



Solicitation #:

Solicitation Issue Date:

Brief Description of Requirement:

Response Due Date¹:

Time:

CST/CDT

Issued By and **RETURN SEALED BID TO**²:

Agency Name:

- U.S. Postal Delivery:
- Carrier Delivery:

Solicitation Type (type "X" at one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

1. Shipping Location:

2. Contracting Officer:

Name:

Phone:

Email:

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments")

² If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries



"Certification for Competitive Bid and Contract" (see page 3) **MUST** be submitted along with the response to the Solicitation.

1. RE: Solicitation # _____

2. Bidder General Information:

FEI / SSN : _____ VEN ID: _____

Company Name: _____

3. Bidder Contact Information:

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Name: _____

Contact Title: _____

Phone #: _____ FAX#: _____

Email: _____ Website: _____

4. Oklahoma Sales Tax Permit¹ (type "X" at one below):

YES – Permit #: _____

NO – Exempt pursuant to Oklahoma Laws or Rules

5. Registration with the Oklahoma Secretary of State (type "X" at one below):

YES - Filing Number: _____

NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act (type "X" at one below):

YES – include a certificate of insurance with the bid

NO - attach a signed statement that provides specific details supporting the exemption you are claiming from the Workers' Compensation Act (Note: Pursuant to Attorney General Opinion #07-8, the exemption from 85 O.S. 2011, § 311 applies only to employers who are natural persons, such as sole proprietors, and does not apply to employers who are entities created by law, including but not limited to corporations, partnerships and limited liability companies.)²

Authorized Signature

Date

Printed Name

Title

¹ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <http://www.tax.ok.gov/faq/fagbussales.html>

² For frequently asked questions concerning workers' compensation insurance, see <http://www.ok.gov/oid/fags.html#221>



NOTE: A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Solicitation or Purchase Order #: _____

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

- 1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
d. to any collusion with any state agency or political subdivision official or employee as to create a sole source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

[] the competitive bid attached herewith and contract, if awarded to said supplier;

OR

[] the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number

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A. GENERAL PROVISIONS

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act;
- A.1.2. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.3. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.4. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.5. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

A.2. Bid Submission

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, OMES-FORM-CP-076, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", OMES-FORM-CP-004, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. In addition to a hard copy submittal, the bidder will also be required to submit an electronic copy. Electronic responses must be submitted in the identical format contained in the solicitation (for example Microsoft Word, Microsoft Excel, but not Adobe PDF). In the event the hard copy of the price worksheets and electronic copy of the price worksheets do not agree, the electronic copy will prevail.
- A.2.5. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

A.3. Solicitation Amendments

- A.3.1. If an "Amendment of Solicitation", OMES-FORM-CP-011, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the Bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

A.4. Bid Change

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a response to this solicitation:

- A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:
 - A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;
 - A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and
 - A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.
- A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

A.6. Bid Opening

Sealed bids may be opened by the OSDH located at 1000 NE 10th St, OKC, OK at the time and date specified in the solicitation as the Response Due Date and Time.

A.7. Open Bid / Open Record

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential, and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the Purchasing Director as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The State Purchasing Director shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

A.8. Late Bids

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

- A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.
- A.9.2. The Contract resulting from this solicitation may consist of the following documents in order of preference:
 - A.9.2.1. Purchase order, as amended by Change Order (if applicable);
 - A.9.2.2. Solicitation, as amended (if applicable); and
 - A.9.2.3. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements

of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

A.11. Manufacturers' Name and Approved Equivalents

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

A.12. Clarification of Solicitation

A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation.

A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the State prior to the closing date.

A.13. Rejection of Bid

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

A.14. Award of Contract

A.14.1. The State Purchasing Director 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 NONE basis, whichever is deemed by the State Purchasing Director to be in the best interest of the State of Oklahoma.

A.14.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.

A.14.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

A.15. Contract Modification

A.15.1. The Contract is issued under the authority of the State Purchasing Director who signs the Contract. The Contract may be modified only through a written Contract Modification, signed by the State Purchasing Director.

A.15.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Contract Modifications, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

A.16. Delivery, Inspection and Acceptance

A.16.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The bidder(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

A.16.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

A.17. Invoicing and Payment

A.17.1. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.

A.17.2. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. §34.71 and 62 O.S. §34.72.

A.18. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

A.19. Audit and Records Clause

A.19.1. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.

A.19.2. The successful bidder(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.20. Non-Appropriation Clause

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

A.21. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

A.22. Choice of Venue

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

A.23. Termination for Cause

A.23.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.

A.23.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the State Purchasing Director determines that an administrative error occurred prior to Contract performance.

A.23.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.24. Termination for Convenience

A.24.1. The State may terminate the Contract, in whole or in part, for convenience if the State Purchasing Director determines that termination is in the State's best interest. The State Purchasing Director shall terminate the Contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State Purchasing Director.

A.24.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

A.25. Insurance

The successful bidder(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

A.26. Employment Relationship

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

A.27. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at www.dhs.gov/E-Verify.

A.28. Compliance with Applicable Laws

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

A.29. Special Provisions

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

B.1. Terms and Conditions

All terms and conditions herein become the contract between the Oklahoma State Department of Health (OSDH) and the Supplier. The Supplier agrees to comply with all of these terms and conditions. Supplier understands and agrees that when any term and/or condition contained within this contract is, or becomes, applicable to the Supplier's officers and/or employees, Supplier agrees to ensure that its officers and employees (collectively, "organization") abide by the terms and/or condition applicable to organization.

B.2. Access to Records Requirements

- B.2.1.** The Supplier agrees to comply with all record retention requirements of 2 CFR § 200.333 - §200.337. The Supplier agrees to maintain required records and supporting documentation, for validation of costs billed to the OSDH, for seven (7) years from the ending date of the contract. The Supplier also agrees to allow the State Auditor's Office, GAO, the Oklahoma Department of Management and Enterprise Services/Central Purchasing, the OSDH, or their authorized representatives access to the records, books, documents, accounting procedures, practices or any items of the service provider relevant to this contract for purpose of audit and examination. The Supplier further agrees to assure appropriate access by the aforementioned parties to any subsupplier's associated records.
- B.2.2.** If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the seven-year period, the records must be retained until completion of the action and resolution of all issues which arise from it; or, until the end of the regular seven-year period, whichever is later.
- B.2.3. The OSDH may routinely request supporting documentation to validate vendor payments.**

B.3. Amendments, Unavailability or Redirection of Funding and Cancellation

In the event state or federal funds used to support this contract become unavailable, either in full or in part, due to reductions in appropriations, the OSDH may terminate or reduce the contract upon notice in writing to the Supplier by certified mail and send notification of such changes to the Supplier upon making such changes. The OSDH shall be the final authority as to the availability or redirection of funds. The effective date of such contract termination, increase or reduction shall be specified in the notice. All other modifications or amendments to this contract shall be in writing, dated and executed by both the Supplier and the OSDH and must receive final approval by the Office of Management and Enterprise Systems, Central Purchasing. In the event of a reduction, the Supplier may cancel this contract as of the effective date of the proposed reduction upon advance written notice to the OSDH. With exception of the above, this contract shall be in force until the expiration date, or until 30 days after written notice has been given by either party of its desire to cancel without cause. Notification of cancellation shall be by Certified Mail to the business address of record. In the event this contract is canceled by either party,

the OSDH shall be responsible for reimbursement for goods or services received or provided prior to cancellation date. In the event this contract is cancelled under this section, Supplier agrees to take all reasonable steps to minimize termination costs. The OSDH agrees to reimburse Supplier for all work performed prior to the date of notice of termination of this contract for expenditures and non-cancelable commitments incurred in anticipation of performing under this contract. The OSDH shall not be responsible for reimbursement of unreasonable or unnecessary expenditures incurred after receipt of the cancellation notice.

B.4. Assignment and Delegation

The services to be performed under this sub-recipient contract shall not be subrogated, in whole or in part, to any other person or entity without the prior written approval of the OSDH. If the Supplier cannot perform the services as identified in this contract, the Supplier will be responsible for subcontracting the services or making alternative arrangements for the provision of the services. The terms of this contract shall be included in any OSDH approved subcontract. The Supplier will be liable for all additional costs and expenses arising from such subcontract or substitution to cover performance. Approval by the OSDH of a subcontract shall not relieve the Supplier of any responsibility for performance under this contract.

B.5. Audit Requirements

- B.5.1.** Suppliers expending federal funds from all funding sources, in excess of the threshold established in 2 CFR §200.501 shall be required to have a single audit or a program-specific audit conducted in accordance with Government Auditing Standards (GAS) and OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations"; as required to comply with the Single Audit Act of 1984, Amendments of 1996 (31 U.S.C.7501 et seq.). Audit costs may not be charged to any OSDH contracts when no audit has been performed, or has not been prepared in accordance with this requirement.
- B.5.2.** Suppliers that are required to have an audit conducted for compliance with 2 CFR §200.501 shall submit to the Federal clearinghouse (FAC) a single copy of the data collection form and the reporting package as required by 2CFR § 200.512 within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. If an independent audit is not posted in the required time, or there have been findings, the OSDH will have the option to consider taking action under the Failure to Comply clause of this contract.
- B.5.3.** If the Supplier is a tribal entity, and has chosen to opt out of audit report submission pursuant to 2 CFR §200.512, the Supplier shall submit a copy of the audit report in paper or electronic form to:

Oklahoma State Department of Health
Internal Audit Unit
1000 NE 10th St.
Oklahoma City, OK 73117-1299

B.6. Charitable Choice Providers

Providers who are members of the faith community are eligible to compete for contracts with the State of Oklahoma on the same basis as any other provider. Such providers shall not be required to alter their forms of internal governance, their religious character or remove religious art, icons, scripture, or other symbols. Such providers may not, however, discriminate against clients on the basis of their religion, religious beliefs, or clients' refusal to participate in religious practices (45 CFR Part 87.1c). Organizations that receive direct financial assistance from the OSDH under any OSDH program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the OSDH. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the OSDH, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

B.7. Supplier's Relation to the OSDH

The Supplier is in all respects an independent Supplier and is neither an agent nor an employee of the OSDH. Neither the Supplier nor any of its officers, employees, agents, or members shall have authority to bind the OSDH nor are they entitled to any of the benefits or worker's compensation provided by the OSDH to its employees.

B.8. Contract Monitoring Plan

- B.8.1.** This contract will be monitored by the OSDH based on the completion of a Risk Assessment process. Information related to programmatic requirements, the contract specifications, and responses to the Sub-recipient Supplier's Questionnaire (Appendix G.8.) will be utilized to complete a Risk Assessment Tool. The Risk Assessment Tool will be used to determine the level of risk associated with the Contract. A Contract Monitoring Plan and a Contract Administration Plan will be developed to define the activities and level of monitoring and administration that will be required during the contract period. Typical monitoring activities include Supplier site visits, review of contractually required reports, invoice review, invoice validation, and verification of licensure and/or insurance requirements, etc. The level of risk assigned to the contract shall determine the frequency and type of activity within a Contract Monitoring Plan and/or a Contract Administration Plan. The Contract Monitoring and/or Contract Administration Plan may be updated periodically as determined by the OSDH throughout the contract period. Upon development of the Contract Monitoring Plan and Contract Administration Plan, the OSDH will provide a copy of each to the Supplier.

- B.8.2. All communications related to this contract will be between the Supplier's Contact Person and the OSDH Contract Monitor. The OSDH Contract Monitor for this contract is:

Sara Rozo
WIC Service
Oklahoma State Department of Health
2401 N.W. 23rd Street, Suite 70
Oklahoma City, OK 73107-2475 (405) 271-4676

- B.8.3. **Please note: All communications with OSDH WIC employees are prohibited until after the contract is awarded. Any communication with OSDH WIC employees prior to the contract award may result in your solicitation response being deemed non-responsive.**

B.9. Definitions

- B.9.1. **Applicant:** A prospective Supplier on this RFP. Also, a person applying for WIC benefits.
- B.9.2. **Breastfeeding Women:** Women up to one year postpartum who provide breast-milk to their infants at least once a day.
- B.9.3. **Caseload:** The number of participants issued WIC benefits.
- B.9.4. **Certification:** The use of criteria and procedures to assess and document each applicant's eligibility for the WIC program.
- B.9.5. **Certified WIC Nutrition Technician (CWNT):** One who has successfully completed all the requirements of the WIC Service certified WIC nutrition technician training.
- B.9.6. **Children:** Persons from one to five years of age.
- B.9.7. **Clerical:** Clinic staff with skills including general office procedures and ability to learn and use the PHOCIS software program.
- B.9.8. **Competent Professional Authority (CPA):** Those individuals, who determine nutritional risk, assign WIC foods and provide nutrition counseling and education. CPAs include physicians (MD or DO), physician's assistants (PA), registered nurses (RN), nutritionists, Certified WIC Nutrition Technicians (CWNT), licensed practical nurses (LPN), and registered/licensed dietitians (RD/LD).
- B.9.9. **Contract:** The agreement executed between a purchasing agency and a provider for the provision of a particular service.
- B.9.10. **Supplier:** An organization under contract that provides WIC services at the clinic level.
- B.9.11. **EBT:** Electronic Benefits Transfer.

- B.9.12. **eWIC card:** The instrument by which WIC food benefits are made available to WIC participants.
- B.9.13. **Estimate of Need:** The plan developed by WIC Service in cooperation with the USDA FNS in order to estimate the number of potentially eligible women, infants and children.
- B.9.14. **Farmers' Markets:** The WIC Service farmers' market was established by Congress in 1992 to provide fresh, unprepared, locally grown fruits and vegetables to WIC participants. Various farmers' markets approved by the OSDH WIC Service are located throughout the State of Oklahoma.
- B.9.15. **FNS:** The Food and Nutrition Service, which acts on behalf of the USDA in the administration of the WIC program.
- B.9.16. **Federal Regulations:** 7 CFR, part 246 – rules governing WIC issued by the USDA.
- B.9.17. **Food Costs:** The cost of supplemental foods determined in accordance with Federal Regulations.
- B.9.18. **Food Delivery System:** The method used by state and local agencies to provide supplemental foods to participants.
- B.9.19. **Food Package:** The combination of approved foods assigned to the participant by the CPA.
- B.9.20. **FTE (Full Time Equivalent):** A number indicating the percentage of time an employee works on an annual basis. One FTE equals 2,080 hours per year. Examples: an employee working 9 hours per month equals 0.05 FTEs or an employee working 80 hours per month equals 0.5 FTEs. One or more employees may share an FTE.
- B.9.21. **Health Services:** Ongoing, routine pediatric and obstetric care such as infant and childcare and prenatal and postpartum examinations.
- B.9.22. **Homeless Individual:** A woman, infant or child who does not have a fixed and regular nighttime residence or whose primary nighttime residence is a publicly or privately operated shelter, including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence.
- B.9.23. **Infant:** Persons under one year of age.
- B.9.24. **Infant Mortality Rate:** The death rate among infants less than one year old per 1,000 live births.
- B.9.25. **International Board Certified Lactation Consultant (IBCLC):** A health care provider who possesses the necessary skills, knowledge, and attitudes to provide quality breastfeeding assistance in a wide variety of health care settings to mothers and babies. Also serves as a breastfeeding support and resource to fellow staff members.
- B.9.26. **Low Birth weight:** Birth weight under 2500 grams or 5-lbs. 8 oz.
- B.9.27. **Non-breastfeeding Women:** Women up to six months after termination of pregnancy, who are not breastfeeding their infants.

- B.9.28. **Non-profit Agency:** An agency which is exempt from income tax under the Internal Revenue Code of 1954 as amended.
- B.9.29. **Nutrition Education:** Individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.
- B.9.30. **Nutrition Education Protocols:** Guidelines for providing nutrition education developed by WIC Service.
- B.9.31. **Nutritional Risk:** Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements; other documented nutritionally related medical conditions; dietary deficiencies that impair or endanger health; or conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.
- B.9.32. **Nutritionist:** A qualified nutritionist includes a Registered/Licensed Dietitian (RD/LD) or registry eligible dietitian or a person with a bachelor or master's degree in Nutritional Sciences, Community Nutrition, Clinical Nutrition, Dietetics, or Public Health Nutrition, or has met Academy of Nutrition and Dietetics (AND) education requirements for a dietetic internship.
- B.9.33. **OMES, CP:** Office of Management and Enterprise Services, Central Purchasing.
- B.9.34. **OSDH:** Oklahoma State Department of Health.
- B.9.35. **OSHA:** Occupational Safety and Health Administration.
- B.9.36. **Participants:** Certified or eligible pregnant women, breastfeeding women, non-breastfeeding women, infants, and children who are receiving WIC benefits from the program.
- B.9.37. **Primary Cardholder (PCH):** The person to whom an eWIC card will be issued in order to purchase WIC benefits for the entire household.
- B.9.38. **Public Health Oklahoma Client Information System (PHOCIS):** Software used to collect demographic and health data and to issue WIC benefits for participants.
- B.9.39. **Pregnant Women:** Women determined to have one or more embryos or fetuses in utero.
- B.9.40. **Priorities:** Priority categories by nutritional risk criteria as designated in 7 CFR, part 246, section 246.7 of the Federal Regulations.
- B.9.41. **Processing Standards:** The time frames for certifying applicants—for pregnant women, Priority I infants under six months of age and migrants, within ten calendar days from request for services — for all other applicants, within 20 calendar days.
- B.9.42. **Service Area:** A geographic area served by a local WIC program. WIC Service designates these areas by specific counties, cities, and towns or boundaries such as rivers, highways, etc.
- B.9.43. **Site(s):** The location(s) where WIC services are provided to participants.
- B.9.44. **State:** The State of Oklahoma

- B.9.45. **Unserved eligible:** The projected total of people eligible for WIC benefits as determined by the USDA, that have chosen not to participate in the WIC Program either through personal choice or due to lack of knowledge of the WIC Program.
- B.9.46. **USDA:** The United States Department of Agriculture.
- B.9.47. **Vendor:** A grocery store, commissary, or pharmacy, which the OSDH has formally contracted with to provide WIC foods.
- B.9.48. **WIC Policy and Procedure Manual:** The online policy and procedure manual describes the manner in which WIC Service intends to implement and operate all aspects of program administration at the clinic level. You may access the online manual at www.ok.gov/wic. This training link requires a username-"wic"-and password-"oklahoma"- all in lowercase.
- B.9.49. **WIC Information Form (ODH Form No. 350A):** The form used to avoid duplication of services, which provides anthropometric and hematological data used for certifications. It is completed and signed by an applicant/participant's health care provider.
- B.9.50. **WIC Service:** The division within the OSDH, which administers WIC throughout the state.

B.10. Equipment and Other Purchases

It is understood that no items of equipment, property or other capital purchases shall be reimbursed under the provisions of this contract unless specifically allowed in the attached line item budget. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the Supplier for financial statement purposes, or \$2,500, pursuant to 2 CFR Part 200.439. If equipment is allowed to be purchased by the Supplier, each purchase must be pre-approved by the OSDH, the Supplier must have an established inventory system compliant with 2 CFR Part 200.313 and the Supplier will be reimbursed the OSDH depreciated share.

B.11. Entire Agreement

This contract, including referenced attachments, represents all of the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

B.12. Federal Award Information

Award Name:	Women, Infants and Children
Award Year:	2017
CFDA Number:	10.557002
CFDA Name:	Special Supplemental Nutrition Program for
Women Infants and	
Federal Awarding Agency:	Food and Nutrition Service, United States
Department of Agriculture	

B.13. Federal Funding Accountability and Transparency Act of 2006 (FFATA)

Suppliers shall comply with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA) as set forth in 2 CFR Part 170. A DUNS number (Data Universal Numbering System) is a requirement for all contracts of \$25,000 or more. Suppliers may be required to submit additional information to satisfy FFATA compliance.

B.14. Internet Security

If Supplier establishes a connection to the Internet other than through the OSDH network, Supplier must obtain written approval of the security measures used with that connection from the Service Chief of the OSDH Information Technology Service. Supplier shall provide all necessary access to the Supplier's site and equipment for OSDH personnel to review the security measures in place to ensure the computing safety of the OSDH and the Supplier.

B.15. Invoicing

B.15.1. A properly completed invoice must be submitted within 30 days of the end of the month in which services were delivered and include the following items:

Name, address and FEI number of the Supplier;

Invoice date;

Period covered by invoice;

Purchase order number;

Any other data, reports, information or documentation required by other conditions of the contract; and

Detail of the services provided and be in accordance with the terms and conditions of this agreement.

B.15.2. The invoice shall be submitted to:

Oklahoma State Department of Health

WIC Service

2401 N.W. 23rd Street, Suite 70

Oklahoma City, OK 73107-2475

saradr@health.ok.gov

B.15.3. The State of Oklahoma has 45 days from presentation of a proper invoice to issue payment to the Supplier.

B.15.4. The OSDH may withhold or delay payment to any Supplier failing to provide required programmatic documentation and/or requested financial documentation.

B.15.5. To comply with 2 CFR § 200.415 (Required Certifications), invoices requesting payment must include a certification, signed by an official who is authorized to legally bind the Supplier, which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).” If the Supplier is unable to support any part of their claim to the OSDH and it is determined that such inability is attributed to misrepresentation of fact or fraud on the part of the Supplier, the Supplier shall be liable to OSDH for an amount equal to such unsupported part of the claim in addition to all costs, including legal, attributable to the reviewing and discovery of said part of claim. Liability under this paragraph shall be determined within two years of the discovery of such misrepresentation of fact or fraud by the Supplier.

- B.15.6. All invoices must be submitted on electronic invoice form provided by OSDH WIC Service. Form will be provided upon acceptance of proposal.

B.16. Indirect Costs/Cost Allocation

- B.16.1. Expenses that are not directly related and billed 100% to a particular funding source may be billed using either an indirect cost rate or a cost allocation plan. The Supplier may request reimbursement of indirect costs (IDC) not to exceed the total amount approved for IDC in the current approved line item budget. The Supplier shall bill for IDC costs based on their federally approved IDC rate, or the rate approved by the Supplier’s cognizant agency.
- B.16.2. This line item is to be based on the Supplier’s approved federally negotiated IDC rate or the rate approved by the Supplier’s cognizant entity responsible for negotiating the Supplier’s IDC rate.
- B.16.3. If the OSDH is the Supplier’s cognizant entity and the Supplier calculates IDC based on actual expenditures, the line item is to be based on the Supplier’s provisional rate for the current fiscal year. The final approved IDC rate may be more or less than the provisional rate. The Supplier may request adjustment on the first invoice submitted following notification of approval of the rate. Any adjustments shall not exceed the total amount approved for IDC in the Supplier’s line item budget. If the approved rate is more than the provisional rate, the Supplier shall not be entitled to additional compensation as a result in the difference between estimated and actual expenditures. If the approved rate is less than the provisional rate, the Supplier shall be required to reimburse the OSDH for excess IDC costs reimbursed.
- B.16.4. If the Supplier does not have a negotiated IDC rate, the Supplier shall be required to submit a Cost Allocation Plan for any costs not directly allocable to a particular funding source. A Cost Allocation Plan is the method used to determine the percent of each budget line item that is allocated to WIC Service. The formulas used to determine the percentage allocated to WIC Service must be included with the Cost Allocation Plan.

B.16.5. Supplier shall submit proof of professional license to the OSDH upon execution of this contract and at such other times as the OSDH may request. If such professional license should expire or be revoked during the term of this contract, Supplier shall immediately renew such license and provide the OSDH with copies thereof. If Supplier is an organization that provides services through individual licensed practitioners, the Supplier will maintain proof of professional license for each individual and will provide the OSDH with copies when requested.

B.17. Limited English Proficiency

Where a significant number or proportion of the eligible population to be served, or are likely to be directly affected by a federally assisted program, needs service or information in a language other than English in order to effectively be informed of or participate in the program, the Supplier shall take reasonable steps to provide the information in languages appropriate to such persons. The scope of the program and the size and concentration of such population will be taken into consideration. An inability by the Supplier to provide the information in the appropriate language to a significant number or proportion of the population eligible to be served or likely to be directly affected by the program shall result in termination of the contract.

B.18. Non-Responsive Proposals

Proposals which do not meet all material requirements of this RFP or which fail to provide all required information, documents or materials may be determined as non-responsive and may not be evaluated. Material requirements of the RFP are those as set forth as mandatory.

B.19. Other Certifications

The Supplier certifies compliance with the provisions of Titles VI and VII of the 1964 Civil Rights Act and Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975; the Hatch Act; the Pro Children Act of 1994; Drug Free Workplace Act of 1988; the American with Disabilities Act of 1990; Title IX or the Education Amendments of 1972; 31 U.S.C. Section 1352, Public Law 105-78; Section 503 of Division F, Title V, of the FY12 Consolidated Appropriations Act; 41 U.S.C. 4712 and the National Defense Authorization Act (NDAA) for Fiscal year (FY) 2013; Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended; mandatory standards and policies relating to energy efficiency as outlined in the State of Oklahoma's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201); 2 CFR 200.112; 2 CFR § 200.322 (Procurement of Recovered Materials); and, the Single Audit Act of 1984; as applicable.

B.20. Personnel Activity Reports

The Supplier and any approved SubSupplier shall maintain Personnel Activity Reports (PARs) on all employees reimbursed in whole or in part by this contract. PARs must be completed in accordance with the Federal Cost Principles applicable to the Supplier's specific entity type, i.e. State and Local Government, Non-Profit, Colleges and Universities, etc. (Suppliers may refer to 45 CFR Part 74 and 92, 7 CFR Part 3016 to determine the applicable Federal Cost Principles,

or as determined by the applicable Federal program guidance). The above requirements will apply to all Suppliers regardless of the type of funds being reimbursed to the Supplier by the OSDH.

B.21. Privacy Clause

The Supplier shall, at all times, maintain confidential all information pertaining to any person, patient, or client with whom it has a professional relationship, contact or contract. No information shall be released to any person or party not directly employed by the Supplier without first obtaining such person's, patient's, or client's expressed written consent therefore. Confidential information pertaining to any minor shall not be released to any person or party without the express written consent of a custodial parent, court appointed guardian, court authorized foster parent, or authorized self-consenting minor, subject however, to all applicable state and federal statutes, rules and regulations.

B.22. Protecting and Securing Protected Health Information

Incorporated herein in its entirety, and made a part of this contract, is the attached Business Associate Agreement (**Appendix G.7**) signed between the Parties.

B.23. Procurement Integrity

The Supplier certifies they have not entered into this contract with this or any other state agency that would result in a substantial duplication of the services or duplication of the end product rendered by the Supplier or its employees.

B.24. Promotional or Incentive Items

- B.24.1. Per 2 CFR Part 200.421, costs of promotional items and memorabilia, including models, gifts, and souvenirs are unallowable. Advertising costs for the purpose of program outreach and other specific purposes necessary to meet the requirements of the Federal award are allowable.
- B.24.2. Incentive items may be used to encourage an individual to participate in a program or survey by performing a specific task for the benefit of the OSDH program and must conform to OSDH Memorandum of Legal Opinion, dated June 1, 2009. The incentive item used for encouragement shall be given to the individual only after the individual has completed the task.

B.25. Statement of Responsibility and Liability

- B.25.1. The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. The OSDH shall be responsible for the acts and omissions to act of its officers and employees while acting within the scope of their employment according to the Oklahoma Governmental Tort Claims Act (51 O.S. §151 et seq.).
- B.25.2. The Supplier shall be responsible for any damages or personal injury caused by the negligent acts or omissions to act by its officers, employees, or agents acting within the scope of their authority or employment.
- B.25.3. The Supplier agrees to hold harmless the OSDH of any claims, demands and liabilities resulting from any act or omission on the part of the Supplier and/or its

agents, servants, and employees in the performance of this contract. It is the express intention of the parties hereto that this contract shall not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.

B.26. Tobacco Free Policy

Supplier, while performing the duties under this contract shall comply with the smoke free requirements on state property pursuant to 21 O.S. § 1247. For other tobacco products, including e-cigarettes, use of such products is prohibited pursuant to the Governor's Executive Orders 2012-01 and 2013-43.

B.27. Travel and Related Expenses

If travel costs and related expenses are a part of the contract, such expenses must be compliant with 2 CFR Part 200.474. The Supplier's request for reimbursement shall be based on the organization's written travel policies. OSDH will monitor the travel-related expenses based on reasonableness (2 CFR Part 200.404) as compared to those rates authorized by the Federal Conus Rates published at the GSA Website located at <http://www.gsa.gov/portal/category/100000>. Those requirements are stated in the State of Oklahoma's State Travel Reimbursement Act (74 O.S. §500.1 et seq.). All out-of-state travel where reimbursement is requested must be pre-approved in writing by the OSDH. In addition, OSDH allowable travel costs must be directly related to the activities of the contract and therefore may require a location of those costs to all programs benefitted based on an equitable allocation methodology.

B.28. Waiver of Breach

No failure by the OSDH to enforce any provisions hereof after any event of default by the Supplier shall be deemed a waiver of the OSDH's rights with regard to that event, or any subsequent event. Waiver shall not be construed to be a modification of the terms of the contract.

B.29. Supplier Relationship

- B.29.1.** In accordance with the Office of Management and Budget (OMB) Circular A-133, the relationship between the OSDH and the Supplier for this contract is that of a Sub-Recipient.
- B.29.2.** Applicants/recipients are expected to have systems, policies, and procedures in place by which they manage grant funds and grant-supported activities. They may use their existing systems for this purpose as long as organizational policies are consistently applied regardless of the source of funds and systems meet the standards and requirements set forth in 2 CFR Part 215, 45 CFR Part 74, 45 CFR Part 92, or 7 CFR Part 3016, or as determined by the applicable Federal program guidance.
- B.29.3.** In addition, Suppliers shall request reimbursement of costs from OSDH only when those costs comply with the applicable Federal Cost Principles 2 CFR Part 220, 2 CFR Part 225, 2 CFR Part 230, FAR 31.2, or as determined by the

applicable Federal program guidance to the Supplier's entity type. Any request for reimbursement of cost not allowable under the above Federal regulations must be specifically approved in the special conditions of the contract language and be supported by a specific line item within the Supplier's approved budget.

B.30. Contract Period

This contract will begin October 1, 2016 and terminate on September 30, 2017. This Contract shall include an option to renew for up to three additional one (1) year periods (October 1 – September 30). This contract shall not take effect and no services may be provided until the OSDH has in its possession a copy containing original signatures of both parties and a purchase order has been issued. No services shall be provided prior to the effective date.

C. SOLICITATION SPECIFICATIONS

C.1. Introduction

The Oklahoma State Department of Health, hereinafter referred to as the OSDH, is seeking proposals from qualified community health and human service agencies to operate and provide the required services of the Oklahoma Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in the designated service areas in Oklahoma counties

C.2. Purpose

The purpose of this RFP is to meet the program goals and objectives by maximizing participant services. The goal of this RFP is to provide continuity of services in service areas with current contracts and to expand services in underserved areas across the State of Oklahoma.

C.3. Background

- c.3.1. Congress established the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in 1972. WIC was established to meet the supplemental nutritional needs of high-risk, low-income women, infants and children. National health and nutrition surveys [Ten State Nutrition Survey (1968 1970); Preschool Nutrition Survey (1968 1970); and HANES (1971 1974)] found substantial numbers of women and young children at nutritional risk due to inadequate nutrient intake and/or inadequate health care. As such, Public Law 92 433 was passed by Congress to establish WIC and allocate federal dollars to serve these women and children. Since its inception in 1972, the scope of the WIC Program has expanded to emphasize coordination of services with several organizations including Medicaid, Title V Maternal and Child Health, Head Start, Immunizations, Substance Abuse Programs and to facilitate the receipt of services by eligible homeless individuals.
- c.3.2. The United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) federally funds and administers WIC at the federal level. In Oklahoma, the USDA FNS allocates funds to the OSDH, which administers the program through

WIC Service. Federal legislative mandates, regulations, and monitoring and evaluation requirements are a critical component of program services and operations. WIC began in Oklahoma in 1974. The Oklahoma WIC program promotes optimal health for its participants during the critical periods of growth and development during pregnancy, breastfeeding, infancy, and early childhood. The program seeks to prevent the occurrence of health problems, to improve nutritional status, to reduce infant mortality and to maintain a healthy status in all participants for as long as possible.

C.4. Contract Expense Cap

- c.4.1. The OSDH will have available a total of \$12,000.00 to reimburse Suppliers for the period October 1, 2016 through September 30, 2017. Supplier will be paid in accordance with the Invoicing Clause of the contract for actual and necessary expenses incurred in accordance with the approved line item budget.
- c.4.2. **See Section H for details.**

C.5. Minimum Requirements

- c.5.1. Applicable duties listed below shall be performed in accordance with the online WIC Policy and Procedure manual available under WIC at www.ok.gov/wic and applicable State and Federal laws and regulations.
- c.5.2. The Supplier shall determine Eligibility and Certify potential participants.
 - Eligibility criteria includes: category, identification, residency, income and nutritional risk. Individuals who meet the eligibility criteria are certified for WIC services. All eligibility, verification and determinations are documented in the PHOCIS system and on the required forms.
 - Category - Applicants must be a pregnant, breastfeeding or non-breastfeeding woman, infant, or child under five.
 - Identification - To ensure that only qualified applicants receive program services, proof of identification is required at all visits.
 - c.5.2.1.1. Residency - Applicants must live in Oklahoma. Residency is determined by the applicant's address. Proof of residency is required at each certification, intra-agency transfer, or participant change of address. However, an applicant may apply and choose to participate in any local WIC program in Oklahoma.
 - c.5.2.1.2. Income - Applicants must have income equal to or less than 185% of the Federal poverty guidelines. Income documentation is required and includes participants providing proof of income for all members of the household. Applicants receiving benefits from TANF, Supplemental Nutrition Assistance Program (SNAP) or Medicaid are adjunctively eligible and therefore can verbally declare household income.
 - c.5.2.1.3. Nutritional Risk - CPAs determine nutritional risk using medical and dietary information, including height, weight, a hematological test, a brief medical history, and a dietary assessment. Medical information may be provided on a WIC Information Form or other form completed by the applicant's health care providers that includes any of the following: weight, length/height hematological test, or physical/medical conditions

which may affect nutritional status of applicant. This information must be obtained no more than sixty (60) calendar days for infants (through 12 months of age), women and children (up to five years of age) prior to the WIC assessment.

c.5.3. Certification is the process by which an individual's eligibility for WIC services is determined. Processing standards require that certification be provided within 10 calendar days of their date of application for WIC benefits to pregnant women, Priority 1 Infants and migrant workers who plan to leave the area within 10 days and to all other eligible applicants within 20 calendar days of their date of application.

c.5.3.1. Certification periods are as follows:

Pregnant women for the duration of their pregnancy and up to six weeks postpartum,

Non-breastfeeding women for up to six months postpartum,

Breastfeeding women ending with the breastfeeding infant's first birthday,

Infants under six months of age for a period ending with their first birthday,

Infants over six months of age for intervals of six months,

Children for intervals of twelve months ending with the end of the month of the child's fifth birthday, and

Provide nutrition education to WIC Program participants in order to improve the health and long term eating habits of Oklahoma families.

c.5.4. The nutrition component of the WIC program is designed to provide nutrition education and counseling to all participants according to Nutrition Education Protocols. Nutrition education is an essential core value of WIC service since the impact of nutrition education lasts far longer than the receipt of supplemental food. In general, the nutrition education that is provided through the WIC program is an interactive learning and teaching process designed to:

c.5.4.1. Emphasize the relationship between proper nutrition and good health, with special attention given to the nutritional needs of pregnant, breastfeeding, and non-breastfeeding women, infants, and children up to five years of age.

c.5.4.2. Assist participants at nutritional risk to achieve a positive change in nutritional status. Nutrition education is presented in the context of the ethnic preferences and economic situation of the participants.

c.5.4.3. Provide at least two (2) nutrition education contacts to pregnant and non-breastfeeding women during each certification period, with infants, children and breastfeeding women receiving up to four (4) contacts depending on age at certification. (The midpoint wellness check can count towards one of the nutrition education contacts for infants, children and breastfeeding women).

- c.5.5. The initial nutrition education contact is part of the certification process and addresses identified nutritional risk criteria. The education contacts are conducted in a group setting and through individual appointments with approved staff. Those participants who are identified with special nutritional needs must receive a subsequent nutrition education session delivered by the clinic's nutritionist. Nutrition contacts are documented following procedures outlined in the online WIC Policy and Procedure Manual www.ok.gov/wic.
- c.5.6. The local clinic atmosphere should enhance nutrition education. Displays, posters, books, and magazines all contribute to the participant's understanding that the clinic is a nutrition information and resource center.
- c.5.7. It is essential that nutrition education is provided in the primary language of the participant and suggestions or recommendations should be made in the context of the participant's cultural or ethnic background and economic situation.
- c.5.8. Each local WIC agency submits a yearly Nutrition Education Plan for approval by WIC Service (see the online WIC Policy and Procedure Manual, www.ok.gov/wic). This plan is an important tool to assure the provision of accurate, appropriate and consistent nutrition care to participants. The plan incorporates objectives and activities, which respond to the following three areas of focus:
 - c.5.8.1. At least two (2) nutrition education contacts to participants during each certification period, with infants receiving up to four (4) contacts depending on age at certification,
 - c.5.8.2. Breastfeeding education to all prenatal women and support for breastfeeding women, and
 - c.5.8.3. Nutrition education to participants with special nutritional needs delivered under the direction of the local clinic's nutritionist.
- c.5.9. Provide information and referrals to other health and social service programs in accordance with WIC Policy and Procedure. An important component of the Oklahoma WIC Program is to provide all participants with information about and referrals to various health and social service programs. Links to and coordination with health and social services help ensure referrals and cost-effective integration of services. It is the responsibility of the Supplier to ensure that any staff that has contact with applicants or participants has access to appropriate information referrals. Staff members are responsible for informing applicants and participants about the types of appropriate programs and services available to them.

All referrals are documented in the PHOCIS system. When possible, information should include:

- Name of program or service,
- Address and phone number,
- Information and service available,
- Eligibility requirements,
- Office hours, and
- Key contact person, if possible

- c.5.10. The participant/PCH shall be issued an eWIC card in order to purchase WIC food benefits. One eWIC card shall be issued per household, i.e., all household members eligible to receive WIC food benefits will be assigned to the same eWIC card.
- c.5.11. Suppliers will begin using eWIC upon completion of roll out in their respective counties. If implementation of eWIC is delayed, Supplier(s) will continue using current procedures to provide WIC benefits to participants until such time as completion of roll out has occurred in the county where Supplier(s) is located.
- c.5.12. Ensure secure storage for the following items:
 - Infant formula,
 - Breast pumps,
 - Loaned OSDH equipment,
 - eWIC Cards,
 - Participant records, and
 - Clinic supplies provided by the State Office.
- c.5.13. Ensure the WIC provided equipment for collecting heights, weights, and hematological testing remains in both proper working order and is calibrated as needed for accuracy:
 - Pediatric scale,
 - Adult scale,
 - Infant recumbent board, and
 - Equipment to obtain a hematological test for screening of iron deficiency anemia. The HemoCue Hb201+ or HemoCue Hb201 DM Analyzer must be used for sample analysis. It is the Supplier's responsibility to obtain the following clinical supplies for the hematological test: Safe-T-Pro lancets for finger sticks, Tenderfoot Toddler lancing devices for heel sticks, and microcuvettes. In the event Tenderfoot Toddler lancets are not available, Safe-T-Pro lancets can be used for heel sticks.
- c.5.14. Provide a line item invoice of expenditures each month.
- c.5.15. Submit budget information/documentation at each renewal period.
- c.5.16. Obtain OSDH WIC Service approval, from WIC program consultant, of nutritionist credentials prior to finalization of employment for new nutritionists.
- c.5.17. WIC Service provides training for collection of anthropometric data and computer training and guidance on all enhancements and updates to the PHOCIS system. The Supplier accepts such training and uses the system as appropriate for their positions.
- c.5.18. Submit a Yearly Nutrition Education Plan for approval by WIC Service (see online WIC Policy and Procedure Manual, www.ok.gov/WIC).
- c.5.19. Obtain written (e-mail or letter) approval from the WIC Program Consultant of written materials and audio-visuals prior to using in the delivery of nutrition

education. Approval shall be requested a minimum of two weeks prior to intended use.

- c.5.20. Obtain written (e-mail or letter) approval for any restricted budget line-items from OSDH WIC Service. Approval shall be requested a minimum of two weeks prior to expenditure.
- c.5.21. In the event of relocation or opening of a new clinic site, obtain OSDH WIC Service approval of the proposed clinic site. Approval includes a site visit by OSDH WIC Service staff.
- c.5.22. Provide to the OSDH WIC Service a minimum of 5 and a maximum of 25 copies of any informational materials requiring deposit with the Oklahoma State Publications Clearinghouse.
- c.5.23. The Oklahoma WIC Program operates in accordance with 7 CFR, Part 246 of the Federal Regulations of the USDA FNS, the FNS Memorandum Instruction System, the Oklahoma WIC Program State Plan, the online WIC Policy and Procedure Manual (www.ok.gov/wic), the PHOCIS Users Manual, and the WIC Vendor Handbook. The Supplier shall know and comply with the operational requirements of carrying out a WIC program as delineated in these manuals.

C.6. Clinic Operations

- c.6.1. WIC Clinic operations shall be supervised by medically licensed clinic staff. Medical licensure includes but is not limited to: Medical Doctor (MD), Osteopathic Doctor (OD), Physician Assistant (PA), Registered/Licensed Dietitian.
- c.6.2. It is the responsibility of the Supplier to provide direct services, i.e., certification, midpoint wellness check, nutrition education, WIC program benefits, and referrals to applicants and participants in a manner that ensures maximum access to services. This may include the provision of extended morning and/or evening hours for working applicants and participants. Examples of extended hours are opening for service at 7 a.m. or closing at 6 p.m., Saturday clinics, providing services during the lunch hour, etc. It is strongly recommended that the work hours of the Supplier's staff be staggered to ensure maximum service access to participants as well as to increase staff productivity. The Supplier will contact WIC State Office anytime the WIC clinic(s) will be closed during regular clinic hours.
 - c.6.2.1. Caseload - The Supplier manages the service area's caseload to ensure reaching all potential eligibles. Effective caseload management involves developing and implementing a definitive plan, which attains the caseload through outreach and referrals with emphasis on high-risk populations.
 - c.6.2.2. Outreach - Suppliers conduct outreach activities to inform the service area target population of the WIC program. Effective outreach is based on a thorough knowledge of the community/communities to be served, including target and high-risk populations and identification of barriers to service. Outreach on a continuing basis enables a program to effectively manage the caseload, to maximize service levels, to target its services to high-risk subgroups, and to integrate its services with health care and social service providers. All agencies and organizations that serve the

WIC target population are informed of WIC services and how to refer clients to WIC.

c.6.2.3. Administration - The administration of the local WIC program consists of the following components.

c.6.2.4. Record Retention – WIC Nutrition Records

c.6.2.4.1. These files contain individual WIC participant records from WIC clinic sites contracted with the WIC Program.

c.6.2.4.2. Participant records shall be retained for three (3) state fiscal years (July 1-June 30) plus current state fiscal year. If any litigation, claim, negation, audit or other action involving the records has been started before the end of the three year period, plus current year, the record shall be kept until all issues are resolved, or until the end of the regular three year period, plus current year, whichever is later. If FNS deems any of the program records to be of historical interest, it may require the state or local agency to forward such records to FNS whenever either agency is disposing of them. Under no circumstances can participant records be maintained for a period less than that listed with OSDH Consolidated Records Disposition Schedule (WIC Service 10-19). If Supplier's policy requires longer retention of WIC records, it is allowable.

c.6.2.5. Record Retention - WIC Reports/WIC Records

c.6.2.5.1. These files contain records and reports required by the Oklahoma State Department of Health (OSDH) WIC Program.

c.6.2.5.2. Retention times on individual reports and records can be found in Section G, Administrative Functions, of the WIC Policy and Procedures Manual.

c.6.2.5.3. After the retention time is reached, records can be destroyed provided all audits have been completed and all applicable audit reports have been accepted and resolved by the applicable federal and state agencies, and provided no legal actions are pending. Destroy two (2) years OMES/PURCHASING SOLICITATION PACKAGE - PAGE 21 after exhaustion of legal remedies, provided records meet all stipulated retention requirements. Under no circumstances can OSDH WIC reports and/or records be maintained for a period less than that listed within WIC Policy and Procedures (refer to procedure #2 above). If Supplier's policy requires a longer retention of WIC records, it is allowable.

c.6.2.5.4. Agencies currently under contract are responsible for the maintenance, storage and destruction of WIC records. Contents of WIC records are confidential and may not be shared without the participant's consent.

C.7. Statewide Meetings

Suppliers are encouraged to attend statewide WIC meetings conducted by OSDH/WIC Service staff. These meetings provide an opportunity to present new and/or updated program information, policies and procedures to local staff. Attendance at these meetings ensures communication and participation in policy and procedure development and implementation as well as to receive guidance on new program procedures. Travel costs may be reimbursable.

C.8. Licensure/Certification/Accreditation

Suppliers who collect and analyze blood samples for hemoglobin levels when there is no current data available from the participant's health care provider, do so under the auspices of their own agency's CLIA/COLA licenses. All licensure, certification, and accreditation required for the Supplier must be available for review.

C.9. Duties of the OSDH

- c.9.1. Provide the Management Information System Hardware, software and technical support to the Supplier.
- c.9.2. Provide periodic training to the Supplier, which includes collection of anthropometrics data, computer training and guidance on all enhancements and updates to the PHOCIS system.
- c.9.3. Monitor the Supplier's performance and expenditures through site visits, evaluation of Nutrition Education Plans, federally mandated clinic reviews and review of monthly invoices.
- c.9.4. Conduct statewide WIC meetings that provide opportunity for new and/or updated program information, policies and procedures to local staff.
- c.9.5. Supply food instrument stock to the Supplier.
- c.9.6. Supply equipment for collecting heights, weights, and hematological testing.
- c.9.7. Provide calibration of equipment for collecting heights, weights, and hematological testing as requested by the Supplier.
- c.9.8. Deposit to the Oklahoma State Publications Clearinghouse any informational materials as required by Oklahoma Statutes.
- c.9.9. Provide approval of the following:
 - c.9.9.1. All written materials and audio-visuals used in delivering nutrition education,
 - c.9.9.2. Yearly Nutrition Education Plan,
 - c.9.9.3. Nutritionists credentials prior to employment,
 - c.9.9.4. Restricted budget line items,
 - c.9.9.5. Locations for all proposed new or relocated clinic sites,
 - c.9.9.6. Perform site visit for any proposed new or relocated clinic sites, and
 - c.9.9.7. Provide written approval of proposed new or relocated clinic sites.

D. EVALUATION

D.1. Proposal Evaluation Process

- D.1.1. The WIC Service will assemble a committee to review the proposals. This committee will make recommendations to the OSDH Procurement Office. The final award will be made by the OSDH based on best value and in accordance with state procurement rules.
- D.1.2. This RFP will be evaluated on the following best value criteria:
 - D.1.2.1. Organization Specific Questions,
 - D.1.2.2. Clinic Specific Questions, and
 - D.1.2.3. Proposed WIC Budget.

E. INSTRUCTIONS TO BIDDER

E.1. Instructions to Supplier

- E.1.1. Organizations that maintain, or intend to maintain, multiple sites may submit a single proposal for funding. All existing or proposed sites shall be identified. The submitted budget shall be inclusive of all sites (existing or proposed).

E.2. Proposal Instructions

- E.2.1. Thoroughly review the entire Request for Proposal (RFP).
- E.2.2. Comply with all instructions.
- E.2.3. Submit a response to this RFP in the form of a "Proposal Package."
- E.2.4. **A separate RFP response must be submitted for each individual county for which services are bid. All information submitted in a RFP response for a specific county will be reviewed independently.**
- E.2.5. The "Proposal Package" must include: Solicitation Request, copy of OMB Circular A1-33 Audit and all proposal submission requirement responses.
- E.2.6. All inquiry responses by the State must be in writing to be binding and directed to the OSDH Contracting Officer.
- E.2.7. Do not discuss the RFP prior to award with any state employee with the exception of the designated Contracting Officer unless authorized by OSDH.
- E.2.8. Proposals will not be considered if any of the following exists:
 - E.2.8.1. Proposal was not submitted by the stated deadline,
 - E.2.8.2. Proposal does not include the entire proposal package, or
 - E.2.8.3. Proposal does not comply with all of the requirements of the proposal process and solicitation.

E.3. Response Format

- E.3.1. Supplier is to submit five (5) complete copies of their response on five (5) separate CDs (one copy on each Disc) which includes the completed proposal

including the scanned images of the required OMES signed forms. CDs must be unprotected documents. Original hard copies are not required. Faxed or emailed responses will not be accepted. Please mark the CD's with the company name, solicitation number, and closing date. This requirement supersedes the hard copy requirement listed in A.2.4.

- E.3.2. Supplier is to submit their response copies to the OSDH address listed on the front page of this solicitation.
- E.3.3. Please ensure that your Discs are marked clearly with the RFP Number.
- E.3.4. PDF is an acceptable format for solicitation responses. This overrides requirements of A.2.4.

E.4. Mandatory Proposal Submission Requirements

In order to be considered responsive to this RFP, each potential supplier should respond to the questions in appendices G.1. through G.3., and H.2.

F. CHECKLIST

- F.1. _____ **Solicitation Request**
- F.2. _____ **Responding Supplier's Information**
- F.3. _____ **Certification for Competitive Proposal**
- F.4. _____ **Insurance Documentation**
- F.5. _____ **Copy of required licenses and credentials**
- F.6. _____ **Minimum Supplier's Requirements (Appendix G.1.)**
- F.7. _____ **Organization Specific Questions (Appendix G.2)**
- F.8. _____ **Clinic Specific Questions (Appendix G.3.)**
- F.9. _____ **Proposed WIC Budget (Attachment A)**
- F.10. _____ **Proposed Cost Allocation Plan (if applicable)**
- F.11. _____ **FFATA FORM (Appendix G.6.)**
- F.12. _____ **BAA Agreement (Appendix G.7.)**
- F.13. _____ **Sub-Recipient Questionnaire (Appendix G.8.)**

- F.14. _____ **Copy of OMB Circular A-133 Audit**

G. OTHER

G.1. Question Submittal

All questions regarding this solicitation must be submitted in writing and are to be emailed no later than September 20, 2016 at 3:00PM Central Daylight Time. Questions are to be emailed to donnad@health.ok.gov. Questions received after this date may not be answered. If any questions are received, an amendment to this solicitation will be posted on our website after this deadline listing all questions received and their answers. In addition, suppliers will be notified the amendment is on our website. Any communication regarding this RFP must be sent to the Contracting Officer listed above. Failure to do so (contacting the

agency directly), may result in your proposal being deemed as non-responsive. Please be sure to reference the RFP number when emailing questions.

G.2. Attachments

- G.2.1.** Attachment A – Sample Budget and Budget
- G.2.2.** Appendix G.1. - Minimum Supplier's Requirements
- G.2.3.** Appendix G.2. - Organization Specific Questions
- G.2.4.** Appendix G.3. - Clinic Specific Questions
- G.2.5.** Appendix G.4. - WIC Estimate of Need 2017 Service Areas
- G.2.6.** Appendix G.5. - Caseload and Potential Unserved WIC Eligibles
- G.2.7.** Appendix G.6. - FFATA Form
- G.2.8.** Appendix G.7. - BAA Agreement
- G.2.9.** Appendix G.8. – Sub-Recipient Questionnaire

H. PRICE AND COST

H.1. Overview

The OSDH shall have available a total of \$12,000.00 to reimburse Suppliers for the period October 1, 2016 through September 30, 2017. Supplier will be paid in accordance with the Invoicing Clause of the contract for actual and necessary expenses incurred in accordance with the approved line item budget.

H.2. Budget Preparation

Please prepare budget for the period October 1, 2016 through September 30, 2017.

H.3. Budget Overview

- H.3.1.** A line item budget and budget justification must be submitted with the RFP response. Failure to submit these documents will cause the Supplier's response to be deemed non-responsive and not evaluated for an award. Please use the provided budget form. (See Attachment A).
- H.3.2.** The line item budget and budget justification submitted with the RFP response are proposed budgets and adjustments/corrections or additional documentation supporting the budget may be required before or after award.
- H.3.3.** Keep the following in mind while preparing the project budget:

Budgets must reflect allowable expenditures for the cost of providing the services detailed in this RFP. Allowable expenditures are defined in 2 CFR Part 200 https://www.whitehouse.gov/omb/grants_docs.

Reimbursement is made in accordance with the approved line item budget and only after the Supplier has received and paid for the goods or services. The requested budget amount may not be the awarded amount.

Reimbursement of some categories of expenses must be approved in advance by the OSDH as the pass-through entity. See 2 CFR § 200.407.

Once the final budget amount is approved, the total contract amount cannot be increased without justification from the Supplier and approval by OSDH.

It is the Supplier's responsibility to monitor the individual line items from month to month in order to prevent overspending in a line item during the contract period.

Budget revisions that do not change the total contract amount must be submitted to the OSDH and approved in advance and are limited to one per quarter. The final budget revision of the year is due 60 days before the end of the contract period.

The OSDH will review the Supplier's expenditures throughout the term of the contract and may require a reduction in the contract amount if expenditure patterns demonstrate a funding lapse. Any reductions made during the contract will be made in accordance with RFP Section B.3.

H.4. Proposed WIC Budget

- H.4.1. The budget provides a summary of the costs to be reimbursed for providing the services detailed in this RFP. A sample budget (Attachment A) is provided to assist in preparation of the form.
- H.4.2. The following additional information is being provided for preparation of the proposed budget:
 - H.4.2.1. Line Item Budget Preparation – The submitted proposed budget must cover the period October 1, 2016 through September 30, 2017. Figures should be rounded to the next whole dollar amount,
 - H.4.2.2. Proposed budgets must be prepared on the attached OSDH Contract Budget forms (See Attachment A), and
 - H.4.2.3. All costs to be reimbursed must be allowable per 2 CFR Part 200 or other applicable grant or program guidance.

H.5. Budget Justification

- H.5.1. The budget justification is a separate document written in a narrative format that details what is proposed for reimbursement for the contract period and how the figures in the proposed budget were determined.
- H.5.2. The budget form requires the Supplier to provide sufficient detail in each category to justify how funds support programmatic and administrative activities to accomplish the requirements of the RFP.

H.6. Cost Allocation Plan

If the Supplier does not have a negotiated IDC rate, the Supplier shall be required to submit a Cost Allocation Plan for any costs not directly allocable to a particular funding source. A cost Allocation Plan is the method used to determine the percent of each budget line item that is allocated to WIC Service. The formula used to determine the percentage allocated to WIC Service must be included with the Cost Allocation Plan.

H.7. Matching Funds

This RFP does not require matching funds.

H.8. Personnel/Salaries

Actual salaries and wages paid to Supplier's own personnel working on a specific OSDH program. Identify individuals by job title and percentage FTE. One FTE is equal to 2,080 hours per year. See 2 CFR § 200.430

H.9. Fringe Benefits

Actual fringe benefits paid to the Supplier's personnel working on a specific OSDH program. For budget purposes, a percentage rate for fringe benefits may be used. However, Supplier will be reimbursed for actual fringe benefits paid. For audit purposes, the Suppliers' financial records must clearly define each actual fringe benefit cost as a separate expense applicable only to the approved budgeted salaries. Fringe benefits (e.g., retirement program, FICA, insurance, worker's compensation, etc.) are usually applicable to direct salaries and wages. If fringe benefits are to be reimbursed, then a clear description must be included of how the computation of fringe benefits was determined. See 2 CFR § 200.431.

H.10. Travel/Training

H.10.1. Actual fringe benefits paid to the Supplier's personnel working on a specific OSDH program. For budget purposes, a percentage rate for fringe benefits may be used. However, Supplier will be reimbursed for actual fringe benefits paid. For audit purposes, the Suppliers' financial records must clearly define each actual fringe benefit cost as a separate expense applicable only to the approved budgeted salaries. Fringe benefits (e.g., retirement program, FICA, insurance, worker's compensation, etc.) are usually applicable to direct salaries and wages. If fringe benefits are to be reimbursed, then a clear description must be included of how the computation of fringe benefits was determined. See 2 CFR § 200.431.

H.10.2. Travel/Training expenditures may include:

Mileage to and from public awareness/public education sessions,

Mileage to and from public awareness/public education sessions,

Overnight lodging expenses for attending training meetings or conferences payments to hotels/motels/conferences.) (Including direct payments to hotels/motels/conferences.)

Attendance at program approved designated training(s) required to fulfill the requirements of the program (written approval must be received from the OSDH before attendance).

H.11. Supplies

H.11.1. Supplies are materials necessary to conduct the program as direct costs and may include, but are not limited to:

Materials used to promote the programs in the community such as pamphlets and brochures,

Educational materials such as video tapes, pamphlets, brochures, books, curricula,

Office supplies such as paper, pens, pencils, file folders,

Printing and copying, and

Postage.

H.12. Contractual

H.12.1. Contractual expenditures include essential consultation or other program services that cannot be provided by the Supplier. Subcontracts and other contractual agreements must be clearly defined in the proposed budget. A Professional Service Evaluation must be submitted for each sub-Supplier at the end of their contract. Contractual expenditures may include:

Subcontracts with other agencies to provide specific program-related services,

Subcontracts with program consultants, and

Subcontracts with trainers

Administrative Costs/IDC

H.12.2. Costs in this category are expenses which are not related to or billed to 100% of a particular funding source. Indirect costs may be billed using either an indirect cost rate or a cost allocation plan, but not both. Provide a copy of the federally approved IDC rate or the cost allocation plan. A cost allocation plan must show how each amount was determined to allocate costs to the services detailed in this RFP.

H.13. Other

H.13.1. Other direct costs which do not fall into the Personnel, Travel/Training, Supplies, or Contractual categories. Such costs must be 100% allocable to the OSDH program. Costs which are not 100% allocable would be reimbursed under Administrative Costs/IDC pursuant to a negotiated IDC rate or cost allocation plan.

H.14. Special Conditions

H.14.1. **Other Allowable Expenses:**

Insurance (both professional liability and property)

Copier lease and maintenance

Trash service/housekeeping

Equipment service and repair

Rental agreements - Contracting agencies must provide a copy of lease and/or rental agreement for any building or property that provides direct WIC Service, administration or other service related to the WIC Program and is included as a line item expense on the agency's WIC budget. A copy of the lease and/or rental agreement must be sent to OSDH WIC Service at the beginning of each new five year contract period. A copy of lease and/or rental agreement must also be sent to OSDH WIC Service in case of relocation, new clinic opening or if terms of a lease or rental agreement change during the contract period

Telephone

Utilities

Maintenance and repair

Hazardous waste

CLIA licensure

Pest control

Miscellaneous Administrative Expenses with prior approval of OSDH WIC Service

Reconnection fee for the T-1 line when due to clinic relocation

Media Purchases – OSDH WIC Services requires prior approval on all types of media purchases that mention the WIC program or for which OSDH/WIC Service will be billed for reimbursement. Media purchases include but are not limited to brochures, pamphlets, radio spots, television spots and newspaper articles

International Board Certified Lactation Consultant (IBCLC) Skill Based Pay as described in Memorandum FHS-WIC-2009-07

NWA Membership Dues

Printing and Copying-for items not available in OSDH Shipping and Receiving

Food to be used for demonstration in Nutrition Education Classes-must receive prior approval by OSDH WIC Service

Promotional and Incentive Items-requires prior approval on all types of promotional and incentive items that mention the WIC Program and/or for which OSDH WIC Service will be billed for reimbursement

Moving Expenses-requires prior approval from OSDH WIC Service

Interpreters

H.14.2. Unallowable Line Items/Expenses:

Dues/licenses/permits (NWA membership dues will be approved)

Subscriptions

Nutrition Education Supplies (WIC Service will not pay for nutrition education supplies in addition to what is shipped to the clinic by the State WIC Office)

Local transportation (this is travel and must be in compliance with the STRA)

One-time salary bonuses (unless detailed at the beginning of the year and are performance based)

Interest charges

Any decorating or remodeling expenses.

Expenses for items not directly related to program services (i.e. water, soft drinks, coffee, etc. for staff)

OKLAHOMA STATE DEPARTMENT OF HEALTH
SAMPLE Proposed WIC Budget

OKLAHOMA STATE DEPARTMENT OF HEALTH											
											Page 1 of 3
WIC SERVICES											
CONTRACTOR BUDGET											
CONTRACTOR INSTRUCTIONS: ONLY FILL OUT LIGHT BLUE SHADED AREAS			Date Prepared		09/22/10						
Contract Period - From:		10/01/10	Through:		09/30/11						
Contractor's Project Name:			WIC CLINIC								
Contractor's Name:		WIC CONTRACTOR									
Address:		123 ABC STREET									
City, State ZIP:		ANYTOWN, OK 73123									
Budget Summary											
LINE ITEM SUMMARY				FTEs						TOTALS	
TOTAL SALARIES				4.56						146,000.00	
TOTAL FRINGE BENEFITS										28,240.00	
TOTAL TRAVEL										4,000.00	
TOTAL SUPPLIES										7,660.00	
TOTAL CONTRACTS										0.00	
TOTAL OTHER										44,100.00	
TOTAL INDIRECT COSTS: @										0.00	
BUDGET CATEGORY TOTALS										230,00.00	
COMMENTS:											
Contractor Signature (Authorized Representative)											

Contract Monitor's Review: Approved Disapproved (Circle one)		OSDH USE ONLY	Contract Administrator's Review: Approved Disapproved (Circle one)	
Contract Monitor's Signature ---		Date:	Contract Administrator's Signature	
Other Signature Required by Program ---		Date:		

Contract Period - From:10/01/010	Through :	09/30/1 1	Page 2 of 3
Contractor's Project Name:			
WIC CLINIC			
Contractor's Name:			

Budget Detail				Line Item
PERSONNEL/SALARIES (List detail below)				Totals
EMPLOYEE CLASSIFICATION		WI C FT Es		
Manager		1		35,000.00
CWNT		1		28,500.00
Clerk		1		26,000.00
Admin. Assistant		1		24,000.00
Accountant		.4 0		6,000.00
Director		.3 0		16,000.00
RD/LD		.2 5		10,500.00
TOTAL SALARIES & FTEs				146,000.00
EMPLOYEE BENEFITS				Totals
Health Insurance				7,860.00
FICA				11,169.00
Worker's Compensation				2,920.00
Unemployment				2,920.00
Retirement				3,371.00

TOTAL FRINGE BENEFITS										28,240.00	
Budget Detail											
TRAVEL Note: All out-of-state travel must be pre-approved by the OSDH)										TOTALS	
In-State Travel										4,000.00	
Out-of-State Travel											
TOTAL TRAVEL										4,000.00	
Budget Detail											
SUPPLIES (List supplies below)										TOTALS	
Clinical Supplies										4,000.00	
Office Supplies										1,260.00	
Postage										1,200.00	
Housekeeping										1,200.00	
TOTAL SUPPLIES										7,660.00	

Contract Period - From:10/01/010				Through : 09/30/11		Page 3 of 3	
Contractor's Project Name:							
WIC Clinic							
Contractor's Name:							
WIC CONTRACTOR							
Budget Detail							
CONTRACTUAL (List contracts below) Note: Contractual (Contracts must be pre-approved by the OSDH)						TOTALS	
TOTAL CONTRACTS						0.00	
Budget Detail							
OTHER (List below)						TOTALS	
Occupancy – Space Rent						23,400.00	

Attachment H.2.A

I. OKLAHOMA STATE DEPARTMENT OF HEALTH
Proposed WIC Budget

J. OKLAHOMA STATE DEPARTMENT OF HEALTH											
WIC SERVICES										Page 1 of 3	
CONTRACTOR BUDGET											
CONTRACTOR INSTRUCTIONS: ONLY FILL OUT LIGHT BLUE SHADED AREAS			Date Prepared								
			Contract Period - From:		Through:						
Contractor's Project Name:											
Contractor's Name:											
Address:											
City, State ZIP:											
Budget Summary											
LINE ITEM SUMMARY			FTEs						TOTALS		
TOTAL SALARIES											
TOTAL FRINGE BENEFITS											
TOTAL TRAVEL											
TOTAL SUPPLIES											
TOTAL CONTRACTS											
TOTAL OTHER											
TOTAL INDIRECT COSTS: @											
BUDGET CATEGORY TOTALS											
COMMENTS:											
Contractor Signature (Authorized Representative)											
Contract Monitor's Review: Approved Disapproved (Circle one)			OSDH USE ONLY		Contract Administrator's Review: Approved Disapproved (Circle one)						

Out-of-State Travel								
TOTAL TRAVEL								
Budget Detail								
SUPPLIES (List supplies below)								TOTALS
TOTAL SUPPLIES								

Contract Period - From:	Through :							Page 3 of 3
Contractor's Project Name:								
Contractor's Name:								

Budget Detail								
CONTRACTUAL (List contracts below) Note: Contractual (Contracts must be pre-approved by the OSDH)								TOTALS
TOTAL CONTRACTS								

Budget Detail								
OTHER (List below)								TOTALS

Appendix G.1

Minimum Supplier's Requirements Form

Supplier Agency Name: _____

RFP Number: _____

Service Area: _____

1. Indicate which of the criteria listed below best describes your agency. Agency selection criteria is based on 7CFR, Section 246.5 (d) (1) (i, ii, iii, iv, v).
 - a. a public or a private nonprofit health agency that will provide ongoing, routine pediatric and obstetric care and administrative services.
 - b. a public or a private nonprofit health or human service agency that will enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care or administrative services.
 - c. a public or private nonprofit health agency that will enter into a written agreement with private physicians, licensed by the state, in order to provide ongoing, routine pediatric and obstetric care to a specific category of participants (women, infants or children).
 - d. a public or private nonprofit human service agency that will enter into a written agreement with private physicians, licensed by the state, to provide ongoing, routine pediatric and obstetric care.
 - e. a public or private nonprofit health or human service agency that will provide ongoing, routine pediatric and obstetric care through referral to a health provider.

Appendix G.2.

ORGANIZATION SPECIFIC QUESTIONS

1. Identify in which WIC service area(s) the agency is bidding and describe how the agency will specifically target outreach efforts for WIC eligibles in the service area.
2. Describe additional programs or services of the agency which are available for WIC participants.
3. Provide a brief description of your agency's general principles and how the WIC Program aligns with the direction and philosophy of these principles.
4. 4. Submit an agency organizational chart that depicts or proposes the location of the WIC Program within the agency.
5. Describe the agency's method or proposed procedure for ensuring that processing standards are met.
6. Describe quality assurance procedures including on-going reviews of policies, protocols, and participant records.
7. Describe the agency's experience in providing services to low-income pregnant women, infants, and children under five years of age.
8. Any agency required to complete a Sub-Recipient Questionnaire is requested to submit most recent OMB Circular A-133 Audit as part of bid documentation.
9. How many years of experience does the organization have providing WIC Service in the service area being bid?

Appendix G.3.

CLINIC SPECIFIC QUESTIONS

1. Answer the following question concerning your agency's WIC staff:
 - a. Identify all WIC staff and describe qualifications of each including years of service
 - b. Provide photocopies of all WIC staff certifications, licenses, diplomas, etc.
 - c. Identify any bilingual or multi-cultural staff, indicating race, language spoken, and/or ethnicity
2. Describe each clinic site's schedule for all appointment types.
3. Discuss how secure storage will be provided for each of the following items:
 - a. Infant formula
 - b. Breast pumps
 - c. Loaned OSDH equipment
 - d. eWIC cards
 - e. Participant records
 - f. Clinic supplies provided by the State Office
4. Describe how each clinic site will implement nutrition education as required in the WIC Program.
5. Submit hours of available service emphasizing how each clinic site will ensure maximum access to applicants and participants. Include a description of the clinic facility with the location address.
6. In the event this RFP/ITB response is proposing a new clinic, a written start-up plan must be included. The start-up plan is required to detail when services will be available in addition to all other Mandatory Proposal Submission Requirements.
7. If WIC services have been previously provided in this service area, what was the agency's monthly average caseload for the most recent contract year?
8. What monthly caseload does the agency anticipate serving? How was this amount determined?

Appendix G.4.

**WIC Estimate of Need FFY2016 Service Area
Ellis County Service Area FFY2016**

Ellis County Service Area 23

Estimated Eligibles: 150

Estimated Indian Tribal Organization Caseload: 0

Avg. Monthly OSDH Caseload FY 2014 (based on residency): 44

% Eligibles Served: 29%

Maximum WIC Clinic Locations: 1

Provider Type	Provider/Service Sites
Private	Newman Memorial Hospital
Nonprofit	905 S Main
	Shattuck, OK 73858

Appendix G.5.

COUNTY	Served by OSDH	Served by an ITO	Total Served	Total Eligibles	Unserved	% Served by OSDH	Total % Served
Adair	429	727	1,156	1,403	247	31%	82%
Alfalfa	80	2	82	158	76	50%	52%
Atoka	256	184	440	671	231	38%	66%
Beaver	90	0	90	153	63	59%	59%
Beckham	767	11	778	926	147	83%	84%
Blaine	464	32	496	420	-76	110%	118%
Bryan	991	630	1,621	1,682	61	59%	96%
Caddo	493	656	1,149	1,634	485	30%	70%
Canadian	1,773	342	2,115	2,485	371	71%	85%
Carter	798	808	1,606	2,305	700	35%	70%
Cherokee	416	1,244	1,660	2,486	826	17%	67%
Choctaw	404	210	614	949	335	43%	65%
Cimarron	65	6	71	140	69	46%	51%
Cleveland	4,166	304	4,470	5,294	825	79%	84%
Coal	113	48	161	255	94	44%	63%
Comanche	3,746	584	4,330	6,329	2,000	59%	68%
Cotton	169	18	187	222	36	76%	84%
Craig	322	116	438	520	82	62%	84%
Creek	1,638	434	2,072	2,683	611	61%	77%
Custer	658	245	903	1,176	272	56%	77%
Delaware	552	578	1,130	1,789	659	31%	63%
Dewey	112	5	117	200	84	56%	58%
Ellis	44	0	44	150	106	29%	29%
Garfield	2,003	115	2,118	2,439	320	82%	87%
Garvin	663	332	995	1,183	188	56%	84%
Grady	958	55	1,013	1,767	754	54%	57%
Grant	102	0	102	155	54	66%	66%
Greer	215	0	215	219	3	98%	98%
Harmon	119	0	119	149	30	80%	80%
Harper	122	0	122	142	21	85%	85%
Haskell	262	235	497	553	56	47%	90%
Hughes	335	94	429	680	251	49%	63%
Jackson	938	10	948	1,539	591	61%	62%
Jefferson	232	27	259	245	-14	95%	106%
Johnston	266	180	446	451	5	59%	99%
Kay	1,292	371	1,663	2,342	679	55%	71%
Kingfisher	506	8	514	573	59	88%	90%
Kiowa	275	22	297	490	193	56%	61%
Latimer	187	129	316	518	203	36%	61%
LeFlore	1,111	988	2,099	2,472	372	45%	85%
Lincoln	861	56	917	1,298	381	66%	71%
Logan	708	1	709	1,120	410	63%	63%
Love	297	68	365	374	9	79%	98%
Major	199	2	201	295	95	67%	68%

Marshall	515	83	598	651	53	79%	92%
Mayes	643	638	1,281	1,709	428	38%	75%
McClain	559	292	851	1,075	224	52%	79%
McCurtain	920	733	1,653	2,012	359	46%	82%
McIntosh	418	187	605	839	234	50%	72%
Murray	191	159	350	474	125	40%	74%
Muskogee	1,379	1,096	2,475	3,661	1,186	38%	68%
Noble	247	51	298	411	112	60%	73%
Nowata	26	220	246	399	153	7%	62%
Okfuskee	292	149	441	541	100	54%	82%
Oklahoma	24,023	2,624	26,647	34,856	8,209	69%	76%
Okmulgee	680	862	1,542	1,923	381	35%	80%
Osage	79	755	834	1,320	486	6%	63%
Ottawa	670	802	1,472	1,530	58	44%	96%
Pawnee	413	47	460	584	124	71%	79%
Payne	1,427	107	1,534	2,280	746	63%	67%
Pittsburg	793	644	1,437	1,586	149	50%	91%
Pontotoc	479	1,088	1,566	1,762	196	27%	89%
Pottawatomie	1,736	499	2,235	2,742	507	63%	82%
Pushmataha	331	117	448	562	113	59%	80%
Roger Mills	48	20	68	170	102	28%	40%
Rogers	1,044	347	1,391	2,008	617	52%	69%
Seminole	820	174	994	1,394	400	59%	71%
Sequoyah	910	301	1,211	1,828	617	50%	66%
Stephens	699	557	1,256	1,639	383	43%	77%
Texas	690	0	690	1,241	551	56%	56%
Tillman	335	2	337	405	68	83%	83%
Tulsa	14,483	3,707	18,190	22,746	4,556	64%	80%
Wagoner	1,042	280	1,322	1,948	625	54%	68%
Washington	697	223	920	1,692	772	41%	54%
Washita	282	7	289	484	195	58%	60%
Woods	112	16	128	235	108	47%	54%
Woodward	416	0	416	693	277	60%	60%
STATE	87,596	26,663	114,259	150,436	36,178	58%	76%

Appendix G.6.

**Federal Funding Accountability and Transparency Act of 2006
(FFATA) Reporting Requirements**

Beginning October 1, 2010, the Office of Management and Budget has imposed new reporting requirements for Federal grantees concerning "Sub-awards". For grants a "sub-award" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the grant was received and that:

- A. The prime recipient (OSDH) awards to an eligible sub-recipient; or
- B. Sub-recipient at one tier awards to a sub-recipient at the next lower tier.

For all Federal grant awards received after October 1, 2010, not including American Recovery and Reinvestment Act of 2009 awards, OSDH will need the following information for all sub-recipients, so OSDH can determine if the sub-recipient meets the requirements of sub-recipient reporting:

DUNS number: The 9-digit Data Universal Numbering System number.

DUNS number+4: *The +4 extension created by registrants in CCR when there is a need for multiple EFTs at one location.*

Name: *The name of the Organization.*

DBA Name: *Organization's "Doing Business As" name.*

Address: *Includes Street, City, State, Country, Zip+4, and Congressional District.*

Parent DUNS number: *Parent Organization's DUNS number.*

Principal Place of Performance: *Primary site where work will be performed.*

Names and Compensation of Highly Compensated Officers: *See specific guidelines in attachments to determine if required.*

Sub-award Project Description: *Description should capture the overall purpose of the sub-award.*

Authorized Official	Title Date
----------------------------	-----------------------

Appendix G.6. (cont)

Requirements for Reporting on Names and Compensation of Highly Compensated Officials

"(F) the names and total compensation of the five most highly compensated officers of the entity if—

"(i) the entity in the preceding fiscal year received—

"(I) 80 percent or more of its annual gross revenues in Federal awards; and

"(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

"(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section

13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986."

Appendix G.7.

OKLAHOMA STATE DEPARTMENT OF HEALTH BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (BAA), effective on the last signature date below, is entered into by and between the Oklahoma State Department of Health (Covered Entity) and _____ (Business Associate).

BACKGROUND AND PURPOSE: The Parties have entered into, and may in the future enter into, one or more written agreements that require Business Associate to be provided with, to have access to, and/or to create Protected Health Information (PHI), (the “underlying Contract(s)”), that is subject to the federal regulations issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and codified at 45 CFR, parts 160 and 164 (HIPAA Regulations). This BAA shall supplement and/or amend each of the Underlying Contract(s) only with respect to the Business Associate’s Use, Disclosure, and creation of PHI under the Underlying Contract(s) to allow Covered Entity to comply with Sections 164.502(c) and 164.314(a)(2)(i) of the HIPAA Regulations. Business Associate acknowledges that it is to comply with the HIPAA Security and Privacy regulations pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), Title XIII, of the American Recovery and Reinvestment Act of 2009, including Sections 164.308, 164.310, 164.312 and 164.316 of title 45 of the Code of Federal Regulations. Except as so supplemented and/or amended, the terms of the Underlying Contract(s) shall continue unchanged and shall apply with full force and effect to govern the matters addressed in the BAA and in each of the Underlying Contract(s).

DEFINITIONS: 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 CFR § 160.103, limited to the information Business Associate received from or created or received on behalf of the Oklahoma State Department of Health (OSDH) as OSDH’s Business Associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards in 45 CFR § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate’s workforce, not OSDH’s workforce, in relation to the protection of that information.

Business Associate. “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.

Covered Entity. “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 CFR 160.103.

HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, all as may be amended.

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, Subcontractor, Unsecured PHI, and Use.

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:

- (a) 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;
- (b) use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- (c) 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 CFR 164;
- (d) implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 CFR 164;
- (e) 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);
- (f) not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
- (g) in accordance with 45 CFR 164.502(e)(1) and 164.308(b), if applicable, ensure that any subcontractors 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;
- (h) 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 (5) 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;
- (i) promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five (5) calendar days any Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- (j) with the exception of law enforcement delays that satisfy the requirements of 45 CFR 164.412, notify Covered Entity promptly, in writing and without unreasonable delay and in no case later than five (5) calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual whose 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 CFR § 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 CFR 164.402;

- (k) 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;
- (l) provide access to PHI 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 CFR 164.524. In the event that any Individual request access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five (5) 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;
- (m) make PHI available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 CFR 164.526;
- (n) document disclosure of PHI 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 CFR 164.528, and within five (5) 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 (5) working days of receiving a request such request to Covered Entity;
- (o) 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 DHHS or government officials and provide Covered Entity with a copy of all documents made available; and
- (p) ensure that all of its subcontractors, 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 ensure that its subcontractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.

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:

- (a) use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;
- (b) disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that (i) the disclosure is 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;

- (c) disclose PHI to report violations of law to appropriate federal and state authorities; or
- (d) aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
- (e) make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;
- (f) 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 CFR §(d)(1)].

Obligations of Covered Entity:

- (a) 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.
- (b) 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 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.
- (c) 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.
- (d) OSDH agrees to timely notify Business Associate, in writing, of any arrangements between OSDH 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.

Term and Termination:

- (a) Term. The Term of this Agreement shall be effective as of the date of the underlying agreement, and shall terminate on the date the underlying agreement terminates or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- (b) Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement (and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity if a cure period is specified).
- (c) 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 CFR 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.

- (d) All other obligations of Business Associate under this Agreement shall survive termination.

Should OSDH become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, OSDH 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. OSDH shall be entitled to terminate the Underlying Contract associated with such breach if, after OSDH 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 by OSDH in such notice; provided, however, that such time period specified by OSDH shall be based on the nature of the breach involved [45 CFR §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D)].

MISCELLANEOUS:

Interpretation: The terms of this BAA shall prevail in the case of any conflict with the terms of any Underlying Contract to the extent necessary to allow OSDH to comply with the HIPAA Regulations. The bracketed citations to the HIPAA Regulations in several paragraphs of this BAA are for reference only and shall not be relevant in interpreting any provision of this BAA.

No Third Party Beneficiaries: Nothing in this BAA shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

Business Associate recognizes that any material breach of this Agreement 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. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or BA to comply with the requirements of the Privacy Rule and related laws and regulations.

- (a) ODSH's Notice of Privacy Practices is available on its website: www.ok.gov/health.
- (b) Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- (c) This Agreement embodies and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior Business Associate agreements, oral or written agreements, commitments, and understandings pertaining to the subject matter hereof.
- (d) If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 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.

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 BAA 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.

A signed copy of this agreement shall be accorded the same force and effect as the original.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf.

OKLAHOMA STATE DEPARTMENT OF HEALTH CONTRACTOR

By: _____

By: _____

Print Name: Robn Green, MPH

Print Name: _____

Print Title: HIPAA Privacy Officer

Print Title: _____

Date: _____

Date: _____

COMMENTS/EXPLANTATIONS

The total number of attachments is: _____

Attach numbered sheets as necessary.

PREPARED BY (SIGNATURE):

TITLE AND TYPED NAME:

DATE: _____

TELEPHONE/FAX/EMAIL:

I, _____, the undersigned do, under penalty of perjury, declare that the information contained in this document and any attachments is true and correct to the best of my knowledge and belief.

Signature of CEO

Date

I, _____, the undersigned do, under penalty of perjury, declare that the information contained in this document and any attachments is true and correct to the best of my knowledge and belief.

Signature of CFO

Date

COMMENTS/EXPLANTATIONS

The total number of attachments is: _____

Attach numbered sheets as necessary.

PREPARED BY (SIGNATURE):

TITLE AND TYPED NAME:

DATE: _____

TELEPHONE/FAX/EMAIL:

I, _____, the undersigned do, under penalty of perjury, declare that the information contained in this document and any attachments is true and correct to the best of my knowledge and belief.

Signature of CEO

Date

I, _____, the undersigned do, under penalty of perjury, declare that the information contained in this document and any attachments is true and correct to the best of my knowledge and belief.

Signature of CFO

Date