

**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
REQUEST FOR INFORMATION**

BANKING SERVICES

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I. GENERAL INFORMATION

A. Purpose

This is a Request for Information (RFI) as defined in Section 287.012(22), Florida Statutes (F.S.), for planning purposes. This RFI is issued by the State of Florida, Agency for Health Care Administration (Agency), to solicit information regarding available providers for the services described herein.

An RFI is not a method of procurement. Responses to an RFI are not offers and shall not be accepted by the Agency to form a binding contract. This RFI and responses to it shall not result in the execution of a contract with the Agency. By submitting a response to this RFI, a Vendor is not prohibited from responding to any related subsequent solicitation. This RFI may be used for purposes of determining whether or not to competitively procure a commodity or contractual service, determining what solicitation process to use, or researching general, special, and/or technical specifications for a solicitation. The Agency reserves the right to utilize the information gathered through the RFI process to develop a scope of services, which may be incorporated into a contract using a statutorily approved method of procurement.

B. Background

The Agency is seeking information from entities with experience in providing banking services on a day-to-day basis to large commercial customers. The banking services will be needed to carry out the functions of the Florida Medicaid Disbursement Account (Account). Annual disbursements from this Account are over **\$25 billion** and respondents must be of sufficient size to handle this volume.

The Account, at a minimum, must be able to:

1. Accept funding from Special Purpose Investment Account to cover daily presentments;
2. Accept incoming Federal Reserve Wires;
3. Allow for outgoing Federal Reserve Wires;
4. Allow for Controlled Automated Clearing House (ACH) Disbursements;
5. Allow for Controlled Check Disbursements;
6. Provide all necessary reports/data to ensure that the payment process is in balance, appropriate, and complete;
7. Offer any fraud prevention services available for accounts utilizing Federal Reserve Wires, ACH Disbursement, Paper Check Disbursement, and similar services not specifically described or requested;

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8. Provide customizable online access to authorized individuals allowing for appropriate controls;
9. Maintain system accessibility and backups consistent with best practices; and
10. Provide disaster recovery check printing capabilities if the Agency is unable to print checks.

The Agency has historically experienced the following average levels of activity:

1. Controlled disbursement (paper checks): Three hundred fifty (350) to Five hundred (500) payments per week;
2. ACH disbursements: Twelve thousand (12,000) payments per week; and
3. Outgoing Federal Reserve Wires: Five (5) to Ten (10) per month.

A solicitation for banking services previously issued by the Agency garnered fewer responses than anticipated. The Agency is requesting information from potential respondents, identifying and commenting on the specific provisions in the Agency's standard procurement documents listed below that would prevent providers of banking services from submitting a bid or proposal for the banking services outlined above. The following attachments are provided:

Attachment I, AHCA Standard Contract;
Attachment II, Scope of Services; and
Attachment III, Required Certifications and Statements.

These attachments are available for download at:
<http://ahca.myflorida.com/Procurements/index.shtml>

These attachments are provided as Microsoft Word documents and have been locked for Tracked Changes to allow respondents to this RFI the ability to notate the specific provisions that would prevent submission of a bid or proposal with suggested edits and comments.

II. RFI RESPONSE INSTRUCTIONS

Respondents to this RFI are asked to be thorough, but concise. The response should include the following:

- A.** The respondent's name; place of business address(s); Website address, if applicable; and contact information, including representative name and alternate, with telephone number(s) and e-mail address(s);
- B.** A statement of interest in the services outlined in this RFI, including an outline of a specific product, concept, technology, or approach that would meet the goals and requirements described in this RFI;

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- C. A brief description of the respondent's business and its experience as it relates to the services outlined in this RFI;
- D. A description of how the respondent's approach will offer advantages or improvements. The description should also identify known or potential concerns with the approach; and
- E. Each attachment (**Attachment I**, Standard Contract, **Attachment II**, Scope of Services, and **Attachment III**, Required Certifications and Statements), noting which provision would prevent submission of a bid or proposal and the reason this particular provision would prevent submission.

III. PUBLIC RECORDS EXEMPTIONS, TRADE SECRET OR PROPRIETARY INFORMATION

Any portion of the submitted Response which is asserted to be exempt from disclosure under Chapter 119, F.S., shall be clearly marked "exempt", "confidential", or "trade secret" (as applicable) and shall also contain the statutory basis for such claim on every page. Pages containing trade secret shall be marked "trade secret as defined in Section 812.081, F.S.". Failure to segregate and identify such portions shall constitute a waiver of any claimed exemption and the Agency will provide such records in response to public records requests without notifying the Respondent. Designating material simply as "proprietary" will not necessarily protect it from disclosure under Chapter 119, F.S. An entire Response should not be considered trade secret. 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 for Health Care Administration, its employees and its representatives, for the release or disclosure of trade secret information not so identified.

IV. RESPONSE SUBMISSION

Respondents to this RFI shall submit one (1) electronic copy of its response. The response shall include a narrative that shall not exceed ten (10) pages in length, and the provided attachments, as detailed in **Section II.**, RFI Response Instructions, above. The electronic format shall be submitted via e-mail. The software used to produce the electronic files must be Microsoft Word 2016 and/or Excel 2016. The electronic files must be logically named.

The respondent shall **also** submit via e-mail one (1) electronic **redacted** copy of the response suitable for release to the public. Any confidential or trade secret information covered under Section 812.081, F.S., should be either redacted or completely removed. The redacted response shall be marked as the "redacted" copy and contain a transmittal letter authorizing release of the redacted version of the Response in the event the Agency receives a public records request.

Responses to this RFI shall be provided no later than **2:00 PM, Eastern Standard Time (EST), March 13, 2020**. Responses shall be e-mailed to solicitation.questions@ahca.myflorida.com.

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Responses shall be addressed to:

Emilly Leffler
Purchasing Administrator
Solicitation.questions@ahca.myflorida.com

After the Agency has received all responses to this RFI, the Agency, in its sole discretion, shall determine if a meeting with respondents is necessary to clarify the information received. In the event that the Agency decides to hold a meeting, the respondent (s) will be notified via email.

V. COSTS

Respondents are responsible for all costs associated with preparing a response to this RFI. The State of Florida, Agency for Health Care Administration, will not be responsible for any respondent costs associated with preparing a Response to this RFI.

VI. QUESTIONS

Questions concerning this RFI shall be submitted in writing via email to solicitation.questions@ahca.myflorida.com no later than **2:00 PM, EST, February 24, 2020**. The Agency will reply to all questions by **5:00 PM EST, March 4, 2020**.

All responses to questions received will be made, in writing, directly to the sender.

VII. AGENCY FOR HEALTH CARE ADMINISTRATION WEBSITE

Additional information about the Florida Agency for Health Care Administration can be found on the Agency's website at: <http://ahca.myflorida.com/>.

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**ATTACHMENT I
STANDARD CONTRACT**

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All respondents should review the contract language contained below. In responding to this solicitation, a respondent has agreed to accept the terms and conditions of the Contract contained in this Exhibit. Note: If the resulting Contract is funded with Federal funds, additional terms and conditions may be included at the time of contract award based on the specific Federal requirements.

THIS CONTRACT is entered into between the State of Florida, **AGENCY FOR HEALTH CARE ADMINISTRATION**, hereinafter referred to as the "**Agency**", whose address is 2727 Mahan Drive, Tallahassee, Florida 32308, and **VENDOR NAME** hereinafter referred to as the "**Vendor**", whose address is **VENDOR ADDRESS**, a (type of entity), to provide service description.

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I. THE VENDOR HEREBY AGREES:

A. General Provisions

1. To provide services according to the terms and conditions set forth in this Contract, **Attachment I**, Scope of Services, and all other attachments named herein which are attached hereto and incorporated by reference (collectively referred to herein as this "Contract").
2. To perform as an independent vendor and not as an agent, representative or employee of the Agency.
3. To recognize that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Contract.

B. Florida Department of State

To 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 this Contract.

C. MyFloridaMarketPlace

1. Each Vendor doing business with the State of Florida for the sale of commodities or contractual services as defined in Section 287.012, Florida Statutes (F.S.), shall register in MyFloridaMarketPlace, in compliance with Rule 60A-1.033, Florida Administrative Code (F.A.C.), unless exempt under Rule 60A-1.033(3), F.A.C.
2. This Contract has been exempted by the Florida Department of Management Services from paying the transaction fee per Rule 60A-1.031(4)(a and b), F.A.C.

D. Federal Laws and Regulations

1. This Contract contains Federal funds, therefore, the Vendor shall comply with all applicable Federal requirements pertaining to procurement, including but not limited to Chapter 2 of the Code of Federal Regulations (CFR) and any other final or interim rules.
2. This Contract contains Federal funding in excess of **\$100,000.00**, therefore, the Vendor must, upon Contract execution, complete the Certification Regarding Lobbying Form, **Attachment III**. If a Disclosure of Lobbying Activities Form, Standard Form LLL, is required, it may be obtained from the Agency's Contract Manager. All disclosure forms as required by the Certification Regarding Lobbying Form must be completed and returned to the Agency's Procurement Office.
3. Pursuant to 2 CFR 376, the Vendor must, upon Contract execution, complete the Certification Regarding Debarment, Suspension, Ineligibility, and

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Voluntary Exclusion Contracts/Subcontracts Form, **Attachment IV.**

E. Prohibition of Gratuities

To certify that no elected official or employee of the State of Florida has or shall benefit financially or materially from this Contract in violation of the provisions of Chapter 112, F.S. This Contract may be terminated if it is determined that gratuities of any kind were either offered or received by any of the aforementioned parties.

F. Audits/Monitoring

1. The Agency may conduct, or have conducted, performance and/or compliance reviews, reviews of specific records or other data as determined by the Agency. The Agency may conduct a review of a sample of analyses performed by the Vendor to verify the quality of the Vendor's analyses. Reasonable notice shall be provided for reviews conducted at the Vendor's place of business.
2. Reviews may include, but shall not be limited to, reviews of procedures, computer systems, recipient records, accounting records, and internal quality control reviews. The Vendor shall work with any reviewing entity selected by the Agency.
3. During this Contract period, these records shall be available at the Vendor's office at all reasonable times. After this Contract period and for ten (10) years following, the records shall be available at the Vendor's chosen location subject to the approval of the Agency. If the records need to be sent to the Agency, the Vendor shall bear the expense of delivery. Prior approval of the disposition of the Vendor and subcontractor records must be requested and approved by the Agency. This obligation survives termination of this Contract.
4. The Vendor shall comply with all applicable Federal requirements pertaining to procurement, including but not limited to Chapter 2 of the CFR and any other final or interim rules with respect to audit requirements of Federal contracts administered through State and local public agencies.
5. The Vendor shall maintain and file with the Agency such progress, fiscal and inventory reports as specified in **Attachment I**, Scope of Services, and other reports as the Agency may require within the period of this Contract. In addition, access to relevant computer data and applications which generated such reports should be made available upon request.
6. The Vendor shall ensure that all related party transactions are disclosed to the Agency Contract Manager.
7. The Vendor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.
8. The Vendor shall submit a SSAE 16 SOC 2 report on a yearly basis to the Agency Contract Manager.

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G. Inspection of Records and Work Performed

1. The Agency and its authorized representatives shall, at all reasonable times, have the right to enter the successful Vendor's premises, or other places where duties under this Contract 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 Contract for a period of ten (10) years after termination of this Contract, 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 Contract performance shall constitute a breach of this Contract.
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 Contract. The Vendor is also responsible for the destruction of all records that meet the retention schedule noted above.
6. Failure to retain all records as required may result in cancellation of this Contract. 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 Contract. Performance by the Agency of any of its obligations under this Contract shall be subject to the successful 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.

H. Accounting

1. To maintain an accounting system and employ accounting procedures and practices that conform to generally accepted accounting principles and

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standards or other comprehensive basis of accounting principles as acceptable to the Agency. For costs associated with specific contracts under which the Agency must account to the federal government for actual costs incurred, the costs and charges for that contract will be determined in accordance with generally accepted accounting principles.

2. To submit annual financial audits (or parent organization's annual financial audits with organizational chart) to the Agency within thirty (30) calendar days of receipt.

I. Public Records Requests

1. To comply with Section 119.0701, F.S., if applicable, and all other applicable parts of the Florida Public Records Act.
2. To keep and maintain public records that ordinarily and necessarily would be required in order to perform services under this Contract.
3. To 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.
4. To 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.
5. To 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 this Contract term and following completion of this Contract if the Vendor does not transfer the records to the Agency.
6. To 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.
7. To 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 this 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.
8. If the Vendor does not comply with a public records request, the Agency shall enforce Contract provisions in accordance with this Contract.

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- 9. IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THIS CONTRACT. THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THIS CONTRACT IS THE CONTRACT MANAGER.**

J. Communications

1. Notwithstanding any term or condition of this Contract to the contrary, the Vendor bears sole responsibility for ensuring that its performance of this Contract fully complies with all State and Federal law governing the monitoring, interception, recording, use or disclosure of wire, oral or electronic communications, including but not limited to the Florida Security of Communications Act, Section 934.01, et seq., F.S.; and the Electronic Communications Privacy Act, 18 U.S.C. Section 2510 et seq. (hereafter, collectively, "Communication Privacy Laws").
2. Prior to intercepting, recording or monitoring any communications which are subject to Communication Privacy Laws, the Vendor must:
 - a. Submit a plan which specifies in detail the manner in which the Vendor will ensure that such actions are in full compliance with Communication Privacy Laws (the "Privacy Compliance Plan"); and
 - b. Obtain written approval, signed and notarized by the Agency Contract Manager, approving the Privacy Compliance Plan.
3. No modifications to an approved Privacy Compliance Plan may be implemented by the Vendor unless an amended Privacy Compliance Plan is submitted to the Agency, and written approval of the amended Privacy Compliance Plan is signed and notarized by the Agency Contract Manager. Agency approval of the Vendor's Privacy Compliance Plan in no way constitutes a representation by the Agency that the Privacy Compliance Plan is in full compliance with applicable Communication Privacy Laws, or otherwise shifts or diminishes the Vendor's sole burden to ensure full compliance with applicable Communication Privacy Laws in all aspects of the Vendor's performance of this Contract. Violation of this term may result in sanctions to include termination of this Contract and/or liquidated damages.
4. The Vendor agrees that it is the custodian of any and all recordings for purposes of the Public Records Act, Chapter 119, F.S., and is solely responsible for responding to any public records requests for recordings. This responsibility includes gathering, redaction, duplication and provision of the recordings as well as defense of any actions for enforcement brought pursuant to Section 119.11, F.S.

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K. Background Screening

1. To 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, 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.
3. If the Vendor employee or managing employee was employed prior to the execution of this 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 any 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 U.S.C. 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 this Contract by the Vendor unless an exemption is granted.
5. Direct access is defined as having, or expected to have, duties that involve access to PII, PHI, or financial information by any means including, but not limited to, network shared drives, email, telephone, mail, computer systems, and electronic or printed reports.
6. To ensure that all Vendor employees including managing employees that have direct access to any PII, PHI or financial information have a County, State, and Federal criminal background screening comparable to a level 2 background screening completed with results every five (5) years.
7. To develop and submit policies and procedures related to this criminal background screening requirement to the Agency for review and approval within thirty (30) calendar days of this Contract execution. The Vendor's policies and procedures shall include a procedure to grant an exemption from disqualification for disqualifying offenses revealed by the background screening, as described in Section 435.07, F.S.
8. To keep a record of all background screening records to be available for Agency review upon request.

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9. Failure to comply with background screening requirements shall subject the Vendor to liquidated damages as described **Attachment I**, Scope of Services.

L. 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.
3. To ensure that each of its employees or subcontractors who performs activities related to the services associated with this Contract will report to the Agency any health care facility that is the subject of these services that may have violated the law. To report concerns pertaining to a health care facility, the Vendor employee or subcontractor may contact the Agency Complaint Hotline by calling 1-888-419-3456 or by completing the online complaint form found at <https://apps.ahca.myflorida.com/hcfc>.
4. To ensure that each of its employees or subcontractors who performs activities related to the services associated with this Contract, will report to the Agency areas of concern relative to the operation of any entity covered by this Contract. To report concerns, the Vendor employee or subcontractor may contact the Agency Complaint Hotline by calling 1-877-254-1055 or by completing the online complaint form found at https://apps.ahca.myflorida.com/smmc_cirts/.
5. Reports which represent individuals receiving services are at risk for, or have suffered serious harm, impairment, or death shall be reported to the Agency immediately and no later than twenty four (24) clock hours after the observation is made. Reports that reflect noncompliance that does not rise to the level of concern noted above shall be reported to the Agency within ten (10) calendar days of the observation.

M. Indemnification

The Vendor agrees to indemnify, defend, and hold harmless the Agency, as provided in this Clause.

1. Scope. The Duty to Indemnify and the Duty to Defend, as described herein (collectively known as the "Duty to Indemnify and Defend"), extend to any completed, actual, pending or threatened action, suit, claim or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Vendor), and whether formal or informal, in which the Agency is, was or becomes involved and which in any way arises from, relates to or concerns the Vendor's acts or omissions related to this Contract (inclusive of all attachments, etc.) (collectively "Proceeding").

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- a. Duty to Indemnify. The Vendor agrees to hold harmless and indemnify the Agency to the full extent permitted by law against any and all liability, claims, actions, suits, judgments, damages and costs of whatsoever name and description, including attorneys' fees, arising from or relating to any Proceeding.
 - b. Duty to Defend. With respect to any Proceeding, the Vendor agrees to fully defend the Agency and shall timely reimburse all of the Agency's legal fees and costs; provided, however, that the amount of such payment for attorneys' fees and costs is reasonable pursuant to rule 4-1.5, Rules Regulating The Florida Bar. The Agency retains the exclusive right to select, retain and direct its defense through defense counsel funded by the Vendor pursuant to the Duty to Indemnify and Defend the Agency.
2. Expense Advance. The presumptive right to indemnification of damages shall include the right to have the Vendor pay the Agency's expenses in any Proceeding as such expenses are incurred and in advance of the final disposition of such Proceeding.
 3. Enforcement Action. In the event that any claim for indemnity, whether an Expense Advance or otherwise, is made hereunder and is not paid in full within sixty (60) calendar days after written notice of such claim is delivered to the Vendor, the Agency may, but need not, at any time thereafter, bring suit against the Vendor to recover the unpaid amount of the claim (hereinafter "Enforcement Action"). In the event the Agency brings an Enforcement Action, the Vendor shall pay all of the Agency's attorneys' fees and expenses incurred in bringing and pursuing the Enforcement Action.
 4. Contribution. In any Proceeding in which the Vendor is held to be jointly liable with the Agency for payment of any claim of any kind (whether for damages, attorneys' fees, costs or otherwise), if the Duty to Indemnify provision is for any reason deemed to be inapplicable, the Vendor shall contribute toward satisfaction of the claim whatever portion is or would be payable by the Agency in addition to that portion which is or would be payable by the Vendor, including payment of damages, attorneys' fees and costs, without recourse against the Agency. No provision of this part or of any other section of this Contract (inclusive of all attachments, etc.), whether read separately or in conjunction with any other provision, shall be construed to: (i) waive the State or the Agency's immunity to suit or limitations on liability; (ii) obligate the State or the Agency to indemnify the Vendor for the Vendor's own negligence or otherwise assume any liability for the Vendor's own negligence; or (iii) create any rights enforceable by third parties, as third party beneficiaries or otherwise, in law or in equity.

N. Insurance

1. To the extent required by law, the Vendor shall be self-insured against, or shall secure and maintain during the life of this Contract, Worker's Compensation

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Insurance for all its employees connected with the work of this Contract and, in case any work is subcontracted, the Vendor shall require the subcontractor similarly to provide Worker's 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 Worker's 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 Worker's 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 and 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, or indirectly employed by it. Such insurance shall include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of this 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.
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.
4. The Vendor shall submit insurance certificates evidencing such insurance coverage prior to execution of this Contract.

O. Assignments and Subcontracts

To neither assign the responsibility of this Contract to another party nor subcontract for any of the work contemplated under this Contract without prior written approval of the Agency. No such approval by the Agency of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Agency in addition to the total dollar amount agreed upon in this Contract. All such assignments or subcontracts shall be subject to the conditions of this Contract and to any conditions of approval that the Agency shall deem necessary.

P. Subcontracting

1. To not subcontract, assign, or transfer any work identified under this Contract, without prior written consent of the Agency.

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2. To not subcontract with any provider that would be in conflict of interest to the Vendor during the term of this Contract in accordance with applicable Federal and/or State laws.
3. Changes to approved subcontracts and/or subcontractors require approval in writing by the Agency's Contract Manager prior to the effective date of any subcontract.
4. The Agency encourages Vendors to partner with subcontractors who can provide best value and the best in class solutions. However, the Vendor is responsible for all work performed under this Contract. No subcontract that the Vendor enters into with respect to performance under this Contract shall in any way relieve the Vendor of any responsibility for performance of its duties. The Vendor shall assure that all tasks related to the subcontract are performed in accordance with the terms of this Contract. If the Agency determines, at any time, that a subcontract is not in compliance with a Contract requirement, the Vendor shall promptly revise the subcontract to bring it into compliance. In addition, the Vendor may be subject to sanctions and/or liquidated damages pursuant to this Contract and Section 409.912(6), F.S. (related to sanctions).
5. All payments to subcontractors will be made by the Vendor.
6. To be responsible for monitoring the subcontractor's performance. The results of the monitoring shall be provided to the Agency's Contract Manager, fourteen (14) business days after the end of each month or as specified by the Agency. If the subcontractor's performance does not meet the Agency's performance standard according to the Agency's monitoring report or the Vendor's monitoring report, an improvement plan must be submitted to the Vendor and the Agency within fourteen (14) business days of the deficient report.
7. The State supports and encourages supplier diversity and the participation of small and minority business enterprises in State contracting, both as Vendors and subcontractors. The Agency supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this Contract enthusiastically embrace diversity. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. Vendors can contact the Office of Supplier Diversity at (850) 487-0915 or online at <http://osd.dms.state.fl.us/> for information on minority Vendors who may be considered for subcontracting opportunities.
8. A minority owned business is defined as any business enterprise owned and operated by the following ethnic groups: African American (Certified Minority Code H or Non-Certified Minority Code N); Hispanic American (Certified Minority Code I or Non-Certified Minority Code O); Asian American (Certified Minority Code J or Non-Certified Minority Code P); Native American (Certified Minority Code K or Non-Certified Minority Code Q); or American Woman (Certified Minority Code M or Non-Certified Minority Code R).

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Q. 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.

R. 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, F.S., if available, in the same manner and under the same procedures set forth in Section 946.515(2) and (4), F.S.; 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
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, F.S., in the same manner and under the same procedures set forth in Section 413.036(1) and (2), F.S.; 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.

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

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(850) 487-1471

www.respectofflorida.org

S. 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, F.S.

T. 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 United States Code (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, Public Law (P.L.) 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
7. Chapter 409, F.S.
8. Rule 62-730.160, F.A.C. pertaining to standards applicable to generators of hazardous waste.
9. All applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 United States Code (U.S.C.) 7401 et seq.
10. The Medicare-Medicaid Fraud and Abuse Act of 1978.
11. Other Federal omnibus budget reconciliation acts.
12. The Balanced Budget Act of 1997.
13. All regulations, guidelines, and standards as are now or may be lawfully

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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.

U. Equal Employment Opportunity (EEO) Compliance

To not discriminate in its employment practices with respect to race, color, religion, age, sex, marital status, political affiliation, national origin, or handicap.

V. Discrimination

Pursuant to Section 287.134(2)(a), F.S., 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 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. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

W. 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, F.S. The Agency may establish rates lower than the maximum provided in Section 112.061, F.S.
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.
5. This Contract shall begin upon execution by both Parties or **BEGIN DATE**, (whichever is later) and end on **END DATE**, inclusive.

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6. In accordance with Section 287.057(13), F.S., 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 this 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.
7. If this Contract is renewed, it is the Agency's policy to reduce the overall payment amount by the Agency to the Vendor by at least five percent (5%) during the period of this Contract renewal, unless it would affect the level and quality of services.
8. 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 Article I of the State Constitution and the Florida Public Records Act, Chapter 119, F.S.
9. To comply with Patents, Royalties, Copyrights, Right to Data, and Works for Hire/Software requirements as follows:
 - a. 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.
 - b. 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).
 - c. 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.

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- d. 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 Sub-Section.
- e. 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.
- f. Where activities supported by this Contract produce original writing, sound 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, F.S., 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.
- g. 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.
- h. 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.
- i. The computer programs, data, materials and other information furnished by the Agency to the Vendor hereunder shall be and remain

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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, F.S., 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.

- j. The Vendor warrants that all materials produced hereunder shall be of original development by the Vendor and shall be specifically developed for the fulfillment of this Contract and shall 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.
- k. The terms and conditions specified in this Sub-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 Sub-Section and obtaining disclosures.

- 10. 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.

X. Sponsorship

Pursuant to Section 286.25, F.S., all non-governmental Vendors must assure that all notices, information pamphlets, press releases, advertisements, descriptions of the sponsorship of the program, research reports, and similar public notices prepared and released by the Vendor shall include the Statement: "**Sponsored by (name of Vendor) and the State of Florida, Agency for Health Care Administration.**" If the sponsorship reference is in written material, the words, "State of Florida, Agency for Health Care Administration" shall appear in the same size letters or type as the name of the organization.

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Y. Final Invoice

The Vendor must submit the final invoice for payment to the Agency no more than **NUMBER** calendar days after this 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.

Z. Use of Funds for Lobbying Prohibited

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

AA. 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, F.S., for category two, for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

BB. 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 **Attachment II**, Business Associate Agreement.
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.

CC. Confidentiality of Information

1. The Vendor shall not use or disclose any confidential information, including

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social security numbers that may be supplied under this Contract pursuant to law, and also including the identity or identifying information concerning a Medicaid recipient or services under this Contract 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 Contract. 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 Contract, and is exchanged only for the purpose of conducting a review or other duties outlined in this Contract.
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 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.

DD. Employment

The Vendor shall comply with Section 274A 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.

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EE. 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 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.

FF. Scrutinized Companies Lists

Pursuant to Section 287.135, F.S. the Vendor certifies that:

1. If this Contract reaches or exceeds **\$1,000,000.00**, it has not been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and does not have business operations in Cuba or Syria; and
2. For contracts of any amount, it has not been placed on the Scrutinized Companies that Boycott Israel List and is not engaged in a boycott of Israel.

The Vendor agrees that the Agency may immediately terminate this Contract if the Vendor is found to have submitted a false certification or is placed on the lists defined in Sections 215.473 or 215.4725, F.S., or engages in a boycott of Israel, during the term of this Contract.

GG. Performance of Services

The Vendor shall ensure all services provided under this Contract will be performed within the borders of the United States and its territories and protectorates. State-owned Data will be processed and stored in data centers that are located only in the forty eight (48) contiguous United States.

HH. Venue

1. In the event of any legal challenges to this Contract, the Vendor agrees and will consent that hearings and depositions for any administrative or other litigation related to this Contract 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 Contract (including but not limited to exhibits, attachments, or amendments) is not a rule nor subject to rulemaking under Chapter 120 (or its successor) of the Florida Statutes and is

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not subject to challenge as a rule or non-rule policy under any provision of Chapter 120, F.S.

3. This Contract shall be delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this 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 prohibition or invalidity, that provision shall be severed without invalidating the remainder of such provision or the remaining provisions of this 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 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.

II. THE AGENCY HEREBY AGREES:

A. Contract Amount

To pay for contracted services according to the conditions of **Attachment I**, Scope of Services, in an amount not to exceed **\$AMOUNT**, subject to the availability of funds. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

B. Contract Payment

Section 215.422, F.S., 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, F.S., 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) 412-3858, 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 .0003333%. 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 Office of Financial Regulation Consumer Helpline, 1-877-693-5236.

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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 day's 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 this Contract upon no less than twenty four (24) clock 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 acceptable work performed up to the time notice of termination is received.

3. Termination for Breach

- a. 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) clock 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 Rule 60A-1.006(3), F.A.C.
- b. 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. Contract Managers

1. The Agency's Contract Manager's contact information is as follows:

Name
Agency for Health Care Administration
Address
City, State Zip Code
Phone Number

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

Name
Vendor Name
Address

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**City, State Zip Code
Phone Number**

3. All matters shall be directed to the Contract Managers for appropriate action or disposition. A change in Contract Manager by either Party shall be reduced to writing through an amendment to this Contract by the Agency.

C. 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 this 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.

3. Preferred Pricing

The Vendor represents and warrants that the prices and terms for its services under this Contract are no less favorable to the Agency than those for similar services under any existing contract with any other party. The Vendor further agrees that, within ninety (90) calendar days of the Vendor entering into a contract or contract amendment or offering to any other party services similar to those under this Contract under prices or terms more favorable than those provided in this Contract, the Vendor will report such prices and terms to the Agency, which prices or terms shall be effective as an amendment to this Contract upon the Agency's written acceptance thereof. Should the Agency discover such other prices or terms, the same shall be effective as an amendment to this Contract retroactively to the earlier of the effective date of this Contract (for other contracts in effect as of that date) or the date they were first contracted or offered to the other party (for subsequent contracts, amendments or offers) and any payment in excess of such pricing shall be deemed overpayments. The Vendor shall submit an affidavit no later than July 31st of each year during the term of this Contract attesting that the Vendor is in compliance with this provision, as required by Section 216.0113, F.S.

D. Name, Mailing and Street Address of Payee

1. The name (Vendor name as shown on Page 1 of this Contract) and mailing address of the official payee to whom the payment shall be made:

**Name
Vendor Name
Address
City, State Zip Code**

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

Name
Vendor Name
Address
City, State Zip Code

E. All Terms and Conditions

This Contract and its attachments as referenced herein contain all the terms and conditions agreed upon by the Parties.

This Contract is and shall be deemed jointly drafted and written by all Parties to it and shall not be construed or interpreted against the Party originating or preparing it. Each Party has the right to consult with counsel and has either consulted with counsel or knowingly and freely entered into this Contract without exercising its right to counsel.

IN WITNESS THEREOF, the Parties hereto have caused this **number** page Contract, which includes any referenced attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid until signed and dated by both Parties.

VENDOR NAME

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION**

**SIGNED
BY:** _____

**SIGNED
BY:** _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

FEDERAL ID NUMBER (or SS Number for an individual): **NUMBER**

VENDOR FISCAL YEAR ENDING DATE: **DATE**

List of Attachments included as part of this Contract:

Specify Type	Letter/ Number	Description
Attachment	I	Scope of Services (NUMBER Pages)
Attachment	II	Business Associate Agreement (4 Pages)
Attachment	III	Certification Regarding Lobbying (1 Page)
Attachment	IV	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Contracts/Subcontracts (1 Page)

ATTACHMENT I STANDARD CONTRACT

ATTACHMENT II

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.
 - a. 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.
 - b. 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) and comply with 45 C.F.R. 162 as applicable.
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,

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(2) the protected health 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. Privacy Protection. The Vendor shall permit an individual to request a restriction on the use and disclosure of protected health information about the individual to carry out treatment, payment, or health care operations; and disclosures permitted under 164.510(b) in accordance with 45 C.F.R. 164.522. The Vendor shall permit an individual to request to receive communications of protected health information from the Vendor by alternative means or at alternative locations in accordance with 45 C.F.R. 164.522.
10. 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.
11. 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.
 - a. To Agency. The Vendor will report to the Agency in the manner and format obtained from the Contract Manager or Agency contact, 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 in the manner and format obtained from the Contract Manager or Agency contact, within twenty-four (24) hours of discovery, any security incident of which the Vendor

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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.

- b. 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 review by 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 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 contact 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 for a period of at least 90 days 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.

- c. 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 review by the Agency, the Vendor shall provide notice to prominent media outlets serving the State, relevant portion of the State, or jurisdiction involved.

- d. 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 the Vendor, or a contractor or subcontractor of the Vendor, and the Vendor is a HIPAA covered entity, the Vendor, not the Agency, 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, at least 5 business days prior to filing notice with the Secretary of HHS the Vendor shall provide a copy of the notice and breach risk assessment to the Agency for review. Upon prior review by the Agency of the notice and breach risk assessment, the Vendor shall file the notice with the Secretary of HHS within the notification timeframe imposed by 45 C.F.R. 164.408(b) and contemporaneously submit a copy of said notification to the Agency. If the

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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 a copy of said notification to the Agency.

- e. Content of Notices. All notices required under this Attachment shall include the content set forth in 42 U.S.C. 17932(f) and 45 C.F.R. 164 Subpart D, except that references therein to a “covered entity” shall be read as references to the Vendor.
 - f. Financial Responsibility. The Vendor shall be responsible for all costs related to the notices required under this Attachment.
 - g. Other Reporting. The Vendor shall comply with any other applicable reporting requirements in conformity with federal and state laws. If notifications are made under any such laws, copies of said notifications shall be provided contemporaneously to the Agency.
12. 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.
13. 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 Attachment is included, and/or to terminate this Contract.
14. 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.

The Vendor has caused this Attachment to be signed and delivered by its duly authorized representative, as of the date set forth below.

VENDOR NAME

SIGNED
BY:

SAMPLE

DATE:

SAMPLE

NAME:

TITLE:

**ATTACHMENT I
STANDARD CONTRACT**

ATTACHMENT III

**CERTIFICATION REGARDING LOBBYING
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature _____

SAMPLE

Date _____

SAMPLE

Name of Authorized _____

Signature _____

Applicant _____

Contract _____

Number _____

Name and Address of Organization

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ATTACHMENT IV

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
CONTRACTS/SUBCONTRACTS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, signed February 18, 1986. The guidelines were published in the May 29, 1987, Federal Register (52 Fed. Reg., pages 20360-20369).

INSTRUCTIONS

1. Each Vendor whose contract/subcontract equals or exceeds \$25,000 in federal monies must sign this certification prior to execution of each contract/subcontract. Additionally, Vendors who audit federal programs must also sign, regardless of the contract amount. The Agency for Health Care Administration cannot contract with these types of Vendors if they are debarred or suspended by the federal government.
2. This certification is a material representation of fact upon which reliance is placed when this contract/subcontract is entered into. If it is later determined that the signer knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment.
3. The Vendor shall provide immediate written notice to the contract manager at any time the Vendor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "debarred," "suspended," "ineligible," "person," "principal," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the contract manager for assistance in obtaining a copy of those regulations.
5. The Vendor agrees by submitting this certification that, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract/subcontract unless authorized by the Federal Government.
6. The Vendor further agrees by submitting this certification that it will require each subcontractor of this contract/subcontract, whose payment will equal or exceed \$25,000 in federal monies, to submit a signed copy of this certification.
7. The Agency for Health Care Administration may rely upon a certification of a Vendor that it is not debarred, suspended, ineligible, or voluntarily excluded from contracting/subcontracting unless it knows that the certification is erroneous.
8. This signed certification must be kept in the contract manager's contract file. Subcontractor's certifications must be kept at the contractor's business location.

CERTIFICATION

- (1) The prospective Vendor certifies, by signing this certification, that neither he nor his principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract/subcontract by any federal department or agency.
- (2) Where the prospective Vendor is unable to certify to any of the statements in this certification, such prospective Vendor shall indicate the nature of the exception to this certification.

Signature

Date

SAMPLE

**ATTACHMENT II
SCOPE OF SERVICES**

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ATTACHMENT II SCOPE OF SERVICES

For purposes of this solicitation, the successful vendor shall be referred to as Vendor. The contract or purchase order resulting from this solicitation shall be referred to as Contract.

B.1. General Overview

The purpose of this solicitation is to procure the services of one qualified vendor (Vendor) to provide banking services and carry out the functions of the Florida Medicaid Disbursement Account, in accordance with the terms and conditions of this solicitation and the resulting Contract, hereinafter collectively referred to as "this Contract". In addition to the specific terms and conditions listed in this Contract, the Vendor shall make available to the Agency the normal services provided on a day-to-day basis to its largest commercial customers.

B.2. Services Provided by the Agency

The Agency shall provide:

- A.** Bank transfers from the Special Purpose Investment Account to the Vendor to cover the daily presentments;
- B.** Verification of all bank invoices to assure services are being performed;
- C.** Electronic Funds Transfer and positive pay files to the Vendor;
- D.** Wire transfers to the Vendor;
- E.** Verification of all necessary reports to ensure that the payment process is in balance and appropriate;
- F.** The release of funds for deposit made to the Florida Medicaid Disbursement account for funding provider payments;
- G.** Notification to the Vendor when wires are over the daily limit of **\$120 million**.

B.3. Services Provided by the Vendor

A. Manner of Service(s) Provision:

The specifications included in this section are intended to inform the Vendor of the minimum expectations of the Agency. The Vendor may expand on the minimum requirements as specified upon Agency approval:

1. Operations Policy and Procedure Manual

- a.** The Vendor shall develop and maintain operational policy and procedure manual(s) for all aspects of the resulting Contract to be approved by the Agency prior to implementation by the Vendor in accordance with the Agency approved implementation plan.
- b.** The Agency reserves the right to direct the Vendor to amend or update its operational policy and procedure manual(s) at no additional cost to the Agency.

ATTACHMENT II SCOPE OF SERVICES

- c. The operational policy and procedure manual(s) shall be a guide to assist the Vendor in conducting all aspects of operation of the resulting Contract.
- d. The Vendor shall make all aspects of the operational policy and procedure manual(s) available to the Agency at all times.
- e. The operational policy and procedure manual(s) shall be reviewed and updated on an as-needed basis. The Vendor shall submit amendments to the operational policy and procedure manual(s) to the Agency for prior approval before implementing a change in policy and procedure.

2. Implementation and General Requirements

a. Implementation Requirement for Project Plan

This requirement provides for a Project Plan, Test Plan for services, Solution Architecture and Design document, and Production Implementation Guide for implementation of Services provided to the Agency for approval within fifteen (15) days of execution of this Contract.

b. Implementation Requirement for Interface Files

- 1) Daily, the Agency and the Agency's Fiscal Agent transmit electronic funds transfer (EFT) and Positive Pay issue files to the Vendor. This function may require development of a Florida Accounting Information Resource (FLAIR) (or any successor system) interface, which the Agency considers a Developed Material, at no additional cost to the Agency.
- 2) Daily, the Agency requires an electronic transmission of paid checks and Automated Clearing House (ACH) files be sent to the Agency and the Agency's Fiscal Agent from the Vendor.
- 3) Daily, the Agency requires an electronic transmission of ACH Returns and Notice of Change files be sent from the Vendor to the Agency and the Agency's Fiscal Agent, for each respective account activity, requiring development of multiple interface files, which the Agency considers a Developed Material.

c. Implementation Requirement: Go Live

The interfaces must be fully operational before other banking services can commence. The Vendor shall submit the Developed Materials for the interface files, and proof of successful Acceptance Testing of the Developed Materials to the Agency Contract Manager for review and approval at least ten (10) business days prior to implementation. Agency acceptance of the Developed Materials shall not preclude the Agency from later identifying deficiencies after implementation.

ATTACHMENT II SCOPE OF SERVICES

Further, prior acceptance of a Developed Material or Deliverable shall not preclude the Agency from later declining to accept a subsequent deliverable that does not operate properly due to defects in the prior accepted Developed Material or deliverable. In this case, the prior accepted Developed Material or deliverable must be corrected prior to acceptance and payment of the subsequent deliverable.

If a particular service or deliverable as listed in **Exhibit B-1**, Deliverables and Performance Standards, **Table 1**, Deliverables and Performance Standards, is inadvertently omitted or not clearly specified in the Contract, but determined to be operationally necessary and verified to have been performed by the Agency within the twelve (12) months before the execution of the Contract resulting from this solicitation, such services or deliverable shall be provided by the Vendor and authorized through a contract amendment.

d. Test Plan for Services

1) Quality Assurance

Prior to delivering any Deliverable to the Agency, the Vendor will first perform any quality assurance activities necessary to verify that the Deliverable is complete and in conformance with its specifications. Prior to presenting a Deliverable to the Agency, the Vendor shall certify to the Agency that:

- a) The Vendor has performed such quality assurance activities;
- b) The Vendor has performed any applicable testing;
- c) The Vendor has corrected all material deficiencies discovered during such quality assurance activities and testing where applicable; and
- d) Deliverable is in a suitable state of readiness for the Agency's review and approval. The presentment of the Deliverable must contain documentation of all quality assurance activities applied including documentation of deficiencies or defects corrected.

2) Acceptance of Deliverables

- a) All Deliverables identified in **Exhibit B-1**, Deliverables and Performance Standards, **Table 1**, Deliverables and Performance Standards, require formal acceptance by the Agency. Formal acceptance will be accomplished by the Agency confirming in writing that the Deliverable meets its specifications.

ATTACHMENT II SCOPE OF SERVICES

- b) The Vendor will be responsible for working diligently to correct within thirty (30) business days at the Vendor's expense all deficiencies in the Deliverable that remain outstanding.
- c) If after three (3) opportunities (the original and two (2) repeat efforts), the Vendor is unable to correct all deficiencies preventing Agency acceptance of a Deliverable designated in the Project Plan, the Agency may:
 - (1) Demand that the Vendor cure the failure and give the Vendor additional time to cure the failure at the sole expense of the Vendor; or
 - (2) Keep this Contract in force and, either by itself or through other parties, do whatever the Vendor has failed to do, in which event the Vendor shall bear any excess expenditure incurred by the Agency in so doing beyond the Contract price for such Deliverable and will pay the Agency; or
 - (3) Terminate this Contract for default or material breach, either in whole or in part by notice to the Vendor (and without need to afford the Vendor any further opportunity to cure).
- d) For Operational Deliverables, Acceptance of a Deliverable by the Agency takes place when the Deliverable has been finally accepted in writing according to requirements listed in **Exhibit B-1**, Deliverables and Performance Standards, **Table 1**, Deliverables and Performance Standards.
- e) For Implementation Deliverables, Acceptance of a Developed Material after Acceptance Testing but before the Deliverable has been put into production (Interim Acceptance) shall be considered provisional for invoicing and payment. Interim Acceptance shall not preclude the Agency from later identifying deficiencies and declining to provide Final Acceptance on that basis. Further, prior Interim or Final Acceptance of a Deliverable shall not preclude the Agency from later declining to accept a subsequent Deliverable that does not operate properly due to defects in the prior Accepted Deliverable. In this case, the prior Accepted Deliverable must be corrected prior to acceptance of the subsequent Deliverable.

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- 3) Process for Acceptance of Implementation Deliverables
 - a) Upon delivery of each Implementation Deliverable, the Agency will conduct testing to determine whether the Deliverable meets the criteria for Agency Acceptance.
 - b) The Agency, at any time and at its discretion and at no additional cost to the Agency, may halt the testing or acceptance process if such test or process reveals deficiencies in or problems with a Deliverable. In such case, the Agency may return the applicable Deliverable to the Vendor for correction and re-delivery prior to resuming the testing process and, in that event, the Vendor will correct the deficiencies in such Deliverable. Upon completion of testing, the Vendor shall deliver the files in proper format, according to the Project Plan or as instructed by the Contract Manager.
 - c) Upon completion of its review, the Agency will provide the Vendor a written notice indicating the Agency's Interim Acceptance or rejection of the Implementation Deliverable according to the criteria and process set out in this subsection.
 - d) Final Acceptance of each Implementation Deliverable of the Project shall be considered to occur when each Deliverable has been approved by the Agency and has been operating in production without any material deficiency for thirty (30) consecutive days of full production with all functionality.

e. General Requirements

- 1) The Vendor shall have average deposit balances of not less than **\$1 billion** and shall already serve clients with comparable complex accounts. The Vendor shall maintain a clearing account within the Jacksonville or Miami branches of the Federal Reserve Bank of Atlanta. The Vendor shall be a member of the Federal Deposit Insurance Corporation (FDIC).
- 2) The Vendor shall maintain internal controls related to the information that is confidential or exempt from Chapter 119, Florida Statutes. In the event the Vendor does not maintain adequate internal controls and there is a determination of a breach of security concerning confidential personal information, the Vendor shall be liable for the administrative sanctions, to the extent it does not comply with the provisions of Section 817.5681, Florida Statutes.
- 3) Throughout the entire term of this Contract, including any applicable renewal periods, the Vendor shall maintain an account with a branch of the Federal Reserve Bank (FRB). The

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transit number and designated account number of the Vendor shall be encoded on all Checks and/or ACH debits.

- 4) Throughout the entire term of this Contract, including any applicable renewal periods, the Vendor shall have the designation as a "Qualified Public Depository" by the Treasury and collateralize the accounts in accordance with Chapter 280, Florida Statutes.
- 5) The Vendor shall provide one hundred eighty (180) calendar days written notice for Vendor's system changes that pertain to the following activities:
 - a) File formats and/or table structure changes.
 - b) Changes of bank code values that will require the Agency and the Agency's Fiscal Agent system coding changes including, new Bank Administration Institute (BAI) codes, and changes to account structure.
- 6) The Vendor shall provide ninety (90) calendar days written notice for Vendor system changes that pertain to the following activities. This relates to changes that require testing, change management and production deployment at the Agency:
 - a) File transmission changes including, server changes, protocol changes, transmission requirements changes, and platform changes;
 - b) Timing changes for transmitted files.
 - c) Notification of National Automated Clearing House Association (NACHA) standard changes on a best efforts basis.
- 7) The Vendor shall work with any transition of the Agency's Fiscal Agent contract that might occur during the term of this Contract, including any applicable renewal periods, at no additional cost to the Agency.

3. Checks

- a. The Vendor will be provided an electronic copy of the Agency's check issue file to match checks presented to the account for settlement.
- b. Checks are payable to individuals and/or vendors if the following conditions exist:
 - 1) The check is not altered.

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SCOPE OF SERVICES**

- 2) The check is not stale dated. A check is considered stale dated one hundred eighty (180) calendar days after the end of the month of issuance.
- 3) The presenter of the check is the payee and will present a form of identification acceptable to the institution where the check is presented.
- 4) The Vendor may not charge a fee to the payee for this service, if the payee negotiates the check at the Vendor's location.

c. Positive Pay with Payee Match and Perfect Presentment Services

- 1) The Vendor shall provide the Agency with a cleaned and/or scrubbed file of checks ready for payment. Errors that the Vendor was unable to correct will be decided by the Agency. Decisioning by the Agency is defined as when the Agency determines whether to pay or return a check through the Positive Pay system.
- 2) The Vendor shall provide access to their online banking system to view positive pay exceptions.
- 3) The Vendor shall provide the Agency all positive pay exceptions without value limits.
- 4) Positive pay service will present same-day exception and images reporting by 4:00 p.m. Eastern Time (ET) the same day, and the Agency will have until 3:00 p.m. ET the following day to make pay or return decisions.
- 5) The Vendor shall provide the Agency with images of all positive pay items through the online banking system.
- 6) On each Federal Business Day, the Vendor shall provide a daily detailed listing of all checks paid and an electronic file of all paid items will be transmitted to the Agency to update the Agency's check Applications.

d. Forgeries

- 1) The Agency will provide the Vendor documentation of alleged fraudulent transactions and the Vendor shall investigate the fraudulent transactions according to their federally regulated standard procedures. However, notwithstanding any Vendor standard procedures to the contrary, the Vendor shall process check fraud investigations up to twelve (12) months after the account Bank Statement (on the paid date) has been provided to the Agency.

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- 2) The Vendor shall provide the Agency a monthly report listing all the forged and improperly endorsed items received from the Agency and processed by the Vendor and their status/resolution.
- 3) The Vendor's liability for processing related to forgeries shall not exceed **\$10,000.00** per calendar year.

4. Check Images

a. Online Banking Images

The Vendor shall provide electronic copies of check images through their online banking system. If the online banking system check image is not legible, the Vendor shall provide the Agency with a check image that is legible.

b. Digital Video Disk of Check images

The Vendor shall provide DVDs (based on volume of items paid of all paid Check images, two DVDs for each account) to the Agency on a monthly basis. To facilitate the DVD search capability, the DVDs shall at a minimum include: Check number, bank sequence number, paid date, and amount. DVDs must include self-loading license software to view the images and provide index data to locate images. The Agency will install the Web Image Viewer software required to read and search. The Web Image Viewer software provided by the Vendor must not expire. The DVDs must be useable by the Agency after the license maintenance and support expires. The image quality on the DVDs must be at least equal to the Vendor's online functionality.

5. Receiving Wires

- a. The Vendor shall provide current day wire, check, and ACH presentment information each Federal Business Day through the electronic banking system. If the information is not available through the system, the Vendor shall provide the information to the Agency via email or telephone.
- b. If the presentment information is not provided in the time specified for funding purposes and an alternative means has not been utilized, the Vendor shall not return checks for Not Sufficient Funds. The Agency will receive two (2) presentments, with the first due at 9:00 a.m. and the second due at 10:00 a.m. ET.

6. Wire Origination

- a. The Vendor's online banking system shall provide the Agency the means to establish templates for repetitive outgoing wires.
- b. Online banking system wire transfers shall be executed by the Vendor in real time within thirty (30) minutes of receipt and immediate validation of wire instructions from the Agency. If the wire is delayed due to

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circumstances under the Vendor's control, the Vendor has until 11:59 p.m. ET the same day to remedy the wire transfer. If the delay is not due to circumstances under the Vendor's control, the Vendor shall provide all reasonable assistance to the Agency to process the wire.

- c. A daylight overdraft fee does not apply to the Controlled Disbursements accounts outlined in this Contract because balances will be funded by end of the day pursuant to the Controlled Disbursement maintenance of account duties.

7. ACH Items

The Vendor shall provide the Agency with the amount of ACH debits to be settled each Federal Business Day. Additionally, the Agency will utilize the ACH Fraud Filter Stop service whereby ACH debit items that are originated by entities, whose company IDs are not authorized, are not allowed to post to the account.

a. ACH File Origination

Daily, the Vendor shall process ACH files including Addenda received from the Agency. If an ACH processing is delayed due to circumstances under the Vendor's control, the Vendor has until 5:00 p.m. ET the same day to remedy the ACH file process. If the delay is not due to circumstances under the Vendor's control, the Vendor shall provide all reasonable assistance to the Agency to process the ACH file.

b. ACH File Processing

The Vendor shall maintain, and make available through the Vendor's online banking system, electronic access to a detailed list of all transactions sent to the ACH as well as items to be posted to the accounts at the Vendor ("on us items"). The ACH settlement detail must contain the following: trace identification number, count and amount.

When requested by the Agency, the Vendor shall initiate ACH trace procedures and report the results back to the Agency within twenty-four (24) hours for items less than ninety (90) days old and within thirty-six (36) hours for items that are ninety (90) calendar days or older.

The Vendor shall provide the ACH amounts on a daily Bank Statement provided to the Agency on the electronic banking system. The Agency will reconcile the ACH amounts daily and require the Vendor to debit and/or credit any differences found during reconciliation. The Vendor shall make corrections according to National Automated Clearing House Association rules but no later than seventy-two (72) hours of notification by the Agency.'

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c. ACH Confirmation

On each Federal Business Day, the Vendor shall verify the accuracy of the ACH origination file totals and send confirmations back to the Agency for all accounts.

d. ACH Returned Items

The Vendor shall send a return item file to the Agency by electronic means as received. The Vendor shall encrypt the file to ensure confidentiality. The file shall contain, at a minimum, payee name, amount, effective date, reason, individual identification number, trace numbers, and sending company ID number.

The Vendor shall provide a Notice of Changes and Consolidated Returns file on a daily basis for the previous day's activities to the Agency accounts. The information must also be available on the online banking system.

8. Deposit Items

a. Operating requirements make it necessary for the Vendor to maintain a full service branch in Tallahassee, Florida (local branch). The Vendor shall accept and process deposited items delivered to the local branch. The Vendor shall provide same day availability for "on us" items. Domestic checks deposited will receive next day availability (one (1) business day); Canadian checks will receive three (3) business days availability; and other foreign currencies will receive seven (7) business days availability.

b. No holds will be placed on funds deposited into the accounts.

c. The Vendor shall process non-encoded deposit items the-same day and the Vendor shall provide same day availability for "on us" items. Domestic checks deposited will receive next day availability (one (1) business day); Canadian checks will receive three (3) business days availability; and other foreign currencies will receive seven (7) business days availability.

9. Pay Checks made on Returns Account

a. The Vendor shall negotiate checks drawn on the Returns account.

b. In the instance where a check drawn on the Returns account is not negotiated, the Agency will not be billed for the invoice item.

10. Maintain the Accounts

a. The Vendor shall maintain a controlled disbursement accounts for Agency checks and EFTs and accept all wire transfers and other transfers in compliance with regulatory requirements.

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- b.** The Vendor shall electronically report the following information to the Agency through the online banking system:

 - 1) Amount of Checks to be settled are to be reported no later than 10:00 a.m. ET each Federal Business Day.
 - 2) Upon receipt or execution, report the amount of incoming and outgoing wire transfers.
 - 3) Any other transactions that affect the State's account balances are to be reported within twenty-four (24) hours after they occur.
- c.** The Vendor shall furnish on a daily basis, electronic copy Bank Statements and supporting documents on all deposits, wire transfers, Checks and/or ACH debits paid. The Agency also requires a monthly invoice as well as a monthly analysis statement for audit and billing purposes.
- d.** The Vendor shall provide a monthly analysis statement for the Agency's account. The analysis statement will have a summary of all transaction detail for the account. The analysis statement will include the number of checks paid, ACH debits paid, ACH originations, wire transfers received, wire transfers originated and deposits processed.
- e.** The Vendor shall provide all bank supplies at no additional charge to the Agency. Supplies are considered by the Agency to include deposit slips, deposit bags, and endorsement stamps. Supplies needed to perform sub-item 11, Services for Payment Functions, below are separate items and are not included in this deliverable.
- f. Overdrafts**

 - 1) Daylight Overdraft: The Vendor shall provide the Agency daylight overdraft, i.e., a circumstance in which a debit balance occurs in the course of the banking day, and is expected to be settled up by credits prior to the end of the banking day. The Vendor shall not charge daylight overdraft fees.
 - 2) Overnight Overdrafts: In the event of an overdraft, though unexpected, the Agency will provide a compensating account balance the following business day. Any overnight overdraft fee shall not be applied.
- g. Pre-audit checks presented for payment**

The Vendor shall compare all items being presented against items issued by the Agency. Pre-audit match includes, but is not limited to, amount, check number, payee name, check status, and issue date. The Vendor shall provide a list of all exception items for the Agency to be decided. Additionally, the Agency will utilize the ACH Fraud Filter Stop service whereby ACH debit items that are originated by entities,

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whose company IDs are not authorized, are not allowed to post to the account.

- h.** The Vendor shall prepare a final paid check and ACH debit file for daily submission to the Treasury. This file must be completed after the pre-audit requirements.
- i.** The Vendor shall provide access to the Vendor's Statement on Standards for Attestation Engagements Statement (SSAE) 16 as they are issued by their independent auditors. The SSAE 18 will cover the State's fiscal year which ends June 30th. For any time during the fiscal year not covered in the SSAE18, the Vendor shall provide a Bridge/Gap Letter or a follow-up on any outstanding items from its independent auditors, or a functionally equivalent independent Federal Financial Institutions Examination Council (FFIEC) standards certification related to security certification.

11. Online Banking System

The Vendor shall provide uninterrupted electronic access to their online banking system, excluding regular maintenance downtime (which shall occur outside of business hours). This system shall include reporting, wire origination and ACH origination capabilities including ACH credits and debits. The online banking system must provide that access to the functionalities described in this Contract is restricted based on user IDs. The system shall also include previous day and current day reporting and shall have download functionality. Unscheduled maintenance will not occur without a forty-eight (48) hour notice, and shall not interfere with Agency's regular course of business.

12. Services for Payment Functions

- a.** The Agency will provide the Vendor one hundred eighty (180) calendar days notice of its election of any of the options that the Vendor has indicated will be offered as described in **Exhibit B-1**, Deliverables and Performance Standards, **Table 2**, Optional Deliverable and Performance Standards, based on the Vendor offering the service in response to this solicitation.
- b. Perform services to print and distribute State Checks**

 - 1) The Agency must approve the check form, and any subsequent modifications, used by the Vendor prior to its implementation. The Agency reserves the right to require the Vendor to make check form changes at any time during the life of this Contract at no additional cost to the Agency. The Vendor will be given a reasonable amount of time to make such changes (thirty (30) to sixty (60) calendar days).
 - 2) If the Agency chooses to pursue the check production part of the optional services, it is expected that the start-up time would be negotiated during the development of the Project Plan.

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- 3) The Agency will submit to the Vendor on a daily basis, a check payment file. The Vendor shall provide the ability for the Agency to provide a list of checks to be intercepted and forwarded to the Agency on a case-by-case basis within a time frame agreed to by the Agency and the Vendor.
- 4) The Vendor shall confirm receipt of the payment file.
- 5) Within twenty-four (24) hours of receipt of a payment file, the Vendor shall print and using the address on the check, mail the checks to the payee, or distribute selected checks to the Agency or other state agencies, as directed.
- 6) The Vendor, upon completion of each day's check production run, shall provide the Agency an electronic file of the work performed and disposition of payments produced.
- 7) The Agency will reimburse the Vendor on the actual postage costs and supplies based on agreed upon terms.

13. Disaster Recovery & Service Availability

- a. The Vendor shall provide wire origination capabilities either by the web-based system, telephone, fax or any other means that is mutually agreed upon between the Agency and the Vendor.
- b. The Vendor shall provide the order of succession for assigned officer and key staff that the Agency works with in the regular course of business.
- c. The Vendor shall provide a process for notifying the Agency, of initial occurrence and corrective action updates, when the Vendor's ability to do business has been compromised according to the following minimum levels of providing services associated with processing transactions: complete or partial system failure causing an inability to perform financial transactions within one (1) hour; subsystems limited in capability except for reports not requiring daily Department of Financial Services (DFS) activity within two (2) hours; all other system glitches and partial non-- performance not impacting the ability to perform financial transactions within four (4) hours.
- d. The Vendor shall have an established secure back-up system for all services if the web-based system or system interfaces are unavailable. This back-up must be functioning within eight (8) hours of the occurrence.
- e. The Vendor shall perform a successful annual Disaster Recovery test but no more than fourteen (14) months from the previous test and shall yearly provide the SSAE 18 or other written confirmation as approved by the Agency, of the successful performance of the annual Disaster Recovery test.

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14. Operational Continuity at Contract Termination or Expiration

- a. The Vendor shall provide an Exit Transition Plan within the first six (6) months of the effective date of this Contract. Such plan shall include that the Vendor shall transfer to the Agency, at no cost to the Agency, all public records in possession of the Vendor upon expiration of the retention period required by **PUR 1000**, General Contract Conditions, **Paragraph 18**, Lobbying and Integrity, and destroy any duplicate public records that are exempt or confidential and exempt, except as stated in this Contract. All requested Contract related records stored electronically must be provided to the Agency in an electronic format useable and approved by the Agency. At a minimum, the Vendor agrees to provide to the Agency data definitions; table structure; the Agency's State Data and Shared Data under its control; and any Developed Material custom code required allowing the Agency a smooth transition to in-house or substituting for vendor implementation of similar functionality to that provided by Vendor. The Vendor shall reduce scope to limit it to processing checks for at least seven (7) months after the final check has been issued under this Contract.
- b. In the event, the Vendor can no longer provide the requirements in this Contract, the Vendor shall submit a detailed transition and data return implementation plan at no cost to the Agency to continue this service within the Agency or by its designee. The following criteria apply to closures, and return of data upon contract termination.
- 1) The Vendor must immediately cease services and applying charges to any checks paid and only apply charges for checks paid based on the agreed upon final pricing.
 - 2) In addition to the above reports and activities, upon request, closure or final contract expiration or termination, provide the Agency with a written supplemental process for return of data.
- c. **Supplemental process for all other data, upon Contract expiration or termination**
- 1) The Vendor shall return all data in the format prescribed by the Agency (e.g. Excel or Access via email) with all current information within thirty (30) calendar days.
 - 2) Within thirty (30) calendar days, the Vendor shall issue all reports required by this Contract for each data returned. At the time the Parties determine the format of any Developed Material custom application, the Agency will designate the format in which the Vendor shall return the data with the Developed Material custom source code sufficient to read it, or alternatively provide the data in a non-proprietary format.
 - 3) The Vendor shall certify destruction of design files for forms, documents, and other items that provide the ability to produce checks in whole or in part.

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- d. Except as required during the seven (7) months of check processing, the Vendor shall remove all Agency staff access granted to physical or information system resources, thereby preventing unauthorized access. As access is removed by either the Agency or the Vendor, each shall certify that such access has been removed and all Agency devices and tools have been returned before closing out this Contract.
- e. The Vendor shall provide no less than the notice required in this Sub-Section, and provide a specific and detailed technical transition plan to the Agency prior to any termination or data return. At a minimum, the technical transition plan shall include but not be limited to knowledge transfer for any technology support needed by the Agency or its designee to continue services. In an effort to avoid any financial loss to the Agency, the Vendor shall conduct such transition with the same degree of care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use.

B.4. Deliverables

The Vendor shall provide the deliverables described in **Exhibit B-1**, Deliverables and Performance Standards, to the Agency's Contract Manager by the dates indicated. The Agency reserves the right to request modification of the deliverables, as deemed necessary by the Agency, prior to their approval. Deliverable due dates may be modified, if approved in writing, in advance by the Agency.

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

B.5. Vendor Staffing

A. General Staffing Requirements

- 1. The Vendor shall conduct all aspects of this 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 this Contract.
- 2. The Vendor shall maintain copies of qualifications, including current licenses and board certifications if applicable, for staff 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 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 this Contract as requested by the Agency.
- 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

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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 a.m. to 5:00 p.m. ET, Monday through Friday, excluding State of Florida observed holidays.

B. Key Staff

For purposes of this Contract, the following position is considered a key staffing position:

Contract Manager

The Vendor shall appoint a senior officer (Senior Vice President or above) to serve as the Contract Manager and identify a qualified substitute representative. The Contract Manager shall have overall responsibility for this Contract and shall be responsible for coordinating all activities between the Agency and the Vendor. His/her responsibilities shall include monthly analysis, billings, and the resolution of issues that may arise during the term of this Contract.

The Contract Manager shall warrant that all persons assigned by it to the performance of this Contract are employees of the Vendor and are fully qualified to perform the work required herein.

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 this Contract.

B.6. Service Location

The Vendor shall maintain a full service branch in Tallahassee, Florida for the provision of the services under this Contract.

B.7. Method of Payment

- A. This solicitation will result in a fixed price (unit cost) Contract. The Agency shall pay the Vendor monthly, in arrears, for the delivery of service units provided in accordance with the terms of this Contract, subject to the availability of funds. Deliverable pricing will be included based on the Vendor's response to this solicitation.
- B. The Vendor shall submit an invoice to the Agency's Contract Manager, in triplicate, for the total cost of services rendered within fifteen (15) calendar days following the end of the month in which the services were rendered. Each invoice must contain details sufficient for a proper pre-audit and post-audit. Upon receipt of Agency approval, the Agency's Financial Services section shall process each invoice in accordance with the provisions of Section 215.422, Florida Statutes.

C. The invoice shall include at a minimum:

1. Invoice date;

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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.

D. Late Invoicing

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.

If the Vendor is unable to meet the invoice submission deadlines specified in this Contract, the Vendor shall notify the Agency in writing prior to the deadline explaining the circumstances and requesting an extension to the deadline.

B.8. Performance Standards and Liquidated Damages

- A. The Vendor shall comply with all requirements and performance standards set forth in the Contract.
- B. The Agency's Contract Manager will monitor the Vendor's performance in accordance with the monitoring requirements of the Contract. Failure by the Vendor to meet the established minimum performance standards may result in the Agency, in its sole discretion, finding the Vendor to be out of compliance, and all remedies provided in the Contract and under law, shall become available to the Agency
- C. The Vendor acknowledges that its failure to meet an agreed upon deliverable performance standard or deadline for delivery of certain services will damage the Agency but that by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. Accordingly, except for the sanctions for nonperformance otherwise indicated below or in this Contract, the parties agree upon a reasonable amount of liquidated damages which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. Accordingly, liquidated damages shall be assessed on the Vendor as specified in this Contract, as to specific deliverables, and otherwise to the extent identified below. These and other sanctions for nonperformance are applied as follows:

1. Accessibility

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- a. Uptime - Sanctions for nonperformance for specific accessibility requirements are stated in this Contract. The Agency will allow any Vendor web-based system to have unscheduled down time no more than sixteen (16) hours during the business hours of 7:00 a.m. to 8:00p.m. ET per year. If the web-based system is down more than sixteen (16) hours per year, the Agency will institute a two percent (2%) holdback of payment from each invoice after the unscheduled down time exceeds sixteen (16) hours per year until a corrective action plan has been implemented and confirms to the Agency that the unscheduled down time no longer exceeds sixteen (16) hours per year. Holdback will be applied to the next billing cycle after the anniversary. The holdback for any given billing cycle shall not exceed **\$3,000.00**. Otherwise, in the event the Vendor's disaster recovery plan addresses unscheduled down time and exceed the minimum uptime requirements, these requirements are met.

- b. Responsiveness- With regard to all online services, average page turnaround in any given reporting period according to this Contract's approved Performance Measures (as Operational Deliverables) shall not exceed responsiveness standards as identified in this Contract, and shall be commensurate with leading Internet industry sites such as Yahoo.com. The Agency will annually review response time unless more frequent reviews are warranted by a finding that standards fall below industry standards. The review will compare response times from multiple locations throughout the country for an average responsiveness standard. Should the Vendor fail to meet the applicable average responsiveness standard measure, the Vendor shall apply a two percent (2%) holdback of payment from each invoice after the standards fall below industry standard until a corrective action plan has been implemented and confirms to the Agency that the standards are commensurate with leading industry sites such as Yahoo.com. The holdback for any given billing cycle shall not exceed **\$3,000.00**.

2. Timeliness

- a. The Vendor must assure that data is posted to databases and processed into reports in a timely manner; timely provide all reports required by this Contract; and respond to inquiries from the Agency within the due dates identified in this Contract for receipt of inquiry. Sanctions for nonperformance for timeliness are stated in this Contract.

 - b. Any monetary losses to the Agency due to non-performance by the Vendor in report formats, the validity of the information, reports not being received by the due date, or any other reporting requirements deficiencies, will be reimbursed to the Agency at the same amount as the loss.
- D. The Agency reserves the right to impose liquidated damages upon the Vendor for failure to comply with the performance standard requirements set forth in **Table 1**, Performance Standards and Liquidated Damages, below.

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TABLE 1 PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES	
Performance Standard Requirement	Liquidated Damages to be Imposed
Performance Bond	
A performance bond in the amount of ten percent (10%) of the total annual amount of the Contract shall be furnished to the Agency by the Vendor within thirty (30) calendar days after execution of the Contract and prior to commencement of any work under the Contract.	\$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 ten percent (10%) of the current annual Contract amount.	\$500.00 per calendar day for each calendar day after the due date until an acceptable performance bond is furnished to the Agency.
HIPAA	
The Vendor shall comply with provisions of HIPAA/HITECH.	\$500.00 to \$5,000.00 , per incident, per occurrence, depending upon the severity. In addition, Federal penalties may apply in accordance with the HIPAA Act of 1996.
The Vendor shall not inappropriately release PHI.	\$500.00 to \$5,000.00 , per incident, per occurrence, depending upon the severity.
Records	
The Vendor shall comply with public records laws, in accordance with Section 119.0701, F.S.	\$5,000.00 for each incident in which the Vendor does not comply with a public records request.
Background Screening	
Failure to complete initial and renewal background screenings within required timeframes.	\$250.00 per occurrence.
Failure to submit policies and procedures within thirty (30) calendar days of Contract execution.	\$250.00 per calendar day beyond the due date.
Security Rating Score	
Failure to annually maintain a top tier security rating score from a vendor information security rating service.	\$5,000.00 per occurrence. An additional \$2,500.00 if the Vendor 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.	\$5,000.00 per occurrence. \$250.00 per calendar day, until the Vendor obtains the security rating

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TABLE 1 PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES	
Performance Standard Requirement	Liquidated Damages to be Imposed
	score.
SOC 2 Type II Audit	
Failure to annually submit the SOC 2 Type II audit report by June 30th of each Contract year.	\$1,000.00 per calendar day for each calendar day beyond the due date.

E. Sanctions

1. In the event the Agency identifies a violation of or other non-compliance with the Contract (to include the failure to meet performance standards), the Agency may sanction the Vendor pursuant to Section 409.912(6), F.S. The Agency may impose sanctions in addition to any financial consequences or liquidated damages imposed pursuant to the Contract.
2. For purposes of this Sub-Section, violations involving individual, unrelated acts shall not be considered arising out of the same action.
3. If the Agency imposes monetary sanctions, the Vendor must pay the monetary sanctions to the Agency within thirty (30) calendar days from receipt of the notice of sanction, regardless of any dispute in the monetary amount or interpretation of policy which led to the notice. If the Vendor fails to pay, the Agency, at its discretion, reserves the right to recover the money by any legal means, including but not limited to the withholding of any payments due to the Vendor. If the Deputy Secretary determines that the Agency should reduce or eliminate the amount imposed, the Agency will return the appropriate amount to the Vendor within sixty (60) calendar days from the date of a final decision rendered.

F. Disputes

1. To dispute financial consequences, liquidated damages, sanctions and/or contract interpretations, the Vendor must request that the Agency's Deputy Secretary for Medicaid or designee, hear and decide the dispute.
2. The Vendor 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 financial consequences, 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 Vendor submitting such written requests for appeal or dispute as allowed under the Contract by U.S. mail and/or commercial courier service, shall submit such appeal or dispute to the following mailing address:

Deputy Secretary for Medicaid
Agency for Health Care Administration

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Medicaid Appeals/Disputes, Mail Stop 70
2727 Mahan Drive, Mail Stop
Tallahassee, FL 32308

Regardless of whether delivered by U.S. mail or commercial courier service, appeals or disputes not delivered to the address above will be denied.

3. The Vendor waives any dispute not raised within twenty-one (21) calendar days of issuance of financial consequences, 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 financial consequences, 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 Vendor's submission submitted within the twenty-one (21) calendar days following its receipt of the financial consequences, 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 Vendor. This written decision will be final.
5. The exclusive venue of any legal or equitable action that arises out of or relating to the 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 Vendor 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 Contract, the Agency will notice the Vendor of the appropriate administrative remedy.

B.9. Attorney's Fees

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

B.10. Legal Action Notification

The Vendor 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 Vendor by any subcontractor, vendor, or other party that results in litigation related to this Contract for disputes or damages exceeding the amount of **\$50,000.00**. In addition, the Vendor 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.

B.11. Damages for Failure to Meet Contract Requirements

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

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B.12. Corrective Action Plan (CAP)

- A.** If the Agency determines that the Vendor is out of compliance with any of the provisions of this Contract, the Agency may require the Vendor to submit a Corrective Action Plan (CAP) within a specified timeframe. The CAP shall provide an opportunity for the Vendor to resolve deficiencies without the Agency invoking more serious remedies, up to and including contract termination.
- B.** The Vendor shall respond by providing a CAP to the Agency within the timeframe specified by the Agency.
- C.** The Vendor shall implement the CAP only after Agency approval.
- D.** The Agency may require changes or a complete rewrite of the CAP and provide a specific deadline.
- E.** If the Vendor does not meet the standards established in the CAP within the agreed upon timeframe, the Vendor shall be in violation of the provisions of this Contract and shall be subject to liquidated damages.
- F.** Except where otherwise specified, liquidated damages of **\$500.00** per calendar day may be imposed on the Vendor for each calendar day that the approved CAP is not implemented to the satisfaction of the Agency.

B.13. Contract Transition

- A.** At the time of this Contract's completion, the Vendor shall cooperate with the Agency in transitioning responsibilities of this Contract to the Agency or another Vendor.
- B.** The Vendor 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 this Contract. This obligation survives termination of this Contract.
- C.** Prior to the ending or termination of this Contract, the Vendor shall meet with the new Vendor or the Agency's designated representative(s) to develop a 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 Vendor's system;
 - 5.** A mechanism and timeframe for transmitting documents produced under this Contract, as requested by the Agency;

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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.

B.14. System Functionality

- A. The Vendor shall have the capacity (hardware, software, and personnel) sufficient to access and generate all data and reports needed for this Contract.
- B. The Vendor shall comply with HIPAA and the HITECH Act.
- C. The Vendor shall have protocols and internal procedures for ensuring system security and the confidentiality of recipient identifiable data.

B.15. Information Technology

- A. The Vendor shall have the necessary information technology (IT) resources needed to fully manage the product required in this Contract.
- B. Agency Contract Managers shall be responsible for submitting and managing Vendor 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 Vendor shall notify the Agency of termination of any staff with access to the Agency's network within twenty four (24) hours of the termination.
- C. Vendor 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 respondent shall also be required to sign an Acceptable Use Acknowledgement Form and submit the completed form to the Agency's Information Security Manager (ISM). The requirements described in this Item must be completed before access to the Agency's network is provided.

D. Development Requirements

1. The Vendor shall provide the Agency, providers, and others as identified in this Contract, with the necessary software to execute the requested system.
2. The Vendor'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.
3. The Vendor shall develop a system that allows Agency staff to access the system from the Agency network and mobile devices.
4. The Vendor shall allow Agency access to the data for reporting purposes. Data exports shall comply with the National Information Exchange Model (NIEM) format.

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5. The Vendor'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 Vendor's architect(s).
6. Comments will be used in the code to help other developers to understand the coding methodology/logic that was used.
7. Proper exception handling is required.
8. Logging and Auditing may be required for some systems.
9. Usage of Session and Cache should be limited.
10. 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.
11. The website shall be Section 508 compliant and follow W3C industry standards and best practices.
12. The website shall contain the Agency header and footer that are currently on ahca.myflorida.com.
13. 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 Vendor 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 Vendor with all supported versions within six (6) months of the browser's official release.
14. All code shall be submitted to the Agency by the Vendor for standards review prior to user testing. This code review requires a personal presentation by the Vendor's coder(s).
15. The Vendor'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.
16. The documents listed below are required as part of the Vendor's application development:
 - a. Architecture design;
 - b. Security model;
 - c. Technical specifications;
 - d. Database entity relationship diagram;
 - e. Data Dictionary;

**ATTACHMENT II
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- f. User documentation;
- g. Test plan;
- h. Deployment plan; and
- i. Maintenance requirements.

E. Below is the Agency's current environment:

- 1. HIPAA and CJIS (Criminal Justice Information System) compliance;
- 2. Microsoft office;
- 3. SQL (Structured Query Language) server;
- 4. Microsoft Azure and Office 365;
- 5. SFTP (Secure File Transfer Protocol);
- 6. WEB Services;
- 7. MVC (Model View Controller);
- 8. C#;
- 9. TFS (Team Foundation Server);
- 10. WEB Applications;
- 11. Laserfiche;
- 12. SharePoint;
- 13. SSL (Secure Sockets Layer) and TLS (Transport Layer Security); Mobile devices; and
- 14. SSRS (SQL Server Report Services) and Tableau.

F. The Vendor must adhere and comply with the Agency's Division of IT standards regarding SSL Web interface(s) and TLS.

G. The Vendor 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.

H. The Vendor, 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 Vendor is allowed any access to the Agency's information technology ("IT") resources, provide immediate notice to the ISM, of any allegation or suspected violation of security

ATTACHMENT II SCOPE OF SERVICES

procedures of the Agency. Except as required by law and after notice to the Agency, the Vendor shall not divulge to third parties any confidential information obtained by the Vendor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing this Contract work according to applicable rules, including, but not limited to, Rule 74-2, Florida Administrative Code (FAC) 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 this Contract unless otherwise provided herein, the Vendor shall not be required to keep confidential information that is publicly available through no fault of the Vendor, material that the Vendor developed independently without relying on the State's confidential information, or information that is otherwise obtainable under State law as a public record.

- I. In the event of loss of any State Data or record where such loss is due to the negligence of the Vendor or any of its subcontractors or agents, the Vendor shall be responsible for recreating such lost data in the manner and on the schedule set by the Agency at the Vendor's sole expense, in addition to any other damages the Agency may be entitled to by law or this Contract. In the event lost or damaged data is suspected, the Vendor will perform due diligence and report findings to the Agency and perform efforts to recover the data. If it is unrecoverable, the Vendor 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 Vendor 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 Vendor. If State Data will reside in the Vendor's system, the Agency may conduct, or request the Vendor conduct at the Vendor's expense, an annual network penetration test or security audit of the Vendor's system(s) on which State Data resides. All Vendor personnel who will have access to State-owned Data will undergo the background checks and screenings described in this Contract.
- J. The Vendor shall ensure that call centers, Information Technology (IT) help desks or any other type of customer support provided directly under this Contract, shall be located only in the forty-eight (48) contiguous United States.
- K. The Vendor 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](#).
- L. The Vendor must employ traffic and network monitoring software and tools on a continuous basis to identify obstacles to optimum performance.
- M. The Vendor 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.
- N. The Vendor 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 Vendor's resources.

ATTACHMENT II SCOPE OF SERVICES

- O.** The Vendor must employ traffic and network monitoring software and tools on a continuous basis to prevent adware or spyware from deteriorating system performance.
- P.** The Vendor 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.
- Q.** The Vendor must employ traffic and network monitoring software and tools on a continuous basis to monitor bandwidth usage and identify bottlenecks that impede performance.
- R.** The Vendor 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 Code of Federal Regulations (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 Vendor 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 between the BAA and the provisions of this Section, the BAA shall control. (See **Attachment II**, Business Associate Agreement).
- S.** 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.
- T.** In order to enable the Agency to effectively measure and mitigate the Vendor’s security risks, the Vendor must annually obtain a security rating score from a vendor information security rating service which is approved by the Agency (for example: BitSight Technologies, Security Scorecard, CORL Technologies or other comparable company which rates vendor information security.) If the Vendor does not maintain a top tier security rating score, the Agency will impose liquidated damage(s) and/or other applicable sanction(s).

B.16. Disaster Recovery

- A.** The Vendor 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 this Contract. The records backup standards and a comprehensive disaster recovery plan shall be developed and maintained by the Vendor for the entire period of this Contract and submitted for review annually by the anniversary date of this Contract.

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- B.** The Vendor shall maintain a disaster recovery plan for restoring day-to-day operations including alternative locations for the Vendor to conduct the requirements of this 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 this Contract.
- C.** The Vendor 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.
- D.** The disaster recovery plan shall be finalized no later than thirty (30) calendar days prior to this Contract effective date. The Agency shall review the Vendor's disaster recovery plan during the readiness review.
- E.** The Agency, at its discretion, reserves the right to direct the Vendor 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.
- F.** The Vendor shall make all aspects of the disaster recovery plan available to the Agency at all times.
- G.** The Vendor 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 P., Disaster Recovery, Sub-Section 1.

B.17. Smartphone Applications

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

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

B.18. Social Networking

All social networking applications, tools or media interactions and communications must be approved in writing by the Agency, prior to use. Any vendor using social networking

**ATTACHMENT II
SCOPE OF SERVICES**

applications is responsible and accountable for the safeguarding of PHI and all HIPAA Privacy Rule related information must be maintained and monitored.

In addition to all other review and monitoring aspects of this Contract, the Agency, at its discretion, reserves the right to monitor or review the Vendor's monitoring of all social networking activity without notice.

The Vendor shall not conduct business relating to this Contract that involves the exchange of personally identifying, confidential or sensitive information on the Vendor's social network application. The Vendor 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.

Any violations of this shall subject the Vendor to administrative action by the Agency as determined by the Agency.

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**ATTACHMENT III
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 Agency Standard Contract (**Attachment I, including its Attachments**).

AND

3. RELEASE OF REDACTED RESPONSE

I hereby authorize release of the redacted version of the response required by **Attachment ##**, Instructions and Special Conditions, **Section A.**, Overview, **Sub-Section C.**, Response Submission Requirements, **Item 1.**, Hardcopy and Electronic Submission Requirements, **Sub-Item c.**, Electronic Copy of the Response, **Sub-Item 5**), Electronic Redacted Copies of this solicitation 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 my organization's 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

**ATTACHMENT III
REQUIRED CERTIFICATIONS AND STATEMENTS**

that gratuities of any kind were either offered or received by any of the aforementioned parties.

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 prospective respondent to the provisions of this solicitation.

AND

7. 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

8. ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION

The standards on organizational conflicts of interest in Title 48, Code of Federal Regulations, Subpart 9.5 – Organizational and Consultant Conflicts of Interest 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 submit a Conflict of Interest Mitigation Plan with its response that 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. 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.

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

**ATTACHMENT III
REQUIRED CERTIFICATIONS AND STATEMENTS**

Please check the applicable paragraph below. Do not check more than one of the paragraphs 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

9. RESPONDENT ATTESTATION FOR COST PROPOSAL

I hereby certify that no modification and/or alteration has been made to the template, narrative and/or instructions contained in **Exhibit ##**, Cost Proposal, **Exhibit ##**, Detailed Budget and **Exhibit ##**, Estimated Rates..

AND

10. RESPONDENT ATTESTATION REGARDING SCRUTINIZED COMPANIES LIST

I hereby certify that my company is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes. Pursuant to Section 287.135(5), Florida Statutes, the respondent agrees the Agency may immediately terminate the resulting Contract for cause if the respondent is found to have submitted a false certification or if the respondent is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the resulting Contract.

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 (since December 19, 2013).

**ATTACHMENT III
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 (since December 19, 2013), other than those listed below.

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 a non-responsible vendor based on any or all of the listed contracts and therefore may reject the respondent's reply.

Respondent Name:

Client's Name:

Term of Terminated Contract:

Description of Services:

Brief Summary of Reason(s) for Contract Termination:

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**ATTACHMENT III
REQUIRED CERTIFICATIONS AND STATEMENTS**

Respondent Name: _____

Client's Name: _____

Term of Terminated Contract: _____

Description of Services: _____

Brief Summary of Reason(s) for Contract Termination:

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, Attachment III, Required Statements and Certifications, signed by an authorized official may result in the rejection of response.

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