



State of Oklahoma
Office of Mgmt and Enterprise Service
Employees Group Insurance Division

Solicitation

1. **Solicitations:** 101257

2. **Solicitation Issue Date:** 12/6/12

3. Brief Description of Requirement:

Proposals from Auditors to perform Medicare Part D data validation auditing services consistent in all material respects with the requirements of the Centers for Medicare and Medicaid Services (CMS).

Contract to be competitively bid for a one-year period effective January 1, 2013, with optional two addition one-year renewals within the sole discretion of Employees Group Insurance Division.

4. **Response Due Date**¹: 12/21/2012

Time: 10:00 AM CST/CDT

5. Issued By and RETURN SEALED BID TO²:

Agency Name: Office of Mgmt and Enterprise Service

- U.S. Postal Delivery: 3812 N Santa Fe, Ste 290 Oklahoma City, OK 73118
- Carrier Delivery: 3812 N Santa Fe, Ste 290 Oklahoma City, OK 73118

6. Solicitation Type (check one below):

- Invitation to Bid
 Request for Proposal
 Request for Quote

7. Shipping Location:

3812 N Santa Fe, Ste 290
Oklahoma City, OK 73118

8. Contracting Officer:

Name: Judy Cavicchio
Phone: 405-522-1363
Email: judy.cavicchio@omes.ok.gov

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



State of Oklahoma
 Office of Mgmt and Enterprise Service
 Employees Group Insurance Division

Responding Bidder Information

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

1. RE: Solicitation # 101257

2. Bidder General Information:

FEI/SSN: _____ VENID: _____

Company Name: _____

3. Bidder Contact Information:

Address: _____

City: _____ State: _____ Zip Code _____

Contact Name: _____

Contact Title: _____

Phone #: _____ FAX#: _____

Email: _____ Website: _____

4. Oklahoma Sales Tax Permit³:

YES - Permit #: _____

NO - Exempt pursuant to Oklahoma Laws or Rules

5. Registration with the Oklahoma Secretary of State:

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.

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. 2001, § 2.6 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.)⁴

 Authorized Signature

 Date

 Printed Name

 Title

³ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <http://www.tax.ok.gov/faq/faqbussales.html>

⁴ For frequently asked questions concerning workers' compensation insurance, see <http://vAW/.ok.gov/oid/ConsumersAA/workers'CompensationInformation.html>



State of Oklahoma
 Office of Mgmt and Enterprise Service
 Employees Group Insurance Division

**Certification for Competitive
 Bid and/or Contract
 (Non-Collusion Certification)**

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 #: 101257

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.

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

GENERAL PROVISIONS

1. DEFINITIONS

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

- 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;
- 1.2. "Bid" means an offer in the form of a bid, proposal or quote a bidder submits in response to a solicitation;
- 1.3. "Bidder" means an individual or business entity that submits a bid in response to solicitation;
- 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
- 1.5. "Supplier" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

2. BID SUBMISSION

- 2.1. Submitted bids shall be in strict conformity with the instructions to bidders, and shall be submitted with any other forms completed as required by the solicitation.
- 2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed. 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.
- 2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", DCS-FORM-CP-004SA, 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.
- 2.4. All bids shall be legibly written or typed. Any corrections to bids shall be initialed. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive.
- 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.

3. SOLICITATION AMENDMENTS

- 3.1. If an amendment is issued, then 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.
- 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.
- 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 acquire any amendment documents required to complete a solicitation.

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. 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.

5. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

By submitting a response to this solicitation:

- 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:
 - 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;
 - 5.1.2. Have not within a three-year period preceding this proposal been convicted of 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;

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

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.

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.

6. BID OPENING

Sealed bids shall be opened by the Office of Mgmt and Enterprise Service located at 3812 N Santa Fe Ste 290 Oklahoma City, OK 73118 at the time and date specified in the solicitation as the Response Due Date and Time.

7. BIDS SUBJECT TO PUBLIC DISCLOSURE

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure. 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 Chief Administrative Officer of the requesting agency shall make the final decision as to whether the documentation or information is confidential.

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.

9. LEGAL CONTRACT

9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.

9.2. The Contract resulting from this solicitation will consist of the following documents in order of preference: Contract award documents, including but not limited to the Purchase Order, Contract Modifications, required certification statement, affidavit, and change orders; the solicitation including any amendments; and the successful bid to the extent that the bid does not conflict with the requirements of the Contract award documents or solicitation or applicable law. In the event there is a conflict between any of the preceding documents, the Contract award documents prevail over the solicitation, and both the Contract award documents and the solicitation shall prevail over the successful bid.

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

10. PRICING

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

10.2. Bidders guarantee unit prices to be correct.

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.

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, 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.

12. CLARIFICATION OF SOLICITATION

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

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 580:15-4-11.

14. AWARD OF CONTRACT

- 14.1. The procuring agency 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 procuring agency to be in the best interest of the State of Oklahoma.
- 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.
- 14.3. In order to receive payments from the State of Oklahoma, suppliers who are not registered on the State of Oklahoma Vendor Registration list must complete the "Vendor/Payee Form" (www.ok.gov/OSF/documents/osfvend.pdn). Non-U.S. suppliers who are not registered on the State of Oklahoma Vendor Registration List must complete a W-8BEN (www.irs.gov/pub/irs-pdf/fw8ben.pdf). Failure to do so may delay contract award.

15. CONTRACT MODIFICATION

- 15.1. The Contract is issued under the authority of the procuring agency who signs the Contract. The Contract may be modified only through a written Contract Modification, signed by the procuring agency approving official.
- 15.2. Any change to the Contract, including 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.

16. DELIVERY, INSPECTION AND ACCEPTANCE

- 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.
- 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.

17. INVOICING AND PAYMENT

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

18. TAX EXEMPTION

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

19. AUDIT AND RECORDS CLAUSE

- 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.
- 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.

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.

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.

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.

23. TERMINATION FOR CAUSE

- 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.
- 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 procuring agency determines that an administrative error occurred prior to Contract performance.
- 23.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

24. TERMINATION FOR CONVENIENCE

- 24.1. The State may terminate the Contract, in whole or in part, for convenience if the procuring agency determines that termination is in the State's best interest. The procuring agency 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 procuring agency.
- 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.

25. INSURANCE

The successful bidder(s) awarded the Contract shall obtain and retain insurance, including worker's 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.

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.

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) available at www.dhs.gov/E-Verify.

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.

29. SPECIAL PROVISIONS

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

**THE OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICE
EMPLOYEES GROUP INSURANCE DIVISION**

REQUEST FOR PROPOSAL

Medicare Part D Data Validation Auditor

November 2012

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A. Special Provisions

A.1 Statement of Purpose

- A.1.1 The Office of Management and Enterprise Services, Employees Group Insurance Division, hereinafter “EGID,” requests proposals from qualified Auditors to provide pharmacy consulting services for the EGID HealthChoice pharmacy plans created pursuant to 74 O.S. § 1301 et seq. This Request for Proposal, hereinafter “RFP,” defines the requirements used to determine a qualified Auditor and describes requested services.
- A.1.2 Pursuant to 74 O.S. § 1320 (C) EGID intends to competitively bid the contract which is awarded for a one-year (1-year) period effective January 1, 2013, with the two additional one-year (1-year) renewals within the sole discretion of EGID.

A.2 Objective

- A.2.1 EGID requests proposals from Auditors to perform Medicare Part D data validation auditing services consistent in all material respects with the requirements of the Centers for Medicare and Medicaid Services (CMS).

A.3 Identification of EGID

- A.3.1 EGID was established by, and operates pursuant to, the Oklahoma Employees Insurance and Benefits Act, 74 O.S. (2012) §1301, et seq., hereinafter “Act”. The Act was established for the benefit of state and education employees, employees of other state governmental entities and quasi-state governmental entities authorized by the Act to participate in the plans offered by EGID. The insurance plans offered by EGID are known as the HealthChoice plans. Plan components are described in A.5 of this Section. EGID makes decisions on all policy matters affecting the group insurance plans, including participant benefits, premium rates and the investment of premiums.
- A.3.2 Pursuant to legislative authority, EGID Rules set forth the eligibility, type of participation and benefit guidelines for all participating employers. A copy of the official agency Rules is on file with the Office of the Secretary of State beginning at 360:1-1-1, or the Rules may be found at the Site Map under the heading “About EGID” at EGID’s website: <http://www.ok.gov/sib/>
- A.3.3 Pharmacy plan claims are processed by the Plan’s current Pharmacy Benefit Manager (PBM), Express Scripts/Medco.

A.4 Identification of Membership

A.4.1 EGID has enrolled as of October 31, 2012:

33,731 members and dependents in the HealthChoice Medicare Part D plan.

A.4.2 The statistical information contained in this paragraph and throughout this RFP is believed to be accurate and up-to-date; however EGID does not warrant the information by an express or implied warranty.

A.5 Identification of HealthChoice Plans

A.5.1 The following is a summary of the plans. Complete handbooks for each plan are available at <http://www.ok.gov/sib/Member/> under the Site Index – Handbooks.

A.5.1.1 Health Plans

A.5.1.1.1 Medicare Plans:

Prescription drugs are reimbursed on a co-insurance basis. The High Option Medicare Plan copay structure is as follows: If the cost of the Preferred medication is \$100 or less, the member pays the cost of the medication up to a \$30 maximum. If the cost of the Preferred medication is over \$100, the member pays 25% up to a \$60 maximum. If the cost of a non-Preferred medication is \$100 or less, the member pays the cost of the medication up to a \$60 maximum. If the cost of a non-Preferred medication is greater than \$100, the member pays 50% of the cost up to a \$120 maximum. Each participant has a \$4,700 out-of-pocket maximum for prescription copays.

The Low Option Medicare Plan copay structure is as follows: The participants have a pharmacy deductible of \$320. Once the deductible is met, the participant pays 25% of the next \$2,610. Once the participant reaches the Coverage Gap, they will pay the next \$3,727.50. The Plan pays at 100% after the Coverage Gap ends at \$4,700.

A.5.1.1.2 Since Calendar Year 2006, EGID has contracted with the Centers for Medicare and Medicaid Services (CMS) as an Employer Direct Contract Prescription Drug Plan (PDP). As such, EGID receives a payment from CMS per member per month. EGID intends to continue its PDP status in future years.

A.6 Rate and Class Categories

A.6.1 EGID sets premium rates each year for each type of coverage. Premium rates adopted by EGID are intended to be adequate in the aggregate to fund the anticipated benefits, administrative expenses and necessary reserves. Currently, EGID adopts separate premium rates for active employees, former employees who are not Medicare-eligible (Pre-Medicare), and former employees who are Medicare-eligible. For each benefits coverage category, there are separate rate classes for:

- primary;
- spouse;
- one child; and
- more than one child.

A.6.1.1 EGID reserves the right to adopt new rate and class categories in response to changes in statutes or EGID policy.

The Auditor must affirm its understanding of all EGID contractual provisions (A.7 – A.20) and agree to comply with those provisions for the duration of the contract.

A.7 Acceptance of Offer

A.7.1 The submission of a proposal shall constitute a binding offer. The proposal shall remain in effect for six (6) months after submission. EGID shall have the option of accepting the proposal at any time within that six (6) month period. If the proposal is accepted more than six (6) months after submission, EGID and the Auditor will agree to adjust the time lines up to six (6) months. The Auditor is advised that its proposal may be accepted any time within that six (6) month period, even if EGID accepted another Auditor's proposal and subsequently that contract was terminated.

A.7.2 By submitting a proposal, the Auditor agrees not to make any claims for, or have any right to, damages because of any misunderstanding or misrepresentation of the specifications or because of any misinformation or lack of information.

A.7.3 If an Auditor fails to notify EGID of an error, ambiguity, conflict, discrepancy, omission or other error in the RFP known to the Auditor, or an error that reasonably should have been known by the Auditor, the Auditor shall submit a proposal at its own risk; and, if awarded the contract, the Auditor shall not be entitled to additional compensation, relief or time by reason of the error or its later correction.

A.8 Contractual Term

- A.8.1 The Contract is effective January 1, 2013 through December 31, 2013 with two (2) one-year (1-year) renewals at the option of EGID. EGID intends to renew the Contract for the additional two (2) years subject to the terms and conditions of the Contract, unless EGID determines in its sole discretion, that re-bidding Contract services is in EGID members' best interest.

A.9 Termination

- A.9.1 The Auditor shall give EGID at least ninety (90) days' notice prior to cancellation. The Auditor shall also provide ninety (90) days' notice prior to non-renewal. Said notice shall state the grounds for such cancellation or non-renewal.
- A.9.2 EGID may terminate this contract for cause upon giving the Auditor thirty (30) days' notice. Termination for cause is defined as the failure of the Auditor to maintain the quality of its services provided for by this contract to the satisfaction of EGID. EGID may terminate this Contract without cause upon giving the Auditor ninety (90) days written notice.
- A.9.3 Following the effective date of termination, this contract shall be of no further force and effect, except that each party shall remain liable for any obligations or liabilities arising from activities carried on by it hereunder prior to the effective date of termination of this contract.
- A.9.4 The Auditor and EGID shall agree that each party reserves the right to terminate this contract if funds are not available, to support the continuation of this benefit program.

A.10 Appropriated Funds

- A.10.1 The parties understand and agree that none of the sums to be paid under this agreement are appropriated funds. Should there be a revenue shortfall, EGID will not seek appropriations and will not use appropriated funds to pay for this obligation. The most recent audited financial statement of EGID is posted on EGID's website: <http://www.ok.gov/sib/> under "About EGID".

A.11 Records

- A.11.1 The Auditor shall maintain full and adequate records relating to the services it is performing under this agreement and shall allow EGID to review and copy such records upon request. The Auditor shall provide adequate safeguards for all books and records. The Auditor shall reveal to EGID the specifics of its safeguarding program.

A.12 Ownership of Data

- A.12.1 The Auditor shall recognize that all data generated during the performance of this contract by EGID or the Auditor is proprietary and confidential to EGID and shall not be used by the Auditor for purposes not recognized by this RFP. The Auditor shall recognize EGID's exclusive ownership of all data and information and shall not reveal or sell any portion of such to any third party or otherwise use for its own financial gain.
- A.12.2 EGID shall have local access to all data whether stored at the local office or any other site. Upon request of EGID, the Auditor shall deliver forthwith to EGID specifications, plans, charts, photographs and exhibits which were prepared, developed or kept in connection with, or as part of this project. All other material and records of whatsoever nature prepared, developed, or kept in connection with, or as part of this contract's work products shall likewise be available to EGID at its request.
- A.12.3 Prior to the expiration or upon the earlier termination of this Contract, all work products shall become the property of EGID. This paragraph does not apply to any records or documents pertaining to the operation of Auditor's business unless such records or documents affect the performance of this contract. The Auditor may retain copies of those records or documents that it considers necessary for proof of performance. Upon request, the Auditor shall provide EGID with data in the form of hard copy or computer storage media.

A.13 Contract Defined

- A.13.1 This RFP, together with the response, exhibits and any written clarification provided by EGID and/or requested by EGID and provided by the Auditor, contain the entire contract between EGID and the Auditor relating to the rights granted and the obligations assumed by the parties.
- A.13.2 Any prior contracts, promises, negotiations, or representations, either oral or written, relating to the subject matter of this RFP and the response thereto, not expressly set forth therein, are of no force or effect.

A.14 Hold Harmless

- A.14.1 The Auditor shall be responsible for the work, direction, and compensation of Auditor employees, agents and subcontractors. Neither EGID nor the State of Oklahoma shall be liable, directly or indirectly, for the work and direction of Auditor's employees, agents or subcontractors. The Auditor agrees to indemnify and hold harmless EGID, its employees and agents, and the State of Oklahoma from damages, loss, or liability to persons or property arising

from claims of any kind, including, but not limited to compensation by Auditor employees, agents, and subcontractors of the Auditor against the Auditor; negligent or willful acts of the Auditor its employees or agents in performance of this Contract; acts, omissions or liabilities of the Auditor acting in any capacity that relate to the Contract; and damages, costs, fines or penalties arising from HIPAA violations committed by Auditor employees, agents or subcontractors. The State of Oklahoma does not waive compromise, concede, surrender, or relinquish any rights, privileges, immunities, or remedies that the State of Oklahoma and its employees possess under State or Federal law.

A.15 Designation of Personnel

A.15.1 EGID may designate its personnel to administer any of the terms or conditions of this contract referenced herein, and any and all duties or acts required of EGID.

A.16 Severability

A.16.1 The terms and provisions of this contract shall be deemed to be severable one from the other, and any determination at law or in a court of equity that one term or provision is unenforceable, shall have no effect on the remaining terms and provisions of this contract, or any one of them, in accordance with the intent and purposes of the parties hereto.

A.17 Notice

A.17.1 Any notice required to be given, pursuant to the terms and provisions of the Contract, shall be in writing and (1) mailed by the United States Postal Service (USPS), postage prepaid, certified mail, return receipt requested; or, (2) delivered by an overnight delivery company with written delivery confirmation; or, (3) hand delivered with written delivery confirmation. Notice to EGID shall be to the attention of Diana O’Neal, Deputy Administrator, 3545 N.W. 58th, Suite 110, Oklahoma City, Oklahoma 73112.

A.18 Supremacy of State Statutes

A.18.1 This contract is subject to all applicable Federal Regulations and Oklahoma State Statutes, EGID Rules and Administrative Directives. Any provision of this contract which is not in conformity with existing or future legislation shall be considered amended to comply with such legislation. Any interpretation or disputes with respect to contract provisions shall be resolved in accordance with the laws of the State of Oklahoma. Jurisdiction and venue

for any litigation between EGID and the Auditor shall occur in either a State or Federal court in Oklahoma County, Oklahoma.

A.19 Force Majeure

A.19.1 Neither party shall be liable for any delay or failure of performance under this contract due to an act of God, or due to war mobilization, insurrection, rebellion, civil commotion, riot, act of extremist or public enemy, sabotage, explosion, fire, flood, or storm.

A.20 Assignments

A.20.1 This contract may not be assigned in whole or part without written explanations and EGID approval.

B. Minimum Requirements

The Auditor shall comply with all requirements in this section and provide appropriate documentation in its response to each Minimum Requirement. Auditor's compliance with the requirements in this section shall be determined according to the sole unrestricted discretion of EGID. The Auditor must state in its response exactly how it will comply, providing detailed information and state affirmatively its understanding of the requirement and its agreement to comply with that requirement for the duration of the contract. Proposals failing to meet Minimum Requirements will not be evaluated further.

B.1 Experience

B.1.1 The Auditor shall designate the specific individuals to be assigned to EGID's account, list the anticipated job duties and provide representations of the individuals' specific experience and clientele in the Medicare Part D insurance plans, with demographics and experience similar to EGID.

B.2 References

B.2.1 The Auditor shall provide the names of at least three (3) non-affiliated clients, including addresses, e-mail addresses, telephone numbers, facsimile numbers and the type of services provided by the Auditor to clientele with similar demographics and services similar to those requested by this RFP.

B.3 Conflict of Interest

B.3.1 The Auditor shall disclose any apparent or potential conflict of interest or affirm that it has none. The Auditor shall have no interest, direct or indirect, that could be perceived to conflict in any manner or degree with the performance of services required under this RFP. The Auditor shall not

engage in any conduct that violates or induces others to violate provisions in the Oklahoma Statutes regarding the conduct of public employees. This includes, but is not limited to the Anti-Kickback Act of 1974 at 74 O.S. (2001) §3401, et seq. and the Conflict of Interest provision in the Oklahoma Central Purchasing Act at 74 O.S. (2001) §85.3.

B.4 Lawsuits and Litigation

B.4.1 The Auditor must disclose any prior litigation, violations of administrative rules and hearings, threatened or impending, involving itself and the State of Oklahoma or any political subdivisions, and/or any state officer and/or any state employee acting in the capacity of a state employee, and any settlements, compromises (if confidential, a statement of that fact) or Judgments of Record resulting from the foregoing described litigation or administrative proceedings for the past five years or affirm there are none. A statement from the Auditor that no pending litigation will materially affect the ability to perform services will not suffice. EGID requires disclosure of (citation and brief summary) the lawsuits or any litigation between the Auditor and the State of Oklahoma.

B.4.2 The Auditor shall list and disclose contract cancellations or negligent causes of action that arose from work performed that is the same or similar to work identified in the Scope of Services in this RFP that was initiated by persons or entities other than the Auditor and resulted in a settlement with or judgment against the Auditor in any jurisdiction in the United States in an amount of One Hundred Thousand Dollars (\$100,000.00) or more within the previous five (5) years, or affirm there are none.

B.5 Federal Exclusion List

B.5.1 The Auditor agrees that it does not currently, nor during the term of this Contract will it, contract with or employ individuals or entities that are excluded by the Department of Health and Human Services, Office of the Inspector General or included on the Excluded Parties List System maintained by the General Services Administration.

B.6 Fraud, Waste and Abuse

B.6.1 The Auditor acknowledges the terms of EGID's Compliance Program. The EGID's Compliance Program can be viewed at www.sib.ok.gov Go to Site Map, then Fraud Waste and Abuse Program, then Compliance Program.

B.7 Confidentiality and HIPAA Requirements

- B.7.1 Although EGID is subject to the Oklahoma Open Records Act, 51 O.S. § 24A.1, EGID maintains documents and information that are considered confidential by law, 74 O.S. § 1322. In connection with this Contract, the Auditor will have access to information that is considered confidential, and the Auditor warrants and represents that such confidential information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by the Auditor, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successors, or any other persons or entities without EGID's express written permission. The Auditor shall instruct its agents, representatives, subcontractors and/or independent contractors that they shall not use or disclose such confidential information to any other person or entity without the express written permission of EGID, except as absolutely necessary for Auditor to render services under this Contract or as required by law. The Auditor warrants and represents that it has a tested and proven system in effect to protect all confidential information as defined herein.

The Auditor shall ensure confidentiality and must provide policies and guideline addressing confidentiality of EGID information as part of its response to this RFP. All EGID members' Protected Health Information (PHI) concerning this RFP and EGID is the sole property of the State of Oklahoma and shall remain confidential. It shall not be used by the Auditor nor transmitted to others for any reason whatsoever, except as shall be required to administer and implement the Scope of Services, and then only with prior written approval from EGID. A list of individuals with EGID who are capable of granting this approval shall be supplied to the successful vendor. EGID shall maintain confidentiality of EGID members' PHI information to the extent required by law.

- B.7.2 The Auditor shall comply with applicable Oklahoma and federal confidentiality and security of information laws concerning an EGID's Member's information, including, but not limited to, laws pertaining to EGID health plan members' medical information. The Auditor shall disclose its HIPAA Compliance Officer. The Auditor shall agree to execute a HIPAA Business Associate Agreement with EGID.
- B.7.3 The Auditor, as a "Business Associate," agrees to the following 'Business Associate Agreement' between EGID and the Auditor as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) statutes and regulations.

B.7.4 Definitions

- B.7.4.1 “Business Associate” shall have the meaning given to Business Associate under the Privacy Rule, including, but not limited to, 45 CFR§ 160.103.
- B.7.4.2 “Contract” shall mean the definition of Contract as defined in Section B.12.
- B.7.4.3 “Data Aggregation” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR § 164.501.
- B.7.4.4 “Designated Record Set” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR § 64.501.
- B.7.4.5 “Health Care Operations” shall have the meaning given to such term under the Privacy Rule including, but not limited to, 45 CFR § 164.501.
- B.7.4.6 “HIPAA” means Health Insurance Portability and Accountability Act of 1996.
- B.7.4.7 “HITECH” means the Health Information Technology for Economic and Clinical Health Act
- B.7.4.8 “Individual” shall have the same meaning as the term “individual” as used in 45 CFR § 164.501 and shall include a person who qualifies as a “personal representative” in accordance with 45 CFR § 164.502(g), and shall also mean the person or “individual” who is the subject of information that constitutes PHI, and has the same meaning as the term “individual” as used in 45 CFR § 160.103
- B.7.4.9 “EGID” shall have the meaning given to the term ‘Covered Entity’ under the Privacy Rule including, but not limited to, 45 CFR § 160.103 for purposes of this Business Associate Agreement only and to the extent required by law.
- B.7.4.10 “Privacy and Security Rule” shall mean the HIPAA Regulations codified at 45 CFR Parts 160 through 164.
- B.7.4.11 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an

individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR § 160.103 [45 CFR §§160.103]

B.7.4.12 “Protected Information” shall mean PHI provided by EGID to or created or received by the Auditor on EGID’s behalf.

B.7.4.13 “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR §164.103

B.7.4.14 “Security Incident” shall have the same meaning as “security incident” in 45 CFR §164.304.

B.7.5 Obligations of the Auditor

B.7.5.1 Permitted Uses. The Auditor shall not use Protected Information except for the purpose of performing the Auditor’s obligations under the Contract and as permitted under the Contract. Further, the Auditor shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by EGID, except that the Auditor may use Protected Information (i) for the proper management and administration of the Auditor, (ii) to carry out the legal responsibilities of the Auditor, or (iii) for Data Aggregation purposes for the Health Care Operations of EGID, and also as permitted in Section (3) of this Business Associate Agreement [45 CFR §§ 164.504(e)]

B.7.5.2 Permitted Disclosures. The Auditor shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by EGID, except that the Auditor may disclose Protected Information (i) in a manner permitted pursuant to the Contract (ii) for the proper management and administration of the Auditor, (iii) as required by law, or (iv) for Data Aggregation purposes for the Health Care Operations of EGID and as permitted in the Business Associate Agreement. Unless agreed otherwise herein, to the extent that the Auditor discloses Protected Information to a third party, the Auditor must obtain, prior to making any such disclosure, (i) reasonable assurance from such third party that such Protected Information will be held confidential and secure and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) an agreement from such third party to notify the Auditor of any

breaches of confidentiality or security of the Protected Information, to the extent it has obtained knowledge of such breach. [45 CFR §§ 164.504(e)]

- B.7.5.3 **Appropriate Safeguards.** The Auditor shall use appropriate safeguards and train its workforce according to Auditor procedures as necessary to prevent the use or disclosure of Protected Information; and ensure the integrity and availability of electronic protected information that the Auditor creates, receives, maintains or transmits. The Auditor shall implement administrative, technical and physical safeguards that are reasonable and appropriate to the size and complexity of the Auditor's operations and the nature and scope of its activities. [45 CFR § 164.504(e)] [45 CFR § 164.306(a)]
- B.7.5.4 **Auditor's Agents.** The Auditor shall ensure that any agents, including subcontractors to whom it provides Protected Information, agree to the same restrictions and conditions that apply to the Auditor with respect to such PHI. [45 CFR § 164.504(e)(2)(ii)(D)] The Auditor shall maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation. [45 CFR § 164.530(e)(1) and 164.530(f)]
- B.7.5.5 **Access to Protected Information.** The Auditor shall make Protected Information, maintained in a Designated Record Set by the Auditor or its agents or subcontractors, available to EGID for inspection and copying within ten (10) days of a request by EGID to enable EGID to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524. [45 CFR § 164.504(e)(2)(ii)(E)]
- B.7.5.6 **Amendment of PHI.** Within ten (10) days of receipt of a request from EGID for an amendment of Protected Information in a Designated Record Set or other record about an individual, the Auditor or its agents or subcontractors shall make such Protected Information, within its possession, available to EGID for amendment and incorporate any such amendment to enable EGID to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526. If any individual requests an amendment of Protected Information directly from the Auditor or its agents or subcontractors, the Auditor must notify EGID in writing within five (5) days of the request. Any denial of amendment of Protected Information maintained by the Auditor or its agents or subcontractors shall be the responsibility of EGID. [45 CFR § 164.504(e)(2)(ii)(F)]

- B.7.5.7 Accounting Rights. The Auditor agrees to implement a process to prepare an accounting of a member's Protected Information that is collected and maintained by the Auditor and its agents or subcontractors, subject to the exceptions, if any, to enable EGID to respond to a request for an accounting of disclosures. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonable informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. The Auditor and its agents or subcontractors shall make the accounting available to EGID, within a reasonable time or the time allowed by the applicable Privacy Rule, to enable EGID to fulfill its obligations under the Privacy Rule, as amended., In the event that the request for an accounting is delivered directly to the Auditor or its agents or subcontractors, the Auditor shall process the request according to the current Privacy Rule (s) as amended, and forward a copy to EGID.
- B.7.5.8 Governmental Access to Records. The Auditor shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining EGID's compliance with the Privacy Rule. [45 CFR § 164.504(e)(2)(ii)(H)] The Auditor agrees to notify EGID with the date it provides access to EGID Protected Information to the Secretary and a general description of any EGID Protected Information it provides to the Secretary.
- B.7.5.9 Minimum Necessary. The Auditor and its agents or subcontractors shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [45 CFR § 164.514(d)(3)]
- B.7.5.10 Data Ownership. The Auditor acknowledges that the Auditor has no ownership rights with respect to the Protected Information.
- B.7.5.11 Retention of Protected Information. The Auditor and its subcontractors or agents shall transmit the Protected Information described in the Contract to EGID on a scheduled basis according to Contract terms. The Auditor shall maintain all Protected Information that has not been previously transmitted to EGID for a period of six (6) years after the date it was created or the last

effective date, whichever is later or transmit it to EGID for receipt and storage. [See 45 CFR §§ 164.530 (j)(1)(2)]

B.7.5.12 Notification of Breach. During the term of this RFP, Auditor agrees to notify EGID within three (3) days of discovery of any use or disclosure of PHI not authorized by this agreement or the terms of the Contract, of which the Auditor becomes aware. Within thirty (30) days after the date discovered, Auditor agrees to report to EGID the following: the nature of the non-permitted use or disclosure; the EGID PHI used or disclosed; who made the non-permitted or violating use or received the non-permitted or violating disclosure; what corrective actions Auditor has taken or will take to prevent further non-permitted or violating uses or disclosures; and what Auditor did or will do to mitigate any deleterious effect of the non-permitted or violating use or disclosure. The Auditor shall also notify EGID of a finding or stipulation that the Auditor has violated any standard or requirement of the HIPAA Regulations or other security or privacy laws arising from any administrative or civil proceeding in which the Auditor has been joined. The Auditor agrees that EGID and the Auditor will investigate an actual breach; however, the Auditor will coordinate with EGID to control the investigation or any notification procedures related to the incident. Auditor agrees and acknowledges CMS Guidance and special notifications to HHS and the CMS/EGID Account Representative in the event of a security or privacy breach of Medicare beneficiaries' protected health information.

With regard to implementation of the HIPAA Security Rule, 45 CFR Part 164, Subpart C, Oklahoma Statute 74 O.S. § 3113.1 and the occurrence of a Security Incident, Auditor agrees to report to EGID any successful (i) unauthorized access, use, disclosure, modification, or destruction of EGID electronic PHI or (ii) interference with Auditor system operations that contain EGID member information of which Auditor becomes aware. Auditor will make such report to the EGID HIPAA Security Officer immediately after Auditor learns of any successful Security Incidents. To avoid unnecessary burden on either party, Auditor will only be required to report, upon EGID's request, attempted, but unsuccessful unauthorized access, use, disclosure, modification, or destruction Auditor electronic PHI or interference with system operations in Auditor information systems that involve EGID electronic PHI of which Auditor becomes aware, provided that EGID's request shall be made no more often than is reasonable based upon the relevant facts, circumstances and industry practices.

B.7.6 Special Uses and Disclosures

- B.7.6.1 Auditor may create, receive, use, or disclose PHI related to EGID Plan participants only in a manner that is consistent with the terms of the Contract and the Privacy Rule, and only in connection with providing the services to EGID that are related to the administration of prescription drug benefits and/or identified in the Contract. Auditor may de-identify EGID PHI, provided Auditor complies with 45 CFR §164.514(b); does not violate the Privacy Rule if done by EGID; and the Auditor provides written assurances to EGID regarding use and disclosure of the de-identified data.
- B.7.6.2 Auditor may, consistent with the Privacy Rule, use or disclose PHI that a Business Associate receives in its capacity as manager of prescription drug benefits and in its capacity as a Business Associate to EGID if such use relates to the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate under the RFP. “Legal responsibilities” of the Business Associate used herein shall mean responsibilities imposed by law or regulation, but (unless otherwise expressly permitted by EGID) shall not mean obligations the Auditor may have assumed pursuant to contracts, agreements, or understandings other than the terms of the Contract.
- B.7.6.3 Auditor may engage in “data aggregation services” related to EGID in a manner permitted by the Privacy Rule at 45 CFR § 164.504(e)(2)(i)(B) and that complies with the terms of the Contract. “Data aggregation services” as used herein shall mean the combining of PHI by Auditor with PHI received by the Auditor in its capacity as a Business Associate of another covered entity, to permit analysis of data that relates to the health care operations of EGID or another covered entity.
- B.7.6.4 Auditor may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502.
- B.7.6.5 Any right of the Auditor to create, use, or disclose PHI pursuant to this Agreement shall not include the right to ‘de-identify’ or aggregate PHI, except as provided for in this Business Associate Agreement or as expressly permitted by EGID or the Privacy Rule, provided that such use or disclosure would not violate the Privacy Rule if done by EGID.

B.7.7 Obligations of EGID

- B.7.7.1 EGID shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to the Auditor pursuant to this RFP, in accordance with the standards and requirements of the Privacy and Security Rules, until such PHI is received by the Auditor.
- B.7.7.2 EGID shall notify Auditor of any limitation(s) in its notice of privacy practices of EGID in accordance with 45 CFR § 164.520, to the extent that such limitations may affect Auditor use or disclosure of PHI, and shall also notify Auditor of any material change in privacy practices and procedures of EGID.
- B.7.7.3 EGID shall notify Auditor of any changes in, or revocation of, permission by an Individual to use or disclose PHI to the extent such changes may affect Auditor use and disclosure of PHI.
- B.7.7.4 EGID shall notify Auditor of any restrictions in the use or disclosure of PHI that EGID has agreed to in accordance with 45 CFR § 164.522, to the extent such restriction may affect Auditor use or disclosure of PHI. Prior to agreeing to any restriction, EGID will consult with Auditor regarding whether the proposed restriction will affect its functions, activities, or services under the Contract.
- B.7.7.5 If EGID or Auditor receives a request from an Individual for confidential communication of PHI by alternative means or at alternative locations in accordance with 45 CFR 164.522(b), both EGID and Auditor will accommodate the request to the extent feasible
- B.7.7.6 EGID shall not request Auditor to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if such use or disclosure were made by EGID.

B.7.8 Termination

- B.7.8.1 **Material Breach.** A breach by the Auditor of any material provision of the terms of the Business Associate Agreement Section of the Contract may constitute a material breach of the Contract and provide grounds for immediate termination of the Contract by EGID pursuant to Termination Section of the Contract. [45 CFR § 164.504(e)(2)(iii)]

B.7.8.2 Reasonable Steps to Cure Breach. If EGID knows of a pattern of activity or practice of the Auditor that constitutes a material breach or violation of the Auditor's obligations under the provisions of the terms of the Business Associate Agreement Section, EGID shall provide Auditor with an opportunity to cure the breach and end the violation. If Auditor does not cure the breach with ninety (90) days after EGID notifies Auditor of the opportunity to cure, then, within the sole discretion of EGID, EGID shall take reasonable steps to cure such breach or end such violation, as applicable. If EGID's efforts to cure such breach or end such violation are unsuccessful, EGID shall either (i) terminate the Contract, if feasible or (ii) if termination of this the Contract is not feasible, EGID shall report the Auditor's breach or violation to the Secretary of the Department of Health and Human Services. [45 CFR § 164.504(e)(1)(ii)]

B.7.8.3 Compliance with the HITECH Act

Sections 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), and 164.316 (policies and procedures and documentation requirements) of title 45, Code of Federal Regulations the Security Rule, shall apply to a Business Associate in the same manner that such sections apply to a Covered Entity. The additional requirements of Title XXXXIII of the "Health Information Technology for Economic and Clinical Health Act" or the "HITECH Act" contained in Public Law 111-005 that relate to security and that are made applicable with respect to covered entities shall also be applicable to a Business Associate and shall be and by this reference hereby are incorporated into this Business Associate Agreement.

Business Associate may use and disclose Protected Health Information that a Business Associates obtains or creates only if such use or disclosure, respectively, is in compliance with each applicable requirement of Section 164.504(e) of Title 45, Code of Federal Regulations, the Privacy Rule, relating to business associate contracts. The additional requirements of Subtitle D of the "Health Information Technology for Economic and Clinical Health Act" or the "HITECH Act" contained in Public Law 111-005 that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to Business Associate and shall be and by this reference hereby are incorporated into the Business Associate Agreement. Business Associate agrees that HIPAA and HITECH civil and criminal penalties for data security and privacy violations apply to Business Associate when acting on behalf of EGID to the extent the penalties apply to EGID.

B.7.8.4 Effect of Termination. Upon termination of the terms of the Business Associate Agreement for any reason, the Auditor shall return all EGID Protected Information to EGID that the Auditor or its agents or subcontractors still maintain in any form.

B.8 No Commissions

B.8.1 The Auditor agrees to and shall perform all services described in this RFP and the final EGID/State of Oklahoma contract, strictly according to a fee-for-services basis; that absolutely no commissions or finder's fees shall be paid to anyone or any organization resulting from the State of Oklahoma's award of a contract pursuant to this RFP, either arising from an agreement to pay a commission or finder's fee prior to or during the term of this contract; and, to provide a statement as part of its response to this RFP, and prior to each contract renewal, that absolutely no commissions or finder's fees have been paid or are to be paid to any subcontractor, broker, agent or other individual, organization or entity.

B.9 Statement of Compliance

B.9.1 Certain conditions may preclude the Auditor's strict compliance with a term specified in this RFP. The Auditor may describe its method of compliance to accomplish the requirements of the specific term and EGID reserves its unrestricted discretion to determine, whether an alternative method offered by the Auditor is acceptable to EGID.

B.9.2 Any alternative method or exceptions or additions to terms, conditions or other requirements in any part of the RFP must be clearly described in both the appropriate section of the solicitation and listed as an attachment to the Statement of Compliance and shall be made a part of this RFP. Otherwise, EGID shall consider that all items offered are in strict compliance with the RFP and the Auditor shall be responsible for compliance. EGID shall specify at the time of the awarding of the contract what, if any, optional, alternative methods are accepted.

B.9.3 Notwithstanding anything to the contrary, EGID maintains the unrestricted discretion to make any decision as to suitability, competency, ability to perform, conflicts of interest or the appearance thereof, responsiveness of the Auditor's proposal, acceptability of such proposal, or other decisions concerning qualifications.

Each Auditor shall be required to submit a response to this Request for Proposal as it is written. Any Auditor who wishes to propose exceptions or alternatives to any term, condition, or requirement of this RFP must specify the exception and/or alternative and submit a response for each deviation. If a Statement of Compliance is not returned to EGID with the Auditor's original bid, the response may be excluded from further consideration. If a Statement of Compliance is submitted with deviations, EGID will consider such exceptions and/or alternatives in the evaluation process or such exception and/or alternative may constitute grounds for rejection of the proposal.

The solicitation submitted to EGID is in strict compliance with this RFP, and if selected as an Auditor, the Auditor will be responsible for meeting all requirements of this RFP.

The solicitation submitted to EGID contains deviations from the specifications of this RFP. The deviations are attached.

Name: _____ Company: _____
Signature: _____ Address: _____
Title: _____ _____
Phone: _____ Fax: _____

C. Solicitation Specifications

C.1 Scope of Services

The Auditor shall comply with all requirements in this section. An Auditor's response to an EGID requirement that deviates from the stated requirements will be considered; however, EGID according to its sole unrestricted discretion will determine whether the deviation is or is not in the best interest of the Plan, and will score it accordingly. A response that does not strictly comply with the RFP shall be listed by the Auditor in the Statement of Compliance that is in this RFP. EGID presently offers its plan based on a calendar year.

C.2 Work Component One

C.2.1 CMS Regulation 42 CFR §423.514(a) requires each Part D Sponsor must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, statistics indicating the following—(1) The cost of its operations. (2) The patterns of utilization of its services. (3) The availability, accessibility, and acceptability of its services. (4) Information demonstrating that the Part D plan sponsor has a fiscally sound operation and (5) Other matters that CMS may require. CMS Regulation 42 CFR §423.514(g) requires that each Part D sponsor must subject information collected under paragraph (a) of this section to a yearly independent audit to determine its reliability, validity, completeness, and comparability in accordance with specifications developed by CMS.

C.2.2 Auditor agrees that it shall perform the Data Validation Services required by 42 CFR §423.514 as follows:

- C.2.2.1 Review of the Organizational Assessment Instrument completed by EGID as it pertains to its Medicare Part D benefit program
- C.2.2.2 Extraction and Sampling of Data
- C.2.2.3 Assessment of Reporting in Accordance with CMS' Data Validation Standards
- C.2.2.4 Assessment of other required CMS criteria
- C.2.2.5 On-site Evaluation and Interviews
- C.2.2.6 Completion of Data Collections Forms

- C.2.2.7 Submission of Audit findings to CMS using the agency’s Health Plan Management System (“HPMS”) no later than May 31, 2013 or other such date as may be required by CMS.
- C.2.2.8 Auditor Representations Auditor warrants and represents that it meets CMS requirements for data validation auditors as published in its guidance *Standards for Selecting a Data Validation Contractor*. Furthermore, the Auditor warrants and represents that it has no conflict of interest to providing services herein and has completed all training required by CMS for data validation contractors.
- C.2.2.9 Period of Audit The audit timeframe for this Contract will retrospectively assess the CMS required data submitted to CMS via the HPMS system, for Medicare Part D benefits provided by EGID from January 1,2012 through December 31, 2012, which audit timeframe may be renewed for successive years concurrent.
- C.2.2.10 Auditor agrees that it will execute a “Confidentiality Agreement” with Express Scripts/Medco that facilitates Auditor’s auditing services pursuant to the CMS Data Validation guidance and CMS Regulation 42 CFR §423.514.

C.3 Work Component Two – Special Projects

- C.3.1 The Auditor must be available to perform special projects relating only to the auditing, over-site and performance of the EGID Medicare Part D activities and operations that are presently undefined, but which may be requested by EGID, CMS, the Office of Civil Rights or other regulatory entity. Special projects shall be clearly defined and estimated costs shall be approved in writing by EGID’s administrative staff prior to the commencement of the work.

D. Evaluation

The following procedure will be used in evaluating all proposal responses:

D.1 Compliance with Minimum Requirements

- D.1.1 All proposals will be evaluated for compliance with Minimum Requirements. Proposals clearly failing to meet minimum requirements or proposals needing substantial clarification to determine compliance will be eliminated from future consideration or evaluation. Auditors whose proposals need minor clarification of one or more issues will be allowed to clarify those points. Only proposals meeting all Minimum Requirements will be evaluated further.

D.2 Experience and Quality of Proposed Services

D.2.1 All proposals will be evaluated considering the experience of the firm and the experience of the individuals dedicated to the EGID account. All proposals will be evaluated based on the quality of the Auditor's responses to the Questionnaire.

D.3 Compliance with Contractual Provisions

D.3.1 All proposals will be evaluated for compliance with 74 O.S. § 85.5 .J(5) and 85.9D.A

D.3.2 Firms that contend they lack flexibility because of its corporate policy on a particular negotiation item will face a significant disadvantage and may not be considered.

D.4 Price

D.4.1 Prices will be evaluated and only those proposals that are competitively priced providing the best value to the State of Oklahoma will be evaluated for quality of services offered.

D.5 Historical Information

D.5.1 EGID reserves the right to consider historical information and facts, whether gained from the Auditor's proposal, question and answer conferences, references, or any other source in the evaluation process.

D.6 Auditor's Responsibility to Submit Information

D.6.1 The Auditor is cautioned that it is the Auditor's sole responsibility to submit information pertinent to the evaluation and that EGID is under no obligation to solicit such information if it is not included with the RFP. Failure to submit such information may cause an adverse impact on the evaluation of the Auditor's proposal.

E. RFP Instructions

E.1 Issuing Office

The RFP is issued by the Office of Management and Enterprise Services, Employees Group Insurance Division. All proposals must be submitted in accordance with the policies, procedures, requirements, and dates set forth below:

E.1.1 All Auditors are invited to submit questions regarding the RFP by Wednesday, December 12, 2012 sent via email to Judy.Cavicchio@omes.ok.gov.

E.1.2 All Auditors interested in receiving responses to the questions submitted by potential Auditors submitting proposals in response to this RFP shall provide EGID with a Notice of Intent sent via email to Judy.Cavicchio@omes.ok.gov.

No late proposal will be accepted. One original and five (5) copies, and one electronic copy on CD in a searchable PDF format allowing full text searches of the vendor's response language, including exhibits when possible must be submitted **by 10:00 a.m., Friday, December 21, 2012** to:

Judy Cavicchio, Certified Procurement Officer
Office of Management and Enterprise Services
3812 N. Santa Fe, Ste 290
Oklahoma City, Oklahoma 73118
Phone: 405-522-1363
Fax: 405-522-8170
Judy.Cavicchio@omes.ok.gov

Judy Cavicchio is EGID's designated sole contact for this procurement.

E.2 Proposal Format

E.2.1 Proposals shall be prepared in the format described below. Failure to comply with the specified format may lead to a proposal being declared non-responsive. EGID is especially concerned that the format of the proposal sequentially responds to the requested services, minimum requirements and other questions that may be addressed within the RFP. The Auditor should restate the service, requirement, or question and then state its response. The Auditor shall assign consecutive page numbers in its response. Appendices should be similarly sequential. Any other information thought to be relevant, but not applicable to the prescribed format, should be provided as appendices to the proposal. If an Auditor supplied a publication to respond to a requirement, the response should include references to the publication and page number. Proposals without this reference will be considered to have no reference materials included. **PROPOSALS WHICH DO NOT ADDRESS ALL REQUIREMENT OF THE RFP, MAY BE CONSIDERED NON-RESPONSIVE AND MAY BE ELIMINATED.**

E.2.2 **EGID will not evaluate responses to this solicitation designated as confidential. Responses marked “Confidential” will be destroyed or returned to the Auditor.**

E.2.3 A copy of the RFP is available on EGID's website at: www.sib.ok.gov
Go to Site Map, EGID ITB/RFP.

E.2.4 The proposal shall be configured to arrive at the designated office in one physical container. Fax or electronic submissions are not acceptable.

E.3 Restrictions on Communication with EGID Staff

E.3.1 From the issue date of this RFP until a contract is awarded, Auditors are not allowed to discuss this RFP with any EGID member, employee or any contractor to EGID other than the sole contact Judy Cavicchio. This restriction shall not prohibit discussions needed by current Auditors to perform their jobs. Any violation of this restriction will result in disqualification.

E.4 Information from One Bidder Concerning another Prohibited

E.4.1 Auditors are advised that EGID is not interested in, nor will it consider, allegations of lack of qualification or of impropriety made or initiated by any Auditor concerning another Auditor at any point during the bid process. Inclusion of such information in the RFP response or communication of such information to any state officials, state staff or its contractors after proposal submission shall be grounds for disqualification. This clause in no way limits the right to file a protest or appeal under the laws or rules governing the State of Oklahoma.

E.5 Revisions to the RFP and/or Responses

E.5.1 EGID may at any time hereafter supplement the RFP, the proposal and the resulting contract for purposes of enumerating, defining, and clarifying services, duties and functions, but not to add new services, duties or functions unless approved by EGID.

E.5.2 During the evaluation period, Auditors may be requested to present supplemental information clarifying its proposal. This supplemental information must be submitted in writing and will be included as a formal part of the Auditor's proposal. Unsolicited supplemental information will not be considered by EGID for evaluation purposes.

E.6 Proposal Withdrawal

E.6.1 Before the proposal due date, a submitted proposal may be withdrawn through a written request signed by the Auditor to EGID's sole contact.

E.7 Proposals Are EGID Property

E.7.1 Submitted proposals may be reviewed and evaluated by any person, other than one associated with a competing bidder, designated by EGID. EGID reserves the right to use any and all ideas presented in any response to the RFP. Selection or rejection of a proposal does not affect this right.

E.8 Incurred Expenses

E.8.1 EGID will not be responsible for any costs a proposing Auditor may incur in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other related activities.

E.9 Notification of Award

E.9.1 Notification will be made to the successful bidder by issuance of a purchase order. Public information releases pertaining to this project shall not be made without prior written approval by EGID and then only in conjunction with EGID.

F. Checklist

EGID reserves the right to alter these dates, issue amendments to this RFP, cancels, or re-issue this RFP at any time for any reason. The Auditor must agree to make any of its facilities available to EGID if it is determined that an on-site visit would be beneficial and utilized as part of the final evaluation process.

F.1 OMES Releases RFP Thursday, December 6, 2012

F.2 Notice of Intent to Submit a Proposal &
Deadline for Receipt of Questions Wednesday, December 12, 2012

F.3 EGID responds to questions Friday, December 14, 2012

F.4 Responses Due 10:00 a.m., Friday, December 21, 2012

F.6 EGID Recommends Contract Thursday, December 27, 2012

F.7 Contract Effective Date January 1, 2013

G. Questionnaire

The questions contained herein must be answered. The Auditor's response shall be incorporated as part of the contract and therefore shall be obligated to perform in all manners described. These answers will formulate an important part of the evaluation of this RFP. However, if a specific question has been answered to the Auditor's satisfaction in any of the corresponding preceding sections of the response, the Auditor may reference that answer by page number and paragraph without the need for re-answering it in this questionnaire.

G.1 Credentials and Experience:

- G.1.1 How long have the individuals to be assigned to EGID's account been employed by the Auditor?
- G.1.2 What professional designations have the individuals assigned to EGID's account obtained?
- G.1.3 Do the individuals assigned to EGID's account have specific experience with Medicare Part D data validation clients with plans and demographics similar to EGID's? If so, please provide references for evaluation purposes.
- G.1.4 Provide references for two clients for whom the Auditor provides Medicare Part D data validation audit services.

G.2 Overall Consulting:

- G.2.1 Briefly discuss the Auditor's assumptions and approach to performing Medicare Part D data validation audit services.
- G.2.2 Briefly discuss the Auditor's experience in Medicare Part D data validation audit services.
- G.2.3 Describe any benefits consulting services the Auditor offers outside of the services requested in this RFP that relate to auditing, over-site and performance of the EGID Medicare Part D activities and operations.

H. Pricing

- H.1 Based on the data included in this RFP, there will be no adjustments permitted to quote fees after the proposal submission deadline. The Auditor must offer and guarantee the offer for the initial term of this contract and each of the two (2) one-year (1-year) possible renewal years.

- H.2 EGID cannot reimburse the Auditor for any type of expenses. ALL ANTICIPATED EXPENSES, INCLUDING TRAVEL, SHALL BE INCLUDED IN THE HOURLY RATE.
- H.3 The quoted fee for shall be offered as a maximum annual fee, billable at an hourly rate for each level of expertise of personnel providing the services. All expenses shall be included in the hourly rate. In order to evaluate the proposal, please provide the following for each of the personnel that will be assigned to EGID's account with a different billing rate:
- H.3.1 Staff member assigned to EGID's account,
 - H.3.2 Staff position (i.e., Partner, Principal, Senior Actuary, etc.),
 - H.3.3 Estimated hours,
 - H.3.4 Rate per hour (ranges are not acceptable),
 - H.3.5 Total cost for each staff position, and
 - H.3.6 Total cost.

SIGNATURE PAGE

When signed by both parties below, this constitutes agreement and acceptance of all terms and conditions contained in the Contract to be effective January 1, 2013.

- 1) The original of this signed document will remain on file in the offices of The Office of Management and Enterprise Services, Employees Group Insurance Division.

- 2) By signing, both parties agree that this document shall become a part of the contract.

Done this _____ day of _____, 2012.

FOR EGID

(Please print or type)

Signature:

Frank Wilson, Administrator
The Office of Management and Enterprise Services,
Employees Group Insurance Division
3545 N.W. 58th, Suite 1000
Oklahoma City, Oklahoma 73112
(405) 717-8828