by the Agency.

B. Key Staff

For purposes of this solicitation and the resulting Contract, the following positions are considered key staffing positions:

1. Contract Manager

- a. The Vendor shall employ one (1) Contract Manager. The Contract Manager shall be responsible for coordinating all activities between the Agency and the Vendor as named in **Attachment A**, Instructions and Special Conditions, **Exhibit A-2-a**, Required Vendor and Key Staff Certification.
- b. The Contract Manager shall have the ability to recruit, select, and maintain experienced and qualified staff. The Contract Manager shall possess the authority to revise processes or procedures and assign additional resources as needed to maximize the efficiency and effectiveness of services required under the resulting Contract.

2. Electrical Engineer

- a. The electrical engineer must be a licensed professional engineer specializing in electrical engineering who has at least five (5) years of experience working on projects at hospitals or nursing homes (averaging five (5) or more projects per year), as shown in **Attachment A**, Instructions and Special Conditions, **Exhibit A-2-a**, Required Vendor and Key Staff Certification.

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B.8. Corporate Capability/Service Location

The Vendor shall establish a State of Florida site/office(s) location where all required Vendor responsibilities identified in this solicitation, and resulting Contract shall be performed for the duration of the resulting Contract. The Agency must prior approve any changes to the Vendor office location or when any of the Vendor contractual obligations shall be performed at a different site other than the designated office location.

B.9. System Functionality

- A.** The Vendor shall have facsimile and scanning capability, email capability, and provide the Agency on-line access to the Vendor databases, reports, and other information related to the Program at no cost to the Agency.
- B.** Any instances of system down time shall be reported to the Agency immediately.

B.10. System Modifications

- A.** When the Vendor needs to upgrade or make changes to any part of its web based system, the changes must be scheduled to occur after 10:00 PM, ET and before 6:00 AM, ET, unless a different time is approved by the Agency. Agency staff shall be notified by e-mail twelve (12) hours prior to any scheduled maintenance.
- B.** The Agency reserves the right to request system changes or modifications not otherwise specified or required in this solicitation on an as needed basis. In the event that changes or modifications requested by the Agency would require additional staff commitment beyond that which is proposed by the Vendor in response to this solicitation, the Agency will allow the Vendor thirty calendar (30) days to provide a cost analysis of the changes and a timeline for completing the changes. If the Vendor's response is accepted by the Agency, the change or modification shall be reduced to writing in an amendment to the resulting Contract.

B.11. Database Creation

- A.** The Vendor shall develop and maintain HIPAA compliant database(s) necessary to support the requirements of the resulting Contract. The database and data developed as a result of this solicitation and the resulting Contract are the property of the Agency.
- B.** The Vendor shall provide the Agency with direct read-only access to its database(s). The Vendor shall provide training in the use of the database(s) and equipment required for Agency on-line access to the database(s). Agency staff shall be given access to the Vendor's database for the purpose of monitoring at no additional cost to the Agency.
- C.** The Vendor's database shall store processed claim data, provided by the Agency, against which a variety of analytic tools can be run. Based on the information stored in the database, the Vendor shall analyze historical data, recommend program changes, and provide customized reports upon request.

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B.12. Data Exchange

- A.** The Vendor shall be able to receive data and other information, from the Agency or its designee, on a daily basis.
- B.** The Vendor shall become knowledgeable of the field definitions related to the data being sent from the Agency and/or its agents.
- C.** Upon the Agency's request, the Vendor shall make data samples available to the Agency or its designee. Criteria for inclusion in any data sample requested will be provided by the Agency. The data sample may include elements previously sent from the Agency or its designee and data collected by the Vendor. This data may be used for ad hoc reporting, program monitoring and quality assurance activities by the Agency. The Vendor shall provide the data in a format prescribed by the Agency.

B.13. Quality Assurance/Internal Quality Control (IQC) Program

- A.** The Vendor shall develop and provide a complete internal quality control (IQC) plan to ensure appropriate administration of all responsibilities specified in this solicitation and the resulting Contract. The Vendor shall specify all components of its internal quality control plan. The Vendor shall submit its IQC plan in accordance with the Agency approved implementation plan.
- B.** The administrative requirements of the IQC program shall include, at a minimum:
 - 1.** How the Vendor shall ensure that all functions are performed timely in accordance with this solicitation;
 - 2.** Staff that shall be responsible for the IQC activities and the staff's qualifications;
- C.** The Agency reserves the right to direct the Vendor to make modifications and/or additions to the Vendor's IQC program/plan, as needed.
- D.** The Vendor shall submit to the Agency a quarterly report of its IQC activities and findings in accordance with this Section.
- E.** The Vendor shall have a written policy for escalation of technical problems or manpower problems or shortages that threaten to, or actually prevent, the meeting of the Vendor's quality and/or timeliness requirements. The policy shall require escalation of the problem within the Vendor's organization if not resolved in a timely manner and shall call for disciplinary action for any staff that does not perform according to the escalation policy.
- F.** The Vendor's IQC program, as approved by the Agency and based on the IQC plan, shall become effective no later than thirty (30) calendar days following execution of the Contract resulting from this solicitation.

B.14. Deliverables

The Vendor shall conduct Plan Reviews and/or Surveys as outlined in **Table 1**, Deliverables, below. The Vendor shall utilize **Exhibit B-1**, Project Comments/Deficiencies, to submit Plan Reviews and/or Surveys to the Agency's Contract Manager by the dates indicated. The Agency

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reserves the right to request modification of the deliverables, as deemed necessary by the Agency, prior to approval. Deliverable due dates may be modified, if approved in writing, in advance by the Agency. Payment shall be issued to the Vendor per Plan Review and/or Survey completed based on the information provided in **Exhibit A-3**, Cost Proposal.

The Agency reserves the right to include additional deliverables based on the Agency's review of the Vendor's response to this solicitation.

TABLE 1 DELIVERABLES	
Deliverable Requirement	Due Date
Plan Review(s) shall be completed pursuant to the direction outlined in Attachment B , Scope of Services, Section B.3. , Services Provided by the Vendor, Item A . Plan Review - Construction Document Plan Review of Proposed Standby Power Systems at Nursing Homes.	All Plan Review reports shall be transmitted to OPC no later than ten (10) business days after the date the plans were received from OPC.
Survey(s) shall be completed pursuant to the direction outlined in Attachment B , Scope of Services, Section B.3. , Services Provided by the Vendor, Item B. , Survey - Onsite Inspection of Nursing Home Generator Installations.	All Survey reports shall be transmitted to OPC no later than five (5) business days after the date of the survey.

B.15. Program Performance Standards and Liquidated Damages

- A.** The Agency may impose liquidated damages as identified in **Attachment A**, Instructions and Special Conditions, **Section H.**, Performance Standards and Liquidated Damages, when the Vendor has failed to meet the performance standard requirements.
- B.** In the event the Agency identifies a violation of the resulting Contract, or other non-compliance with the resulting Contract, the Agency shall notify the Vendor of the occurrence in writing. The Agency shall provide the Vendor with a timeframe for corrections to be made.

B.16. Prohibition of Marketing

The Vendor shall not market Vendor business interests to providers, recipients and/or enrollees.

B.17. Program Definitions and Acronyms

AD HOC - A report designed for a specific purpose, case or situation.

PERFORMANCE STANDARDS - The criteria by which Vendor performance is measured.

**ATTACHMENT B
SCOPE OF SERVICES**

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**EXHIBIT B-1
PROJECT COMMENTS/DEFICIENCIES**

Facility Name: _____
Project Name: _____
Client Code / File # -Project-Sub #: _____
Sub Type: _____
Date: _____

GENERAL:

G-1 PAGE OR SHEET #:

COMMENT DESCRIBING THE OBSERVED DEFICIENCY. SPECIFIC CODE OR STANDARD REFERENCED.

ARCHITECTURAL:

A-1 PAGE OR SHEET #:

COMMENT DESCRIBING THE OBSERVED DEFICIENCY. SPECIFIC CODE OR STANDARD REFERENCED.

MECHANICAL:

M-1 PAGE OR SHEET #:

COMMENT DESCRIBING THE OBSERVED DEFICIENCY. SPECIFIC CODE OR STANDARD REFERENCED.

ELECTRICAL:

E-1 PAGE OR SHEET #:

COMMENT DESCRIBING THE OBSERVED DEFICIENCY. SPECIFIC CODE OR STANDARD REFERENCED.

**EXHIBIT B-1
PROJECT COMMENTS/DEFICIENCIES**

EXAMPLE

Facility Name: XXX
Project Name: XXX
Client Code / File # -Project-Sub #: XXX
Sub Type: XXX
Date: XXX

GENERAL:

G-1 Provide a functional program detailing where the residents will be located during the loss of normal power.

ARCHITECTURAL:

No Comments

MECHANICAL:

No Comments

ELECTRICAL:

E-1 Sheet E112:

The level I emergency generator must be protected from debris impact. See Florida Building Code – Building 6th Edition 450.4.2.5.4