



**Date of Issuance:** 11/2/2020

**Solicitation No.** 8300001173

**Requisition No.** 8300023946

**Amendment No.** 1

Hour and date specified for receipt of offers is changed:  No  Yes, to: 11/20/2020 3 00 CST

Pursuant to OAC 260:115-7-30(d), this document shall serve as official notice of amendment to the solicitation identified above. Such notice is being provided to all suppliers to which the original solicitation was sent.

Suppliers submitting bids or quotations shall acknowledge receipt of this solicitation amendment prior to the hour and date specified in the solicitation as follows:

Sign and return a copy of this amendment with the solicitation response being submitted; or,

If the supplier has already submitted a response, this acknowledgement must be signed and returned prior to the solicitation deadline. All amendment acknowledgements submitted separately shall have the solicitation number and bid opening date in the subject line of the email.

**ISSUED FROM:**

Jacob Short  
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**RETURN TO:** [OMESCPeBID@omes.ok.gov](mailto:OMESCPeBID@omes.ok.gov)

**Description of Amendment:**

a. This is to incorporate the following:

1. We respectfully request confirmation that a VPAT is NOT required for this submission?  
Answer: Confirmed.
2. We respectfully request confirmation that an information technology Security Certification and Accreditation Assessment is NOT required for this submission?  
Answer: Confirmed.
3. We respectfully request confirmation that service level agreements are NOT required for this submission?  
Answer: Confirmed.
4. We respectfully request the Department clarify that they intend to award this contract to only ONE Bidder?  
Answer: Correct.
5. Is there an identified and dedicated WIKI solicitation question page for RSF #8300001173?  
Answer: No
6. Can DDS provide more information about how the waitlist assessment corresponds with the assessment for waiver applicants and, if they are separate and distinct assessments, what common data elements are shared across the assessments?  
Answer: Currently DDS does not use a standardized assessment for waiver applicants. The plan is to select a standardized assessment tool and implement to assess all individuals on the waitlist. The tool will likely be used to assess waiver recipients as well.
7. Has DDS selected an assessment or case management system?  
Answer: No, the IT Software Solution RFP is open for solicitation.

- a. If so, can this information be shared? Should the contractor plan to work with DDS to adapt the system to best meet DDS needs?

Answer: Yes

- b. If not, will the contractor be involved in the selection/development of that system?

Answer: No, as the solicitation for RFPs are open concurrently.

8. The RFP refers to a "case management system." Is DDS referring to an automated platform or to protocols and requirements that could be automated?

Answer: DDS currently has an IT platform for case management, but is looking to purchase a software system as a replacement. The IT Software Solution RFP is open for solicitation.

9. What is the anticipated length of time to complete a 'wait list' assessment for new applicants?

Answer: The priority is the existing waitlist. Standards for assessing new applicants will be established after the existing waitlist is assessed.

10. What is the anticipated timeframe to complete reassessments for changing needs?

Answer: Re-assessment timeframes will be determined once DDS has a better understanding of the assessment data.

11. Approximately how many inquiries about applying for the wait list are received each year?

Answer: The number of waitlist inquiries is not tracked, as the waitlist is based on applications submitted.

12. Does DDS anticipate that any of the waitlist assessments will be conducted in-person once COVID-19 limitations are removed?

Answer: Possibly, the assessments could be a mixture of in-person and video conferencing.

13. Are there set expectations for waitlist management, such as caseload maximums or the number of in-person and/or telephonic contacts?

Answer: No, this is driven by the needs of the individuals on the waitlist.

14. Over how long what period of a period will DDS allow the contractor to assess everyone currently on the waiting list? Could they occur on the anniversary of their date for entering the waitlist? Are those currently on the wait list to be re-assessed by the vendor of choice? Completing a large number of assessments too quickly would likely increase costs.

Answer: As specified, the goal is to evaluate all current waitlist applicants by March 2022. Applicants that are added to the waitlist during the initial assessment period would not be included in this number.

15. Can DDS provide information about how the information about the current wait list is stored? Is it in an excel spreadsheet or an automated system? How does DDS anticipate that these data will be shared with the new vendor?

Answer: The current waitlist is 'housed' in a software application that is stored on a SQL database. DDS is seeking to purchase a new software system. The waitlist vendor would have access to the new software when it becomes available. In the interim, the vendor would have access to the existing software.

16. Can DDS clarify its expectations for follow-up to ensure that a service or support is in place to ensure more consistent pricing across bidders? For example, is this a one-time follow-up to ensure that a connection has been made; one or more follow-ups until services have been received; or periodic follow-up (e.g., monthly, quarterly) to ensure services and supports are being received?

Answer: Follow-up would occur on an as-needed basis to ensure any connections or linkages to supports available have been accessed by the individual or family.

17. How frequently is DDS expecting the contractor to individually reach out to each person on the waiting list?

Answer: Contact should occur as needed to ensure the individual or family has accessed linkages to supports available.

18. Can DDS provide more information about the documentation that is necessary for eligibility determination for people being removed from the waitlist? Are you referring to the eligibility assessment and application for another waiver program?

Answer: The Supplier is expected to gather, prepare, and submit the necessary documents to DDS for eligibility determinations, per OAC 317:40-1-1, including an assessment, Social Security card, birth certificate, psychological evaluation, by a licensed psychologist; social service summary, current within 12 months of the requested approval date that includes a developmental history; medical evaluation, current within 12 months of the requested approval date; completed Form LTC-300, ICF/IID Level of Care Assessment; and proof of disability per SSA guidelines.

19. Will the case management software and assessment tool selected by DDS allow for ad hoc reporting as required?

Answer: Yes.

20. Can DDS give an example of “dual capacities, regarding service provision?”

Answer: 'Dual capacity' includes assessing the individual for service and providing the desired service directly to the individual.

21. Page 12 of 15 – Section 13.1 Can DDS provide more information about the “lowest and best” that will be used to evaluate the proposals? For example, what percentage of the overall score will price account for?

Answer: See page 4 – Section 8.1.B. Best value criteria will be used as specified. Relative weights are not disclosed.

22. This project will likely involve substantial start-up costs as systems and protocols are established. Would it be possible for May the vendor to submit two budgets, one for the start-up period and another for fixed monthly costs after the start-up period?

Answer: Yes.

23. Page 13 of 15 - Section 15.1. “The state may award the contract to more than one bidder by awarding the contract(s) by item or groups of items or may award the contract on an all or more basis, whichever is deemed to be in the best interest of the state.”

Can you give specific examples of how the make-up of multiple awards might look? By age groups of the waiver population? By geographic regions? By specific mandatory requirements? Other?

Answer: DHS intends to award a single contract as a result of this RFP.

24. Will the Q and A be posted? If so, has there been a date established for posting?

Answer: 11/3/20

25. Should the contractor include time for incorporating stakeholder input during the development of the process? If yes, approximately how many meetings should be anticipated?

Answer: It is preferred the Supplier host or facilitate stakeholder engagement opportunities to gather input during the planning phase of the assessment and navigation project. The platform for engagement must provide an accessible means for anyone on the waitlist to provide input. The platform for engagement will likely determine the number of opportunities, but a broad offering is expected.

26. Should the contractor include time for briefing stakeholders on the process once it is operating? If yes, approximately often should these briefings occur?

Answer: Yes, a minimum of quarterly briefings to inform the stakeholders, including DDS staff, advocates, and individuals on the waitlist, including the quarterly Waitlist Meeting

27. Page 3- background - Can you speak to the reason(s) for the decrease of 388 individuals on the HCBS waivers in the last 5 years?

Answer: There are several factors influencing the decrease in individuals receiving HCBS waivers, which include attrition, increase in Waiver costs, and funding variability with state appropriations and federal dollars during the past five years.

28. Page 4- Background - There has been a decrease of 1962 individuals on the waiting list since 2018. Was this decrease a result of an administrative “clean-up” of the list (eliminating duplicates, deceased individuals, non-responding individuals, etc.)? Is this decrease a by-product of increased state funding in the last 3 years (p.4) to offer additional services? If the latter, is it correct to assume that these individuals no longer need HCBS waiver services because their needs are now being otherwise met?

Answer: The reduction in the waitlist was in result of an administrative clean-up, through contacting each person on the waitlist to determine supports needed, and an infusion of appropriated funds to offer waiver services to those on the waitlist in chronological order.

29. Page 4- Background - Currently DDS manages the waiting list. Can you specify the credentials or qualifications of the staff who have been managing this list?

Answer: DDS case management and program level staffs manage the waitlist. These staff positions require a minimum of a Bachelor's degree and two years of experience in working with individuals who have a developmental disability.

30. Exhibit 2 includes the following text on page 2: To understand the scope of users for an IT platform through this RFP, DDS provides the following:

- At the end of SFY20, 5,222 individuals were receiving waiver services. Of these individuals, 3,509 received services provided through the Community and Homeward Bound waivers, while 1,713 children and adults resided in their own home or a family home with In-Home Supports. Over 4,000 individuals received services to support their employment.
- There are approximately 500-550 users of the current case management system internal to DDS or OKDHS. In addition to internal users, there is a need for the 100 plus provider agencies of direct care supports and vocational supports, including all of their employees, as well as service recipients, family members/advocates and providers of other ancillary services to access the IT platform through this RFP. DDS is looking for an unlimited number of licenses for these users.

This language suggests that DDS is looking to purchase an automated platform that could be used by DDS or OKDHS users to conduct assessments and case management. This appears to be inconsistent with the specifications and bidder instructions which indicates that information technology bidder instructions are not applicable. Can DDS provide more information about why this is here? In addition, if DDS expects to have the bidder provide a system that could be used by up to 650 users, can it provide specifications for the system?

Answer: This information is specific to the IT Software Solution solicitation and not Waitlist Management; therefore, disregard for this solicitation.

31. RFP Section 8.1 Preparation of Bid, item E, Relevant RFP Language: "Three (3) reference letters demonstrating past performance providing similar services."; Question: Should this information be included in Section Twelve – Business References, in the proposal response?

Answer: Yes.

32. RFP Section 8.1 Preparation of Bid, item F, Relevant RFP Language: "Three years of audited financial statements are required to be included in the Bid."; Question: Should this information be included in Section Eleven – Financial Information, in the proposal response?

Answer: Yes.

33. RFP Section 8.1 Preparation of Bid, item G, Relevant RFP Language: "The following additional company information is required to be included in the Bid:" (items i-xi); Question: Should this information be included in Section Seven – Executive Summary, in the proposal response?

Answer: Additional Company Information should be placed in Section 13 – Additional Company Information.

34. RFP Section 8.2 Bid Packet Format, H – Section Eight: Response to Specifications and Requirements, items ii-iv; Question: Please verify that items ii (VPAT), iii (Security Certification and Accreditation Assessment), and iv (Service Level Agreements) are not required to be submitted for this bid.

Answer: See questions #1, #2, and #3.

35. Attachment A - Specifications, Relevant RFP Language: Mandatory requirement #14 requires data that would come out of the case management and assessment system. Question: Would this ad-hoc reporting be produced and available from the data collected in the system selected by DDS?

Answer: Yes.

36. Attachment A - Specifications, Relevant RFP Language: Mandatory requirements 3-15, & 18. Question: Please clarify if the scope of mandatory requirements 3-15 and 18 will be tracked and managed in the DDS selected Case Management System, or if we would track and manage the scope of these requirements in our own proprietary case management system?

Answer: Supplier is expected to track and manage the mandatory requirements referenced; however, there may be supports through the selected Software Solution or current software system in lieu of a new system.

37. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Is a current standardized assessment tool being used? If not, will a standardized assessment tool be selected prior to the

bid submission as the selected tool will impact pricing? If not, it will be challenging to provide accurate inputs for pricing based on assessor qualifications, training, tools used, and time for each assessment.

Answer: Currently, DDS does not use a standardized assessment for waiver applicants. The standardized assessment tool has not yet been selected.

38. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Will the standardized assessment tool be completed in the system selected by DDS?

Answer: Yes.

39. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: What has DDS done to communicate the importance and purpose of the standardized assessment to recipients and respondents to ensure successful participation in the assessment?

Answer: DDS has hosted a variety of community waitlist listening sessions around the state in tandem with community partners and contractors. The listening sessions have been ongoing for years, as well as formal surveys via in-person, mail outs, and phone to determine the needs of those on the waitlist. Additionally, DDS meets regularly with a group that represents the DDS waitlist to determine needs based on trending data, gaps in the service system, and opportunities for change.

40. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: What is the timeline for when the assessments need to be conducted for members on the waitlist?

Answer: As specified, the goal is to evaluate all current waitlist applicants by March 2022. Applicants that are added to the waitlist during the assessment period would not be included in this number.

41. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: What is the expected annual volume of assessments to be completed?

Answer: Initially, the entire waitlist, approximately 5,800 individuals, will be assessed. After that occurs, new applicants will be assessed upon application.

42. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Has DDS worked with advocacy groups to select the standardized assessment tool?

Answer: Yes.

43. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Who is conducting the assessments today and would you like them to be involved in this new implementation?

Answer: Currently, DDS does not use a standardized assessment for waiver applicants.

44. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Who is currently responsible for securing a determination of intellectual disability?

Answer: Per OAC 317:40-1-1, the Oklahoma Health Care Authority reviews the diagnostic reports and makes an eligibility determination for the applicant.

45. Attachment A – Specifications, Relevant RFP Language: Mandatory requirements. Question: Is the selected vendor responsible for prioritization of people on the waiting list?

Answer: No.

46. To assure vendors can respond to Department needs and expectations within the Department's budget, please provide an expected annual budget for these services. For instance, the Mandatory Requirements as written could be broadly interpreted by different vendors, resulting in largely divergent prices and proposals with varying target goals and timelines that cannot be compared like-to-like.

Answer: The legislature directed DHS to issue an RFP for the assessment and navigation, but did not fund it in a line item budget bill, meaning DHS will fund this with allocated resources. Cost will be taken into consideration when proposals are evaluated.

47. Will the State confirm that they are acting in the capacity of a Covered Entity and that the Supplier will be acting as a Business Associate?

Answer: Confirmed

48. Will the State provide a copy of the Business Associate Agreement for review?

Answer: Please see document attached below

49. Different standardized assessment tools used for individuals with IDD have different training, technology, and staffing requirements. They also have significantly different associated costs and benefits to the Department. For example, use of the Supports Intensity Scale (SIS) requires a contract with its publisher for training and technology, and requires a specific training and quality protocol.
- a. Please specify which assessment tool the Department anticipates requiring the selected vendor to use.

Answer: The assessment tool has yet to be selected.

- b. Please confirm the Department intends to pay for any associated licensing or contracting costs associated with the selected assessment tool.

Answer: OKDHS will provide licensing for the selected assessment tool to the waitlist management, navigation, and assessment Supplier. Any costs incurred by the Supplier in addition to the case management and assessment tool licensing to provide services must be included in the monthly rate – DHS will not reimburse for any additional costs.

50. Please provide details on expected functionality for the state case management system that all vendors will be required to use, including the following:
- a. When it will be available for use?

Answer: Currently, DDS has an IT platform for case management, but is seeking to purchase a software system as a replacement. The IT Software Solution RFP is open for solicitation.

- b. What system training will be available to the vendor and in what format?
- c. What workflow, scheduling, assessment, contact tracking, and other functionality will be available to the vendor?
- d. What user roles and permissions will be available to the vendor?
- e. What reporting capabilities will be available to the vendor?
- f. Please specify if the state case management system is unable to support any of the previous items, and the selected vendor for this contract must provide its own system to support its work.

Answer: Items b. through f. are contingent on the software system in use at the time the assessment and navigation services commence through this RFP. The current IT platform used by DDS supports some of the functionalities noted with input from the selected Supplier for this RFP.

51. The RFP states: “The Supplier shall provide robust navigation services for people waiting to meet their needs by connecting them to existing community resources in their local area and beyond, other federal and state entitlement programs, and being the point of contact when they believe their needs have changed, including helping them request emergency services.”

A. What are the expected hours of operation for the vendor?

Answer: The Supplier is expected to manage all contact with potential applicants and applicants on the waitlist, whether through a call center or other means to respond to inquiries. There is no expectation for a 24/7 operation; however, business hours would be a minimum of Monday through Friday, 8 a.m. to 5 p.m. CST.

B. Please define or provide examples of “robust navigation services” to allow vendors to price like-to-like services.

Answer: Robust navigation services include assisting the individual applicant and family in locating supports/services, along with a hand-off to ensure supports/services are in place, as applicable. Navigation services include a case management component to work with the applicant and provider of the support/service. Multiple hand-offs must be navigated and managed to assist the applicant.

C. Please confirm to “emergency services” refers to services rendered through the Department or waiver. If not, please provide additional detail on the expectations regarding the Vendor’s role in helping request emergency services.

Answer: Emergency services to pre-empt the waitlist for waiver services are outlined in OAC 317:40-1-1 and are brought to the attention of DDS for action.

52. The RFP states: “The Supplier will serve as the single point of contact for all potential applicants, applicants, and people waiting for HCBS.”

- a. Is it the Department's expectation that the selected vendor would operate a statewide call center to support this project? If so, please provide additional information on any associated expectation, including:
- b. Expected hours of operation
- c. Expected call volume
- d. Expected average handle time.
- e. Any associated SLAs

Answer: The Supplier is expected to manage all contact with potential applicants and applicants on the waitlist, whether through a call center or other means to respond to inquiries. There is no expectation for a 24/7 operation; however, business hours would be a minimum of Monday through Friday, 8 a.m. to 5 p.m. CST. On average, approximately 440 are added to the waitlist each year, while there are approximately 5,800 individuals on the waitlist.

53. The RFP states: "The Supplier shall prepare and submit the necessary documents to DDS for eligibility determinations when a person is being removed from the waiting list to receive Waiver supports and services."

Please clarify the following:

- a. What documents must the selected vendor prepare and submit?
- b. Please provide copies of any required forms.
- c. Are there any related coordination tasks associated with these documents – for example, will the selected vendor be required to assist in obtaining a Physician Certification for the individual?
- d. Please name or list any other third party or governmental entities that the vendor must interact with to assist in document preparation.
- e. Is the Department's expectation that the selected vendor would assist the individual and their family in gathering and submitting these documents (and the vendor will not collect and submit the documents for the family)? If not, please clarify.

Answer: The Supplier is expected to gather, prepare, and submit the necessary documents to DDS for eligibility determinations, per OAC 317:40-1-1, including an assessment, Social Security card, birth certificate, psychological evaluation, by a licensed psychologist; social service summary, current within 12 months of the requested approval date that includes a developmental history; medical evaluation, current within 12 months of the requested approval date; completed Form LTC-300, ICF/IID Level of Care Assessment; and proof of disability per SSA guidelines. Interaction between the Supplier and healthcare professionals, Oklahoma Health Care Authority staff, Social Security Administration staff, among others, may be necessary in gathering, preparing and submitting the required eligibility determination documents. The Supplier must work with the applicant to gather the eligibility information and submit the information on behalf of the applicant.

54. Items Mandatory requirements 13 and 14 describe reporting requirements. Please confirm that all required datapoints for these reporting requirements will be available to the selected vendor within the state's Case Management System. If not, please clarify if the selected vendor is expected to provide its own system to capture this data.

Answer: Supplier is expected to provide the required referenced information through a combination of data elements the Supplier tracks and the data tracked through the DDS case management system.

55. The volume of individuals on the wait list is a key driver in staffing assumptions for all vendors and is vital for pricing. Please provide the following anticipated volumes:

- a. Number of individuals anticipated to be on the waitlist at contract start

Answer: Approximately 5,900 individuals.

- b. Annual number of individuals expected to remain on the wait list for each of the 5 contract years
- c. Annual number of individuals anticipated to transition from the wait list to waiver services in each of the 5 contract years
- d. Annual number of individuals newly added to the waitlist in each of the 5 contract years
- e. Annual number of individuals who are anticipated to elect to leave the waitlist (without transitioning to waiver services) for each of the 5 contract years

Answer: Items b. through e. are a function of the factors listed in question #73.

56. Section 14, item d: number and type of contact: Does the state require the awardee of this proposal to perform, via their workforce, in-person contact with those individual on the waitlist? If the stated does require in-person contact, can you disclose the required frequency and location of those in-person visits?

Answer: In some cases, in-person contact may be preferred; however, current considerations with the COVID-19 pandemic, dictate telephonic and video conferencing options.

57. General: Can the state please clarify if there are size restrictions on email attachments for submission.

Answer: 25mb is the limit as an attachment, send multiple numbered emails if needed.

58. General: Do staff assigned to the contract need to be Oklahoma residents?

Answer: It is preferred that staff are residents of Oklahoma to better integrate with communities of service.

59. General: Does the state have any required credentials that are preferred for assessors?

Answer: A minimum of a Bachelor's degree is required and two years of experience in working with individuals who have a developmental disability is preferred.

60. General, Attachment A: How many waitlist members are added each year for each program?

Answer: See question #84.

61. General, Attachment A: Would the state consider a remote option for assessments, such as video conference or telephone, due to pandemic conditions?

Answer: Yes.

62. General, Attachment A: What communication to applicants does the state desire regarding their enrollment?

Answer: Communication would be driven by the needs of the individual and other considerations, such the current pandemic. See question #56.

63. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements: Does the state currently have emergency enrollment into services? If so, what is the process of moving from the waitlist to enrollment in an emergent situation?

Answer: Yes, DDS policy outlines emergency considerations to pre-empt the waitlist, per OAC 317:40-1-1.

64. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #1: Does the state have the ideas for assessments and case management systems they want to use? If not, does the state ask for recommendations in the RFP response?

Answer: There is a concurrent RFP in place for the IT Software Solution to replace the existing case management system.

65. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #1: How does the state anticipate the training on the selected assessment tools to be provided?

Answer: Training is contingent upon the selected assessment tool.

66. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #2: Does DDS expect that these services will be available via the IT platform, via website, or through ad hoc request?

Answer: The reference is to future waitlist applicants, so the IT platform is preferred; however, since there is a concurrent RFP in place for the IT Software Solution, much has yet to be determined.

67. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #2: Additionally, does DDS intend to make these navigation services available to individuals receiving services, or is the intent for availability to Kepro and DDS staff?

Answer: Navigation services, per this RFP, are intended for waitlist applicants, not those receiving waiver services.

68. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #2: What is the State's desired turnaround time for completion of an assessment once an individual has been added to the waitlist?

Answer: The turnaround time for assessment depends on the applicant's individual circumstances; however, new applicants will be eligible for assessment upon the receipt of application. Assessment timeframes will be developed in accordance with assessing all current waitlist applicants by March 2022

69. Page 2 of Attachment A – Exhibit 1 Statement of Work, Mandatory Requirements #2: Assessments completed at the time of application can determine clinical eligibility for the program. What is the State’s timeline for determining financial eligibility?

Answer: Applicants are allowed 60-calendar days to provide information requested by DDS to determine eligibility for services, per OAC 317:40-1-1.

70. Page 2 of Attachment A – Exhibit 1 Statement of Work, Mandatory Requirements #2: Related to the Scope of Work in the RFP, who is responsible for determining financial eligibility?

Answer: OKDHS determines financial eligibility, per OAC 317:40-1-1

71. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #4: What is the expectation for written communication to applicants: letter to schedule assessments, letters of application approval for the waitlist, letters indicating non-approval?

Answer: Outreach efforts would include, but not be limited to all of the above.

72. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #12: Will the State require reassessments for individuals on the waitlist? If so, what is the anticipated timeframe for reassessments?

Answer: Possibly, re-assessments will be based on significant changes in the individual’s life.

73. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #12: How many waitlist slots were released per year over the last five year period?

Answer: The release of waitlist slots is highly dependent on several factors. Commitment by the state to fund the program can materially affect the number of individuals served and removed from the waiting list. In addition, DDS has made significant reductions through contacting families who have been on the waiting list for several years and may no longer desire services, moved out of state or could not be located for contact. Finally, the attrition of currently served individuals through death or reductions in the ongoing cost of their plans of care affect the number released from the waitlist to receive services. Without taking these factors into consideration, the absolute number of waitlist slots released over the previous five years would be out of context and misleading.

74. Page 2 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #14: Can DDS provide an estimate on the number of DDS users who would require real-time data and report access at any given time?

Answer: Approximately 20 or less users.

75. Page 3 of Attachment A - Exhibit 1 Statement of Work, Mandatory Requirements #15: Can DDS indicate how long after the period that reports are due?

Answer: Due dates will be based on the type of data requested. This may include weekly, monthly, quarterly, annual, etc., reporting.

76. Page 4 of Exhibit 2: Does the state request early intervention and prevention services in this RFP to happen in conjunction with the waitlist management services being requested in a future RFP?

Answer: No.

77. Page 5 of Bidder’s Instructions, Section 8.1.D: Is there a formal pricing template we need to use?

Answer: No.

78. In the Bidders Instructions document, Section B.1, Item D, page 5, reads: “As referenced in subsection 8.2.I, Pricing shall be proposed as follows: i Services will be provided based on a fixed monthly rate; ii Pricing must be provided for each year of the five-year agreement.”

Also, Section 9.7, page 10, reads: “Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts provided by the State are estimates and are not guaranteed to be purchased.”

Questions:

- a. Does this mean that a total proposed annual price (inclusive of all services proposed to be delivered) is to be submitted and that 1/12 of this total annual amount would be billed monthly?

Answer: Yes

- b. Also, should a similar total annual cost would be proposed for each of the additional potential four contract renewal years?

Answer: Yes

- c. Is there a specific format or detailed information required other than stating this proposed total annual contract amount?

Answer: No

- d. Are there any restrictions or special procedures required to separate the proposed cost from the other parts of a vendor's RFP response? In other words, the total annual cost is included in the body of the response, not in a separate document?

Answer: See Section 8.2 Bid Packet Format. Pricing is to be provided in Section 9.

79. Attachment A, Exhibit 1 Statement of Work, Mandatory Requirements, Item 1. reads: "The Supplier shall implement and use a standardized assessment tool and case management system selected by DDS to assess everyone currently on the HCBS Waiver waiting list." Has the standardized assessment tool been selected and if so, what is it?

Answer: The standardized assessment tool has not yet been selected.

80. Is there an average amount of time that people are on the waiting list prior to receiving Waiver supports?

Answer: The waitlist is currently worked in chronological order when funds are appropriated by the legislature. DDS is currently working applications from mid 2007 to early 2008.

81. Attachment A, Exhibit 1 Statement of Work, Mandatory Requirements, contains multiple references to reports and analyses required to be submitted by the selected supplier.

- a. Question: Will the supplier utilize the State's waiting list or case management IT platform for these functions?

Answer: Yes.

Are there other IT requirements or expectations for reporting or analysis that RFP respondents should factor into their proposed annual pricing?

Answer: Yes, all data should be made available for export as a relational database accessible to Excel using commonly available tools.

82. It seems unclear from reviewing the RFP documents if all people on the waiting list are initially screened to determine eligibility for the four HCBS waivers managed by DDS. Please clarify when this screening would occur—at the time of being placed on the waiting list or at a later time during the process?

Answer: Eligibility is determined at the time waiver services are offered, per OAC 317:40-1-1.

83. Is there a mandated or core list of community resources that must be reviewed with all waiting list clients?

Answer: No

84. Is data currently available that shows how many applications to the four HCBS waiver programs are submitted on a monthly/annual basis? Also, do similar data exist indicating requests to be placed on the waiting list?

Answer: DDS has added 440 and 456 applicants to the waiting list during each of the past two years, respectively, net of a small number of emergency placements removed. Applications do not denote the type of waiver program requested, only the types of services/supports needed.

85. Please provide an estimated timeframe for the evaluation and award of this contract.

Answer: The evaluation team plans to convene as quickly as possible to review bids and make a selection, based on the criteria noted in the solicitation.

86. To allow vendors adequate time to incorporate answers to questions, please provide the following:

- a. The anticipated date questions will be answered.
- b. An extension of the Bid Response date in order to allow at least 10 business days from receipt of answers to the questions to the submission of proposals.

Answer: Agree.

87. Section Three: Bid Portions Requested to be Held Confidential states, "Any portion of the Bid that the Bidder requests to be held confidential shall be inserted into this section." Is it appropriate to redact / black out confidential material from other sections of the proposal and insert those items into Section Three?

Answer: Answer: It should not be reproduced in its entirety. If a particular section of the bid (i.e. Section 2) is confidential, then the bidder must note that in Section 3 of the response and state "Section 2 is confidential and/or proprietary because ..." and state the reason it is confidential. If it is not listed in that section of the response, it will not be considered confidential. Bidder should also mark that particular section header in their response as "confidential".

88. The RFP states, "Due to the COVID 19 outbreak, a Bid shall be submitted via email to [OMESCPeBID@omes.ok.gov](mailto:OMESCPeBID@omes.ok.gov)." Is there any limit on the size of files that can be emailed to this address?

Answer: 25mb is the limit as an attachment, send multiple numbered emails if needed.

89. It is understood that the selected vendor for this opportunity will perform Medicaid HCBS Waiver waiting list management assessment and navigation services using a standardized assessment tool selected by DDS. Is it the Department's expectation that the selected assessment used by the vendor will be used by DDS to determine ICF/IID Institutional Level of Care eligibility for Medicaid Waiver services?

Answer: No.

90. It is understood that the selected vendor for this opportunity will perform Medicaid HCBS Waiver waiting list management assessment and navigation services using a case management system selected by DDS. With the expectation that the selected vendor for this opportunity use the selected case management system, it would seem the implementation timeline for the management assessment and navigation services will be impacted by the timeline for the design, development and implementation of the selected case management system.

- a. Is it the Department's expectation that the management assessment and navigation services will not start until the selected case management system is live (i.e., designed, developed, tested and implemented)?

Answer: No. Waitlist management will proceed upon the award of the contract for such.

- b. Please provide information about the anticipated timeline for selection, contract execution, and implementation of the case management system being procured through (RFP#8300001172).

Answer: OKDHS anticipates a fully executed contract in early 2021.

- c. Please provide information about the expected implementation timeline for this program.

Answer: OKDHS anticipates implementation of the contract within 90 days of execution.

91. Please confirm that (consistent with RFP#8300001172) service recipients, family members, and other stakeholders will be able to access the software and functionality specific to the waiting list management needs.

Answer: Service recipients, family members, and other stakeholders will have limited access to information, such as date of waitlist application, assessment outcome, available supports/services, and wait time for waiver services.

92. Please confirm that the selected vendor from this opportunity will have input into the functionality of the selected case management system specific to the waiting list management needs.

Answer: See question #7.

93. It is understood that the selected vendor will prepare and submit the necessary documents to DDS for eligibility determination when a person is being removed from the waiting list to receive Waiver supports and services.

- a. Please provide a list of the necessary documents to be sent to DDS for eligibility determination.

Answer: See question #18.

- b. Will the selected vendor be responsible for determining eligibility for Medicaid Waiver supports and services?

Answer: No.

94. Some of the ad-hoc reports appear expansive and will likely take some time to aggregate, analyze, and interpret the results for the department (e.g., g. assessment data that provides details about needs of applicants and forecasting capability for Waiver slots and dollars needed to fund Waiver slots).

- a. Would the Department consider proposals from vendors on making these standard reports along with the frequency of submission?

Answer: DDS is willing to put these on a schedule, however, there will be times when DDS must produce the current information between reporting cycles and will need the vendor to produce it upon demand.

b. If not, will the timeframe for submitting ad-hoc reports be determined at the time of the request?

Answer: Timeframes would be determined at the time of the request for ad hoc requests.

95. To provide the Oklahoma Department of Human Services the most competitive bid possible, (Bidder) respectfully requests an extension of the Bid Response due date from November 9th at 3:00 pm to at least November 20th at 3:00 pm. The current due date may limit the ability of vendors to incorporate answers to questions to provide the most competitive and complete responses.

Answer: Agree.

b. All other terms and conditions remain unchanged.

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Supplier Company Name (**PRINT**)

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Date

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Authorized Representative Name (**PRINT**)      Title

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Authorized Representative Signature

# Information Security Requirements

## 1. General Information Security Requirements

- a. No employee of Contractor or its subcontractors will be granted access to State of Oklahoma agency information systems without the prior completion and approval of applicable logon authorization and acceptable use requests.
- b. Contractor or its subcontractors will notify applicable State of Oklahoma agencies when employees who have access to agency information systems are terminated.
- c. Contractor or its subcontractors will disclose to Client any suspected breach of the security of the information system or the data contained therein in the most expedient time possible and without unreasonable delay and will cooperate with Client during the investigation of any such incident.
- d. Contractor or its subcontractors agree to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at: <https://www.ok.gov/cio/documents/InfoSecPPG.pdf>

## 2. HIPAA Requirements

- a. Contractor shall agree to use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).
- b. If applicable, Contractor will sign and adhere to a Business Associate Agreement (BAA). The Business Associate Agreement provides for satisfactory assurances that Contractor will use the information only for the purposes for which it was engaged. Contractor agrees it will safeguard the information from misuse, and will comply with HIPAA as it pertains to the duties stated within the contract. Failure to comply with the requirements of this standard may result in funding being withheld from Contractor, and/or full audit and inspection of Contractor’s security compliance as it pertains to this contract.
- c. Business Associate Terms Definitions:
  - i. Unless otherwise defined in this BAA, all capitalized terms used in this BAA have the meanings ascribed in the HIPAA Regulations, provided; however, that “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. § 160.103, limited to the information Business Associate received from or created or received on behalf of the applicable State of Oklahoma agency as a Business Associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards in 45 C.F.R. § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate’s workforce, not the State of Oklahoma agency workforce, in relation to the protection of that information.

- ii. Business Associate. "Business Associate" shall generally have the same meaning as the term "Business Associate" at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.
  - iii. Covered Entity. "Covered Entity" shall generally have the same meaning as the term "Covered Entity" at 45 C.F.R. 160.103.
  - iv. HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164, all as may be amended.
  - v. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, required by law, Secretary, Security Incident, Sub-Contractor, Unsecured PHI, and Use.
- d. Obligations of Business Associate: Business Associate may use Electronic PHI and PHI (collectively, "PHI") solely to perform its duties and responsibilities under this Agreement and only as provided in this Agreement. Business Associate acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Agreement or as required by law. Specifically, Business Associate agrees it will:
- i. use or further disclose PHI only as permitted in this Agreement or as Required by Law, including, but not limited to the Privacy and Security Rule;
  - ii. use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
  - iii. implement and document appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of Covered Entity in accordance with 45 C.F.R. 164;
  - iv. implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 C.F.R. 164;
  - v. make its policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA's compliance and the Secretary of the Department of Health and Human Services (HHS);
  - vi. not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
  - vii. in accordance with 45 C.F.R. 164.502(e)(1) and 164.308(b), if applicable, require that any Sub-Contractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; this shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor;

- viii. report to Covered Entity in writing any use or disclosure of PHI that is not permitted under this Agreement as soon as reasonably practicable but in no event later than five calendar days from becoming aware of it and mitigate, to the extent practicable and in cooperation with Covered Entity, any harmful effects known to it of a use or disclosure made in violation of this Agreement;
- ix. promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five calendar days any successful Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- x. with the exception of law enforcement delays that satisfy the requirements of 45 C.F.R. 164.412, notify Covered Entity promptly, in writing and without unreasonable delay and in no case later than five calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual who's Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 C.F.R. § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. As used in this Section, "breach" shall have the meaning given such term at 45 C.F.R. 164.402;
- xi. to the extent allowed by law, indemnify and hold Covered Entity harmless from all claims, liabilities costs, and damages arising out of or in any manner related to the disclosure by Business Associate of any PHI or to the breach by Business Associate of any obligation related to PHI;
- xii. provide access to PHI it maintains in a Designated Record Set to Covered Entity, or if directed by Covered Entity to an Individual in order to meet the requirements of 45 C.F.R. 164.524. In the event that any Individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five working days of receiving a request. This shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor. Any denials of access to the PHI requested shall be the responsibility of Covered Entity;
- xiii. make PHI it maintains in a Designated Record Set available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526;
- xiv. document disclosure of PHI it maintains in a Designated Record Set and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. 164.528, and within five working days of receiving a request from Covered Entity, make such disclosure documentation and information available

- to Covered Entity. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward within five working days of receiving a request such request to Covered Entity;
- xv. make its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of HHS, authorized governmental officials, and Covered entity for the purpose of determining Business Associate's compliance with the Privacy Rule. Business Associate shall give Covered Entity advance written notice of requests from HHS or government officials and provide Covered Entity with a copy of all documents made available; and
  - xvi. require that all of its Sub-Contractors, vendors, and agents to whom it provides PHI or who create, receive, use, disclose, maintain, or have access to Covered Entity's PHI shall agree in writing to requirements, restrictions, and conditions at least as stringent as those that apply to Business Associate under this Agreement, including but not limited to implementing reasonable and appropriate safeguards to protect PHI, and shall require that its Sub-Contractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.
- e. Permitted Uses and Disclosures of PHI by Business Associate: Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of or to provide services to Covered Entity for the purposes specified in this Agreement, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Unless otherwise limited herein, Business Associate may:
- i. use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;
  - ii. disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that; (i) the disclosures required by law; or (ii) Business Associate obtains reasonable assurances from any person to whom the PHI is disclosed that such PHI will be kept confidential and will be used or further disclosed only as Required by Law or for the purpose(s) for which it was disclosed to the person, and the person commits to notifying Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
  - iii. disclose PHI to report violations of law to appropriate federal and state authorities; or
  - iv. aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
  - v. make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;

- vi. de-identify any and all PHI obtained by Business Associate under this BAA, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule [45 C.F.R. § (d)(1)].
- f. Obligations of Covered Entity
  - i. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.
  - iii. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity.
  - iv. Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between Covered Entity and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.
- g. Term and Termination:
  - i. Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
    - (1) retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
    - (2) return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form;
    - (3) continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
    - (4) not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under "Permitted Uses and Disclosures By Business Associate" that applied prior to termination; and
    - (5) return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
  - ii. All other obligations of Business Associate under this Agreement shall survive termination.

iii. Should the applicable State of Oklahoma agency become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, the agency shall provide Business Associate with written notice of such a breach in sufficient detail to enable Contractor to understand the specific nature of the breach. The Client shall be entitled to terminate the Underlying Contract associated with such breach if, after the applicable State of Oklahoma agency provides the notice to Business Associate, Business Associate fails to cure the breach within a reasonable time period not less than thirty (30) days specified in such notice; provided, however, that such time period specified shall be based on the nature of the breach involved per 45 C.F.R. §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D).

h. Miscellaneous Provisions:

- i. No Third Party Beneficiaries: Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- ii. Business Associate recognizes that any material breach of this Business Associate Terms section or breach of confidentiality or misuse of PHI may result in the termination of this Agreement and/or legal action. Said termination may be immediate and need not comply with any termination provision in the parties' underlying agreement, if any.
- iii. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy Rule and related laws and regulations.
- iv. The applicable State of Oklahoma agency shall make available its Notice of Privacy Practices.
- v. Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- vi. If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 calendar days of expiration or termination of the parties' agreement, Business Associate shall provide to Covered Entity a complete report of all disclosures of and access to the designated record set covering the three years immediately preceding the termination or expiration. The report shall include patient name, date and time of disclosures/access, description of what was disclosed/accessed, purpose of disclosure/access, name of individual who received or accessed the information, and, if available, what action was taken within the designated record set.
- vii. Amendment: To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to these revised obligations. The parties agree to amend

this Agreement from time to time as is necessary for Covered Entity or to comply with the requirements of the Privacy Rule and related laws and regulations.

### **3. 42 C.F.R. Part 2 Related Provisions**

- a. Confidentiality of Information. Contractor's employees and agents shall have access to private data to the extent necessary to carry out the responsibilities, limited by the terms of this Agreement. Contractor accepts the responsibilities for providing adequate supervision and training to their employees and agents to ensure compliance with relevant confidentiality, privacy laws, regulations and contractual provisions. No private or confidential data collected, maintained, or used shall be disseminated except as authorized by statute and by terms of this Agreement, whether during the period of the Agreement or thereafter. Furthermore, Contractor:
  - i. Acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received pursuant to this agreement that identifies or otherwise relates to the individuals under the care of or in the custody of a State of Oklahoma agency, it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, and 164, Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this Agreement or by law;
  - ii. Acknowledges that pursuant to 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential and that such information is available only to persons actively engaged in treatment of the client or consumer or in related administrative work. Contractor agrees that such protected information shall not be available or accessible to staff in general and shall not be used for punishment or prosecution of an kind;
  - iii. Agrees to resist any efforts in judicial proceedings to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2;
  - iv. Agrees to use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the State of Oklahoma agency and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected health information, and agrees that protected information will not be placed in the Child Protective Services (CPS) record of any individual involved with the Oklahoma Department of Human Services (DHS).
  - v. Agrees to report to the State of Oklahoma agency any use or disclosure or any security incident involving protected information not provided for by this Agreement. Such a

- report shall be made immediately when an employee becomes aware of such a disclosure, use, or security incident.
- vi. Agrees to provide access to the protected information at the request of the State of Oklahoma agency or to an authorized individual as directed by the State of Oklahoma agency, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information;
  - vii. Agrees to make any amendments to the protected information as directed or agreed to by the State of Oklahoma agency, pursuant to 45 C.F.R. §164.526;
  - viii. Agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from the State of Oklahoma agency or created or received by the Contractor on behalf of the State of Oklahoma agency, to the State of Oklahoma agency and to the Secretary of the Department of Health and Human Services for purpose of the Secretary determining the giving party's compliance with HIPAA;
  - ix. Agrees to provide the State of Oklahoma agency, or an authorized individual, information to permit the State of Oklahoma agency to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528.
- b. Data Security. The Contractor agrees to maintain the data in a secure manner compatible with the content and use. The Contractor will control access to the data in compliance with the terms of this Agreement. Only the Contractor's personnel whose duties require the use of such information, will have regular access to the data. The Contractor's employees will be allowed access to the data only for the purpose set forth in this Agreement.
  - c. Data Destruction. Contractor agrees to follow State of Oklahoma agency policies regarding secure data destruction.
  - d. Use of Information. Contractor agrees that the information received or accessed through this Agreement shall not be used to the detriment of any individual nor for any purpose other than those stated in this Agreement.
  - e. Redisclosure of Data. The Contractor agrees not to redisclose any information to a third party not covered by the Agreement unless written permission by the State of Oklahoma agency is received and redisclosure is permitted under applicable law.

#### **4. Federal Tax Information Requirements**

- a. IRS Publication 1075 – General Services
  - i. PERFORMANCE: In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:
    - (1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.
    - (2) The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

- (3) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.
  - (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
  - (5) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.
  - (6) The contractor will maintain a list of employees authorized access. Such list will be provided to the Client or applicable State of Oklahoma agency and, upon request, to the IRS reviewing office.
  - (7) The Client will have the right to void the contract if the contractor fails to provide the safeguards described above.
- ii. CRIMINAL/CIVIL SANCTIONS
- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
  - (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as

much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to applicable State of Oklahoma agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or entity not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
  - (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the applicable State of Oklahoma agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the applicable State of Oklahoma agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.
- iii. INSPECTION: The IRS and the applicable State of Oklahoma agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS'

right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

b. IRS Publication 1075 – Technology Services

i. PERFORMANCE: In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
- (3) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (5) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (6) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the applicable State of Oklahoma agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the applicable State of Oklahoma agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (7) All computer systems receiving, processing, storing or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be

available and activated to protect against unauthorized use of and access to Federal Tax Information.

- (8) No work involving Federal Tax Information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (9) The contractor will maintain a list of employees authorized access. Such list will be provided to the applicable State of Oklahoma agency and, upon request, to the IRS reviewing office.
- (10) The Client will have the right to void the contract if the contractor fails to provide the safeguards described above.

ii. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages,

plus the costs of the action. These penalties are prescribed by IRC 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to applicable State of Oklahoma agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or entity not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the applicable State of Oklahoma agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the applicable State of Oklahoma agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.
- iii. INSPECTION: The IRS and the applicable State of Oklahoma agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

## **5. SSA Requirements**

- a. PERFORMANCE: In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:
- i. All work will be done under the supervision of the contractor or the contractor's employees.
  - ii. Any SSA provided information made available shall be used only for carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.
  - iii. All SSA provided information shall be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
  - iv. No work involving SSA provided information furnished under this contract shall be subcontracted without prior written approval by the applicable State of Oklahoma agency and the SSA.
  - v. The Contractor shall maintain a list of employees authorized access. Such list shall be provided upon request to the applicable State of Oklahoma agency or the SSA.
  - vi. Contractor or agents may not legally process, transmit, or store SSA-provided information in a cloud environment without explicit permission from SSA's Chief Information Officer. Proof of this authorization shall be provided to the Contractor by the applicable State of Oklahoma agency prior to accessing SSA provided information.
  - vii. Contractor shall provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. Contractor is also required to certify that each employee, contractor, and agent who views SSA-provided information certify that they understand the potential criminal, civil, and administrative sanctions or penalties for unlawful assess and/or disclosure.
  - viii. Contractor shall require employees, contractors, and agents to sign a non-disclosure agreement, attest to their receipt of Security Awareness Training, and acknowledge the rules of behavior concerning proper use and security in systems that process SSA-provided information. Contractor shall retain non-disclosure attestations for at least five (5) to seven (7) years for each employee who processes, views, or encounters SSA-provided information as part of their duties.
  - ix. The applicable State of Oklahoma agency shall provide the Contractor a copy of the SSA exchange agreement and all related attachments before initial disclosure of SSA data. Contractor is required to follow the terms of the applicable State of Oklahoma agency's data exchange agreement with the SSA. Prior to signing this Agreement, and thereafter at SSA's request, the applicable State of Oklahoma agency shall obtain from

the Contractor a current list of the employees of such Contractor with access to SSA data and provide such list to the SSA.

- x. Where the Contractor processes, handles, or transmits information provided to the applicable State of Oklahoma agency by SSA or has authority to perform on the agency's behalf, the applicable State of Oklahoma agency shall clearly state the specific roles and functions of the Contractor within the Agreement.
  - xi. SSA requires all parties subject to this Agreement to exercise due diligence to avoid hindering legal actions, warrants, subpoenas, court actions, court judgments, state or Federal investigations, and SSA special inquiries for matters pertaining to SSA-provided information.
  - xii. SSA requires all parties subject to this Agreement to agree that any Client-owned or subcontracted facility involved in the receipt, processing, storage, or disposal of SSA-provided information operate as a "de facto" extension of the Client and is subject to onsite inspection and review by the Client or SSA with prior notice.
  - xiii. If the Contractor must send a computer, hard drive, or other computing or storage device offsite for repair, the Contractor must have a non-disclosure clause in their contract with the vendor. If the Contractor used the item in a business process that involved SSA-provided information and the vendor will retrieve or may view SSA-provided information during servicing, SSA reserves the right to inspect the Contractor's vendor contract. The Contractor must remove SSA-provided information from electronic devices before sending it to an external vendor for service. SSA expects the Contractor to render SSA-provided information unrecoverable or destroy the electronic device if they do not need to recover the information. The same applies to excessed, donated, or sold equipment placed into the custody of another organization.
  - xiv. In the event of a suspected or verified data breach involving SSA provided information, the Contractor shall notify the Client immediately.
  - xv. The Client shall have the right to void the contract if the contractor fails to provide the safeguards described above.
- b. **CRIMINAL/CIVIL SANCTIONS:** The Act specifically provides civil remedies, 5 U.S.C. Sec. 552a(g), including damages, and criminal penalties, 5 U.S.C. Sec. 552a(i), for violations of the Act.

The civil action provisions are premised violations of the Act committed by parties subject to this Agreement or regulations promulgated thereunder.

An individual claiming such a violation by parties subject to this Agreement may bring civil action in a federal district court. If the individual substantially prevails, the court may assess reasonable attorney fees and other litigation costs. In addition, the court may direct the parties subject to this Agreement to grant the plaintiff access to his/her records, and when appropriate direct an amendment or correction of records subject to the Act.

Actual damages may be awarded to the plaintiff for intentional or willful refusal by parties subject to this Agreement to comply with the Act.

i. Civil Remedies.

- (1) In any suit brought under the provisions of 5 U.S.C. § 552a(g)(1)(C) or (D) in which the court determines that the parties subject to this Agreement acted in a manner which was intentional or willful, shall be liable in an amount equal to the sum of —
  - (a) actual damages sustained by the individual because of the refusal or failure, but in no case, shall a person entitled to recovery receive less than the sum of \$1,000; and
  - (b) the costs of the action together with reasonable attorney fees as determined by the court.
- (2) An action to enforce any liability created under 5 U.S.C. § 552a may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where parties subject to this Agreement have materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under 5 U.S.C. § 552a, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action because of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

ii. Criminal Penalties

- (1) Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(1).
- (2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(2).
- (3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(3).

## **6. Child Support FPLS Requirements**

- a. Contractor and the applicable State of Oklahoma agency must comply with the security requirements established by the Social Security Act, the Privacy Act of 1974, the Federal Information Security Management Act of 2002 (FISMA), 42 United States Code (USC) 654(26), 42 UCS 654a(d)(1)-(5), the U.S. Department of Health and Human Services (HHS), the U.S. Department of Health and Human Services Administration of Children and Families Office of Child Support Enforcement Security Agreement and the Automated Systems for Child Support Enforcement: A Guide for States Section H Security and Privacy. Contractor and applicable State of Oklahoma agency also agree to use Federal Parent Locator Service (FPLS) information and Child Support (CS) program information solely for the authorized purposes in accordance with the terms in this agreement. The information exchanged between state Child Support agencies and all other state program information must be used for authorized purposes and protected against unauthorized access to reduce fraudulent activities and protect the privacy rights of individuals against unauthorized disclosure of confidential information.
  - i. This is applicable to the personnel, facilities, documentation, data, electronic and physical records and other machine-readable information systems of the applicable State of Oklahoma agency and Contractor, including, but not limited to, state employees and contractors working with FPLS information and CS program information and state CS agency data centers, statewide centralized data centers, contractor data centers, state Health and Human Services' data centers, comprehensive tribal agencies, data centers serving comprehensive tribes, and any other individual or entity collecting, storing, transmitting or processing FPLS information and CS program information. This is applicable to all FPLS information, which consists of the National Directory of New Hires (NDNH), Debtor File, and the Federal Case Registry (FCR). The NDNH, Debtor File and FCR are components of an automated national information system.
  - ii. This is also applicable to all CS program information, which includes the state CS program information, other state and tribal program information, and confidential information. Confidential information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual's Social Security number, residential and mailing addresses, employment information, and financial information. Ref. 45 Code of Federal Regulations (CFR) 303.21(a).

## **7. FERPA Requirements**

- a. In performance of this Agreement, Contractor agrees to comply with and assume responsibility for compliance by its employees with the Family Educational Rights and Privacy Act; (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013; (70 O.S. § 3-168), where personally identifiable student education data is exchanged.