



**FLORIDA DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE
BUREAU OF OPERATIONS**

**REQUEST FOR APPLICATIONS: RFA13-010
CERTIFIED NURSING ASSISTANT LICENSURE EXAMINATION**

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Applicant Name: _____

Applicant Mailing Address: _____

City, State, Zip: _____

Telephone Number: _____

Email Address: _____

Federal Employer Identification Number (FEID): _____

Authorized Signature (Manual): _____

Authorized Signature (Typed) and Title: _____

RFA DOH13-010
 Certified Nursing Assistant Licensure Examination

TIMELINE

SCHEDULE	DUE DATE	LOCATION
Advertisement	March 29, 2013	Vendor Bid System: Http://myflorida.com/apps/vbs/vbs_main_menu
Questions submitted in writing	April 10, 2013 Must be received prior to 4:30 PM ET	Submit to: Florida Department of Health Medical Quality Assurance Attn: Jennifer Quinn Miller 4052 Bald Cypress Way, Bin C90 Tallahassee, FL 32399-1749 E-mail: Jennifer_Miller@doh.state.fl.us
Answers to questions	April 15, 2013 By 5:00 PM ET	Vendor Bid System: Http://myflorida.com/apps/vbs/vbs_main_menu
Applications Due	April 26, 2013 Must be received prior to 2:30 pm ET	Submit to: Florida Department of Health Medical Quality Assurance Attn: Jennifer Quinn Miller 4052 Bald Cypress Way, Bin C90 Tallahassee, FL 32399-1749
Anticipated Evaluation of Applications	May 1, 2013	Florida Department of Health Evaluation Team Members to begin evaluations individually.
Anticipated Posting of Intent To Award	May 17, 2013	Vendor Bid System: Http://myflorida.com/apps/vbs/vbs_main_menu
Project Start Date	July 1, 2013	

NOTE: THE RECEIPT OF SUBMISSION IN RESPONSE TO THIS RFA DOES NOT IMPLY OR GUARANTEE THAT ANY ONE OR ALL APPLICANTS WILL BE AWARDED A CONTRACT WITH THE FLORIDA DEPARTMENT OF HEALTH.

This is not a competitive solicitation subject to the notice or challenge provisions of section 120.57(3), Florida Statutes.

A. PURPOSE

The purpose of this Request for Applications (“RFA”) is to solicit applications from Applicants with the ability to provide examination services to certified nursing assistant candidates in Florida.

B. NOTICE AND DISCLAIMER:

This is not a competitive solicitation subject to the notice or challenge provisions of section 120.57(3), Florida Statutes.

C. PROVIDER ESSENTIAL DUTIES:

The Provider shall process applications and perform services related to examination development and administration for certified nursing assistant (“CNA”) candidates including, but not limited to the following:

- (1) Development of CNA applications
- (2) Processing all CNA applications
- (3) Collecting applicable fees
- (4) Image all CNA applications and supporting documentation
- (5) Create interface with the Department to complete all data transfers
- (6) Develop a two-part examination (a Written Examination and Clinical Skills Test)
- (7) Administer the examinations
- (8) Score the examinations
- (9) Report examination scores
- (10) Perform candidate reviews
- (11) Defend the examination against legal challenges
- (12) Communicate with candidates, the Department and training programs

The Provider shall be solely and uniquely responsible for the satisfactory performance of the tasks described in this RFA. By execution of any resulting contract, the Provider recognizes its singular responsibility for the tasks, activities, and deliverables described therein and warrants that it has fully informed itself of all relevant factors affecting accomplishment of the tasks, activities and deliverables, and agrees to be fully accountable for the performance thereof. The Provider shall not perform any tasks related to the project other than those described in this RFA or the resulting contract, without the express written consent of the Department.

The Provider in the course of developing, implementing, and managing activities relative to the administration of examinations shall be required to coordinate activities with a number of different entities and individuals including Board staff, Practitioner Reporting and Examination Services Unit staff, Department attorneys or the iCenter vendor. Any failure of another entity does not alleviate the Provider from any accountability for tasks or services the Provider is obligated to perform pursuant to the resulting contract. It is imperative that activities be carried out in a professional, respectful, and as required, confidential manner.

D. VENDOR KNOWLEDGE, SKILLS, AND ABILITIES

Adequacy of experience shall be included as a part of the evaluation of Applications:

1. Applicants must have a minimum of two (2) years’ experience in processing candidate applications, imaging, preparation and administration of a certified nursing assistant examination including both a Written Examination and Clinical Skills Test. The examinations must have been administered in at least five (5) states in the United States.
2. Applications shall include contact information for three (3) entities (references) the Applicant has provided with services similar to those requested in this RFA. Applicants shall use Attachment I to provide the required information. References shall include the funding agency, address,

phone number, name of agency's project coordinator, name of agency's contract manager, dates of service and types of service (e.g. Examination development, scheduling, etc.) References will be contacted to determine satisfaction with services provided and should be available during the hours of 9:00 AM – 5:00 PM, Eastern Time. In the event the indicated contact person cannot be reached after three (3) attempts, the Applicant will receive a score of zero (0) for that reference evaluation. The Department's determination is not subject to review or challenge.

E. VENDOR STAFF SKILL AND ABILITIES:

1. Applicant shall identify and provide a description of the members of the project staff who are responsible for project management, computer programming/analysis, examination development, candidate scheduling and examination administration. Staff involved in scoring shall have training and experience concerning computation of statistical data and the staff involved in providing interfaces between the Department and Applicant should have computer training and experience. The Application shall include resumes, indicating training and experience respective to the services requested, for each person performing professional services for the proposed project
2. The Provider shall staff the project with key personnel identified in its Application. Each Application is considered by the Department to be essential to this project. The Provider shall maintain an adequate administrative organizational structure and support staff sufficient to discharge its contractual responsibilities. In the event the Department determines that Providers' staffing levels do not conform to those required in the Application, the Department shall advise the Provider in writing. The Provider shall have thirty (30) calendar days to remedy the identified staffing deficiencies. The Provider shall replace any employee whose continued presence would be detrimental to the success of the project as determined by the Department, with an employee of equal or superior qualifications. The Department shall exercise exclusive judgment in this matter.

F. PROJECT OVERVIEW:

The Applicant will develop, deploy, and process an online application for Certified Nursing Assistant candidates. The Applicant will also create, administer, and score examinations for candidates seeking certification as a Certified Nursing Assistant in Florida's jurisdiction. The Certified Nursing Assistant examination shall consist of two-parts: a clinical skills test demonstration administered in a simulated real-world setting, and a written skills examination administered on a computer based testing platform. The administrations must take place in various locations throughout the State of Florida and must accommodate a high candidate volume.

The Provider must comply with all applicable Federal laws, regulations, action transmittals, program instructions, review guides and similar documentation related to the following:

- Chapters 119, 120, 456 and 464, Florida Statutes
- 64B-1 and 64B9-15, Florida Administrative Codes
- 42 Codes of Federal Regulation, Part 483, Subpart D

The candidates will be those individuals applying for certification as a certified nursing assistant in the State of Florida. The number of candidate applications received in 2011 was 37,195. The number of examinations administered in 2011 was 65,225 (28,500 Clinical Skills Tests and 36,725 Written Examinations). The number of candidate applications received in 2012 was 47,652. The number of examinations administered in 2012 was 49,852 (24,830 Clinical Skills Tests and 25,022 Written Examinations). Candidate counts presented in this RFA are cited for planning purposes only. The Department reserves the right to alter the number of affected CNA candidates by any amount.

Definitions:

Accommodation: A reasonable modification in an assessment instrument, or its administration, made to compensate for the effects of a qualified disability without altering the purpose of the assessment instrument.

ADA: Refers to the Americans with Disabilities Act of 1990, including changes made by the ADA Amendments Act of 2008 (42 U.S.C. 12101 et seq.)

Administration: A system governed by a specific set of rules or procedures in which candidates are presented with examination questions, overseen by a person or group to ensure adherence to the rules or procedures, and their chosen answers are recorded and evaluated.

Applicant: Person, group or entity submitting an Application or response to the Department in accordance with the instructions of this RFA.

Application and Response: Refers to a complete submission by the Applicant to the RFA including properly completed forms, supporting documents, and attachments.

Board: Florida Board of Nursing.

Bulletin: Booklet of information providing candidates with information such as, how and when to schedule the examination, test centers rules, when to expect scores, and what topics are covered on the examination and the examination structure.

Business days: Monday through Friday, not including applicable holidays.

Calendar days: All days of the week, including weekends and holidays.

CNA candidate or Candidate: an individual applying for certification as a certified nursing assistant.

Care Provider Background Screening Clearinghouse: A secure web-based system, established pursuant to s. 435.12, Florida Statutes, allowing the results of criminal history checks provided to the specified agencies for screening of persons qualified under s. 943.0542, Florida Statutes, to be shared among specified agencies when a person has applied to be licensed or enters into a contract that requires a state and national fingerprint-based criminal history check.

Clinical Skills Test: An examination in which candidates demonstrate a skill in a real-world setting, and the performance is rated according to predetermined criteria, by trained examiners.

Complete CNA Application: An examination application is complete if all required information is provided on the application, the application has been signed, and all fees have been paid.

Contract: The contract that will be awarded to the successful Applicant under this RFA, unless indicated otherwise.

Contractor or Provider: The entity to which a contract has been awarded by the Department in accordance with a Application submitted by that entity in response to this RFA. The terms may be used interchangeably. The term vendor may also be used.

Department or DOH: The Department of Health, and may be used interchangeably.

icenter: The Department's web-based research application

Incident: Any situation that affects or alters the normal administration of an examination.

Irregularity: Any behavior or event which appears irregular, improper or questionable and which may compromise the accuracy of a testing session.

Item Analysis Report: a report displaying the results of Item analysis, a process which examines student responses to individual test items in order to assess the quality of those items and of the test as a whole.

Practitioner Reporting and Examination Services Unit: The office within the Department of Health that will be responsible for overseeing any contract resulting from this RFA.

Provider: The successful Applicant to which a contract has been awarded, by the Department, in accordance with an Application submitted in response to this RFA.

Secure Electronic Exchange: Transfer of data such as examination questions, candidate scores and item statistics to and from the vendor in a manner that protects the security of the information (for example, zipped and password protected, or secure ftp site).

G. OBJECTIVES:

The Board of Nursing is responsible for certifying qualified nursing assistants. A major program goal is to quickly examine qualified candidates in the most cost effective manner possible. This project will provide candidates with an efficient licensure process that meets statutory requirements resulting in reduced number of days from CNA application to initial licensure.

H. GOALS AND OBJECTIVES:

1. Reduced number of business days from CNA application to initial licensure.
2. Expediently license candidates that meet statutorily mandated standards of minimum competency.
3. Expanded online services allowing candidates to apply online, reducing application errors and allows candidates to track their application through processing.
4. Ensure customers are informed of, have confidence in and value project services.

I. PROJECT WORK PLAN

The successful RFA Applicant shall perform tasks listed below:

1. RECEIVE AND PROCESS CNA APPLICATIONS AND EXAMINATION FEES

OBJECTIVE: Evaluate certification criteria for eligible candidates. *Preference will be given to RFA Applicants processing CNA applications (from receipt to demographic file to the Department) in minimal time.*

ACTIVITIES:

1. Produce an online CNA application and a paper application that solicits: candidate name, social security number, date of birth, address, sex, race, email address, telephone number, high school or equivalent education, name and code of training program, eligibility route, criminal history, all data required by s.456.0635, F.S., disciplinary history, affidavit, third-party authorization and statement of penalty for providing false information. CNA Applications shall:
 - a. Allow candidates to apply online.
 - b. Allow candidates to mail in paper applications.

- c. Provide method for candidates applying online to confirm data input before submission to aid in eliminating data input errors.
 - d. Be available for beta testing and Department approval no later than October 1, 2013.
 2. Departments shall be notified in seven (7) business days in advance of any down-time due to routine maintenance or updates. CNA Applications shall not be down longer than thirty (30) consecutive calendar days without prior Department permission.
 3. Receive and process CNA applications for completion in no more than three (3) business days of receipt.
 - a. Send confirmation receipt of CNA applications for candidates.
 - b. Record the date CNA application is received (regardless of completion or deficiency) and report to the Department.
 - c. Check the Care Provider Background Screening Clearinghouse to determine if candidate has a profile.
 - d. Lack of social security number shall not be reason to deem CNA applications deficient (or incomplete.)
 - e. Generate a quarterly report showing the % of CNA applications reviewed within three (3) business days
 4. Provide method for candidates to track the status of their application through processing.
 5. Notify candidates of application status:
 - a. Notifications of CNA application deficiencies shall be sent to candidates no later than thirty (30) business days after application receipt.
 - b. Notifications of unresolved deficiencies shall be sent to candidates every seventy-five (75) business days.
 - c. Generate a quarterly performance report showing the % of notices delivered on time.
 6. Receive and process examination fees for all candidates that have applied to sit for the examinations.
 7. Send a daily file containing all information supplied by candidates on the CNA application (the "Demographic File") to the Department via secure electronic exchange. The Demographic File shall be beta tested and complete prior to October 1, 2013.
 8. Provide a Bulletin in English and Spanish, online and in paper form. Bulletins shall contain:
 - a. Test content and percentage of questions in each content area
 - b. At least ten (10) sample questions for the Written Examination
 - c. A list of steps to be demonstrated for the skills tested in the skills-demonstration examination.
 - d. Provide to the Department for review and approval no later than November 1, 2013.
 9. Produce materials related to reapplication or certification and make them available to candidates online and in paper form.
 10. Department shall have final approval of any CNA application or materials supplied to candidates and reserves the right to modify the CNA application or materials as required by legislative or Department policy changes.

2. IMAGING AND RECORD STORAGE

OBJECTIVE: Efficiently transfer generated and received documentation to the Department.

ACTIVITIES:

1. Provide an electronic copy of all documents generated or received, including applications, confirmations letters, completion or deficiency notices, and any documentation submitted by candidates within three (3) business days of receipt or generation:

- a. Documents shall be captured and indexed in icenter or the Department's imaging vendor
 - b. Provide a data file to icenter or the imaging vendor within three (3) business days of application receipt.
 - c. Indexing must conform to icenter's standard zipped comma separated text file format and files will be saved in .tiff extension
 - d. Paper applications shall be scanned and the electronic copy sent to icenter or the imaging vendor.
2. Record and retain a copy of examination forms and answer keys for all administered examinations for a minimum of two (2) years from the time of examination. Records shall be organized such that fulfillment of Department requests for records shall not take longer than two (2) business days.

3. DEVELOP AN EXAMINATION

OBJECTIVE: Accurately measure the ability of candidates for certified nursing assistant to perform at minimum competency levels for profession standards.

ACTIVITIES:

1. Develop and furnish a two-part examination, which shall consist of a Written Examination and Clinical Skills Test that meets state guidelines as specified in Rule 64B9-15.008, F.A.C., and meet psychometric and security standards acceptable to national examinations and similar to those established in the 1999 Standards for Educational and Psychological Testing (AERA/APA/NCME).
2. The Written Examinations shall:
 - a. Be computer-based
 - b. Multiple-choice with four options
 - c. Have no more than 30% common items between forms.
 - d. At maximum, written on a seventh grade reading level. (Technical terms and expressions relevant to work in the profession may be excluded in the determination of the reading level.)
 - e. Have a minimum of five (5) forms in English and two (2) forms in Spanish.
3. Provide item analysis report on each form of the Written Examination, listing percent correct for each option of the Written Examination and point biserial item analysis:
 - a. Item analysis report shall include examination statistics including mean, standard deviation, standard error of measurement and reliability coefficient (Kuder Richardson coefficient of reliability).
 - b. Item analysis report shall be generated for the English examination forms after the first 200 Florida candidates and for the Spanish form after the first 100 Florida candidates.
4. Pilot test new Written Examination questions with at least 100 persons representative of the candidate population prior to introduction on any examination.
5. The Clinical Skills Test shall represent job-related skills as specified by Federal and State laws.
6. Provide an item statistics report for the Clinical Skills Test which provides item statistics for every criterion scored. The report shall be generated after 200 Florida Candidates have taken the examination or ninety (90) calendar days after first used for Florida candidates, whichever occurs first.
7. Evaluate and maintain documentation of findings on Clinical Skills Test standards and establish acceptable inter-rater reliability.
8. Include entry level certified nurse assistant practitioners when reviewing new examination items or development of new examination forms.
9. Use content specifications based on job analyses completed within the last five (5) years for examination forms.

10. Provide an item bank with continual maintenance for both the Written Examination and Clinical Skills Test.
11. Provide the Department with minimum passing scores for both Written Examination and Clinical Skills Test based on minimum passing score studies using methodology acceptable to the Department. Provide a report on minimum passing score studies.

4. SCHEDULE CNA CANDIDATES FOR EXAMINATION

OBJECTIVE: Schedule CNA candidates for examination and secure sites. *Preference will be awarded to RFA Applicants providing for the quickest examination scheduling process from receipt of eligibility file to testing date turn-around time for candidates.*

ACTIVITIES:

1. Receive file indicating Department approval of candidate eligibility to sit for examination (the "eligibility file") via secure electronic exchange in a format approved by the Department.
2. Notify candidates of eligibility approval within twenty-four (24) hours of receipt of the eligibility file. No candidate shall sit for examination without Department approval.
3. Provide a process plan for scheduling candidates by November 1, 2013 :
 - a. Candidates shall not wait more than three (3) weeks from examination scheduling to examination administration.
 - b. Provide a manual for scheduling candidates and administering the examination.
 - c. Generate a quarterly performance report showing the % of candidates sitting for the examination within no more than three (3) weeks of examination scheduling.
4. No candidate shall receive the same examination form on any subsequent examination attempts until all forms have been exhausted.
5. Candidates shall not be allowed to retake any portion of the examination within thirty (30) calendar days of the candidate's last examination administration.
6. No candidate failing the nursing assistant competency examination after three (3) attempts shall be allowed reexamination until the candidate completes an approved training program.
7. Provide and maintain a minimum of twenty (20) examination sites in Florida. *Preference shall be given to RFA Applicants providing examination sites where candidates may take both the computer-based Written Examination and the Clinical Skills Test at the same site.* Sites shall:
 - a. Be distributed so that no candidate has to travel more than fifty (50) miles, in any direction for examination administration.
 - b. Meet ADA guidelines.
 - c. Be evaluated when receiving complaints and a remedy of any deficiency will be forwarded to the Department for review within five (5) business days.
 - d. Provide examination site requirements for any training facility or nursing home facility wishing to become a testing site ("in-facility testing site"). Examination dates at in-facility testing sites shall not be scheduled until 50% of a submitted roster is deemed eligible to test by the Department.
8. Provide customer service mechanism for helping candidates that shall at least:
 - a. Assist candidates with the applications, scheduling an administration and making payments.
 - b. Receive, review and respond to comments from candidates, Florida Training programs and the Department and provide a copy of the response to the Department.

5. ADMINISTER THE EXAMINATION

OBJECTIVE: Administer and secure a valid examination to candidates.

ACTIVITIES:

1. Furnish examination security at examination sites:
 - a. Verify candidate identity, confirming the name submitted on the candidate application matches their government-issued picture identification.
 - b. Provide Proctors for examination administrations. Examination sites shall have dedicated proctors for the Written Examination. The minimum proctor-to-candidate ratio shall be 1:10.
2. Evaluate requests and provide accommodations for candidates who qualify under the ADA including provide a Spanish language examination to candidates requesting translated examinations.
3. Document all incidents and irregularities and provide a detailed report to the Department within seventy-two (72) hours of occurrence. Submit a corrective action plan for Department review and approval within five (5) business days of any incident or irregularity report.

6. SCORE THE EXAMINATION AND REPORT SCORES TO DEPARTMENT

OBJECTIVE: Accurately score examinations and report scores to the Department. *Preference shall be given to RFA Applicants assuring the fastest score turn-around times.*

ACTIVITIES:

1. Score Written Examination and Clinical Skills Test.
 - a. Provide quality control procedures to assure scoring accuracy.
 - b. Report preliminary scores onsite as required by §464.202, F.S. Written Examinations shall be scored on-site after examination administration and candidates shall be provided with a score report showing pass/fail status.
 - c. Provide diagnostic information to failing candidates.
2. Select and train Clinical Skills Observers to administer and score the Clinical Skills Test. Clinical Skill Observers shall be:
 - a. Currently licensed as a registered nurse in the state of Florida with a minimum of two (2) years of nursing experience
 - b. Have at least one (1) year of experience in the provision of long-term care or caring for the chronically ill of any age and
 - c. Shall not have any personal or professional relationship to any candidate taking the Clinical Skills Test.
3. Clinical Skills Test shall be administered and scored by two (2) Clinical Skills Observers at all times. The average of the scores shall be reported to the Department as the final score.
 - a. Clinical Skills Observer score sheets shall be retained for a minimum of two (2) years from the date of examination.
 - b. Monitor and evaluate performance of Clinical Skills Observers to maintain standards in scoring.
 - c. Prepare an administration manual for Clinical Skills Observers that specifies preparation procedures, examination administration procedures, procedures for reporting incidents and irregularities, post examination procedures, proctor instructions, candidate instructions, emergency procedures, exam/scan sheet transport and storage documentation and procedures, test material audit procedures and a copy of forms used for audit, inventory and shipment to be used to maintain security.
4. Provide scores to the Department via secure electronic exchange no more than three (3) business days after conclusion of examination administration. Score files provided to the Department shall in a format specified and approved by the Department.

7. DEFEND THE EXAMINATION

OBJECTIVE: Assist the Department in defense of the Examination.

ACTIVITIES:

1. Provide and notify candidates of processes for examination appeals:
 1. Notify candidates of Provider's appeal process
 2. Notify candidates of the right to petition for an administrative hearing, pursuant to section 120.57, F.S., and rule 28-106.201, F.A.C.
 3. Notify candidates of the cost to provide reviews of incorrectly answered questions for candidates and their attorneys who have requested an administrative hearing.
 4. Provide the Department with a quarterly report on requested appeals and reviews with their results.
2. Assist the Department in defense of all aspects of the Examination, including:
 - a. Challenges to the Examination through an administrative hearing or civil action.
 - b. Challenges with regards to accommodations.
 - c. Providing psychometric or subject matter expert testimony.
 - d. Notify the Department of any legal challenges within twenty-four (24) hours of receipt.
3. If a re-grade is necessary, the examination shall be rescored and revised notification sent to the Department and candidate.

8. PROVIDE EXAMINATION DATA TO DEPARTMENT

OBJECTIVE: Solicit and collect examination data to assist in monitoring the performance of the program and the examinations.

ACTIVITIES:

1. Frequency of reports noted in this task are as below stated:
 - a. Monthly Reports shall express data over a month's time and be delivered to the Department no later than the 7th day of the subsequent month.
 - b. Quarterly reports shall be the collective of the prior three months and shall be reported to the Department no later than the 15th day of the month following the end of the quarter. (The first quarter shall be from January 1 to March 31 and quarterly reports shall be submitted to the Department no later than April 15th.)
 - c. Annual reports: shall be comprehensive of a full calendar year and be received at the Department no later than January 15th of the following year.
2. Generate a quarterly and annual comprehensive report on Provider performance (Audit Report) expressing the percent of time and number of business days services are performed within standards:
 - a. Days between receipt of application and notices of application completion or deficiencies
 - b. Days between completed application and demographic file sent to Department;
 - c. Days between receipt of eligibility file and notification of examination scheduling provided to candidate;
 - d. Days between date of scheduling examination and examination date;
 - e. Days between examination date and score report;
 - f. Days between examination date and notification to the Registry (a Listing of certified nursing assistants maintained by the Board.)
3. Create survey instrument for soliciting candidate satisfaction and forward quarterly and annual results to the Department in an approved electronic format. The survey shall measure candidate attitudes on:
 - a. Ease and timeliness of the scheduling process
 - b. Examination site conditions
 - c. Examination administration
 - d. Customer services and customer focus of staff
 - e. Overall candidate satisfaction with the examination experience

4. Furnish quarterly and annual statistics on Florida and national candidates for both the Clinical Skills Test and the Written Examination, separately and combined (“Pass/Fail Statistics”). Pass/Fail statistics for Florida candidates shall also be reported monthly for the first year of examination administration. Pass/Fail Statistics shall at least include:
 - a. Number of candidates examined,
 - b. Number of candidates passing,
 - c. % of candidates passing on the first attempt,
 - d. % of candidates passing on all attempts,
 and Pass/Fail Statistics shall be detailed by:
 - a. Training, Program or School Code
 - b. Eligibility Route
 - c. Ethnicity
 - d. Examination site
 - e. Examination content
5. Revise reports and survey instrument as needed and required by the Department.

9. ADDITIONAL REQUIRED TASKS

The activities, tasks, products or materials listed below are reasonably necessary in order for the Provider to perform in accordance with the Scope of Services and Tasks sections of this RFA:

- A. Maintain communication with Certified Nurse Assistant training programs as requested by the Department.
- B. Upon request from the Department, create and conduct biannual trainings or informational seminars for approved Certified Nurse Assistant training programs or schools, either independently or in conjunction with the Department.
- C. Provider shall be required to participate in scheduled Board Meetings, as requested by the Department.
- D. Provider shall meet with the Contract Manager and other designated Department staff, onsite in Tallahassee, at least once a year or as requested by the Department.

10. Deliverables

Deliverables are as listed below with corresponding task and activity. The Department reserves the right to modify the deliverables and their frequency to attain the objectives of the project.

Deliverables:	Reference/Due date
1. Online CNA application and paper application shall be available for beta testing and Department approval by <u>October 1, 2013</u> .	Task 1, Activity 1
2. Applications shall be processed for completion within three (3) business days.	Task 1, Activity 3
3. Candidates notified of application status 30 business days after initial application and notices sent 75 business days after the initial notice.	Task 1, Activity 5
4. Demographic File shall be electronically delivered to the Department on a daily basis. The Demographic File shall be available for beta testing and Department approval by <u>October 1, 2013</u> .	Task 1, Activity 7
5. Provide bulletin to the Department for review and approval by <u>November 1, 2013</u> .	Task 1, Activity 8
6. Provide image of any generated or received document to the Department’s imaging vendor within three (3) business days of receipt or creation.	Task 2, Activity 1
7. Fulfillment of Department requests for retained records shall not take longer than two (2) business days.	Task 2, Activity 2

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| 8. Two-Part Examination consisting of a Written Examination and Clinical Skills Test | Task 3, Activities 1 |
| 9. Provide a minimum passing score study to the Department with RFA Application submission and anytime a new score is developed. | Task 3, Activity 11 |
| 10. Candidates sitting for the examination within no more than three (3) weeks of examination scheduling. Provide a process plan for scheduling candidates by <u>November 1, 2013</u> . | Task 4, Activity 3 |
| 11. Minimum of twenty (20) examination sites in Florida. | Task 4, Activity 7 |
| 12. Incident and Irregularities reported to the Department within seventy-two (72) hours of occurrence and a corrective action plan submitted within five (5) business days of reporting. | Task 5, Activity 3 |
| 13. Written Examination scores provided on site. | Task 6, Activity 1 |
| 14. Provided Scores for all exams via secure electronic exchange in no more than three (3) business days after examination. | Task 6, Activity 4 |
| 15. Notify the Department of any legal challenges within twenty-four (24) hours of receipt. | Task 7, Activity 2 |
| 16. Examination statistics forwarded to the Department on a monthly and quarterly basis. | Task 8 |

Outcomes:

1. Reduced number of business days from application to initial licensure.
2. Expeditiously license candidates that meet statutorily mandated standards of minimum competency.
3. Expanded online services allowing candidates to apply online, reducing application errors and allows candidates to track their application through processing.
4. Ensure customers are informed of, have confidence in and value project services.

11. Service Delivery Location and business hours

The Applicant shall identify, in the Application, the service locations that will be used to provide examination administration. Applicant shall indicate the location's capacity to handle both the Written Examination and the Clinical Skills Examination. Service times for the Administration of the Written Examination shall be conducive to allow for continuous examination administration. The Applicant shall identify in the Application the business hours and days that the service delivery locations will be used to provide services to the candidates in the Application. Provider shall provide the Department with no less than sixty (60) calendar day's prior notice of closure of any examination site.

J. DOH TO PROVIDE

The Board shall be solely responsible for determining candidate eligibility for this project. Eligibility criteria are established through the Florida Legislature and the Board, in Florida's laws and rules. Eligibility criteria may change due to legislative or Board modification to Florida's laws and rules.

The Department may provide technical support and assistance to the Provider, within the resources of the Department, to assist in meeting the required tasks. The support and assistance or lack thereof, shall not relieve the Provider from full performance of any contract requirements.

K. OTHER REQUIREMENTS

1. Period of Performance (Term)

The term of the contract resulting from this RFA shall be for three (3) years beginning on July 1, 2013. (Examination administration shall begin on January 1, 2014.)

The contract resulting from this RFA may be renewed, in whole or in part, for a period not to exceed three (3) years or the term of the original contract, whichever is longer. The renewal may not include any compensation for costs associated with the renewal. Any renewal shall be in writing and subject to the same terms and conditions set forth in the original contract. Contract renewal is contingent upon successful evaluation of services, is subject to the availability of funds, and is at the sole discretion of the Department. Each renewal shall be confirmed in writing.

2. Application

- A. Applications shall include sections to provide insight into the Applicant's approach to providing services requested and demonstrate a thorough understanding of this project. At a minimum, Applications should include:
 - 1. A Narrative of service delivery methods that will be used to fulfill Department requirements. Narratives should clearly state the number of business days (from start to completion) of activities referenced in each task.
 - 2. A description of the computer hardware, software and system specifications that will be used to provide services specified in the task to include a detailed explanation of how general maintenance and system support services will be provided.
 - 3. Evidence of physical examination sites locations including dates and times of business.
 - 4. Any activities that the Applicant is unable to provide.
- B. The documentation listed below should be submitted with each copy of the Application:
 - 1. Signed Title Page containing the following information:
 - a. Advertisement Number
 - b. Title: Certified Nursing Assistant Licensure Examination
 - c. Applicant's Legal Name or Organization, phone number, email and postal address of person who may respond to inquiries
 - 2. Introduction: Provide a brief narrative that evidences the understanding of the need and purpose of the project presented in the Statement of Purpose and Major Program Goal.
 - 3. Materials submitted will become the property of the State of Florida. The state reserves the right to use any concepts or ideas contained in the response.
 - 4. Applications may be sent via U.S. Mail, Overnight Courier to the location identified and contact person indicated in the timeline.
 - 5. Applications must be submitted with the RFA number clearly marked on the outside.
 - 6. The Department is not responsible for any envelope which is not properly marked.
 - 7. It is the responsibility of the Applicant to assure their Application is submitted at the proper place and time indicated in the Timeline. The Department's clocks will provide the official time for bid receipt and opening.
 - 8. Late Applications will not be accepted.
 - 9. One (1) original, three (3) copies and one (1) electronic copy (CD) of the Application. The electronic copy should contain the entire Application as submitted, including all supporting and signed documents.

3. Cost of Preparation

Neither the Department nor the State of Florida is liable for any costs incurred in responding to this RFA.

4. Remittance

Any contract resulting from this RFA shall be non-monetary; all services rendered under this project shall be funded by candidate fees paid directly to the Provider.

5. Equipment

The Provider will be responsible for supplying, at their own expense, all equipment necessary to perform under the contract, including but not limited to computers, telephones, copiers, fax machines, maintenance and office supplies. Applicants should include any consideration for costs associated with the provision of equipment in the cost proposal.

6. Service Units

The per candidate examination fees shall constitute a unit of service. Fees paid by candidates cover the cost of all services provided in this project. An arrangement of services noted on the task List may result from payment of an examination fee.

7. Financial Specifications

Funding Source: No funding from the Department, state or federal funding is anticipated in this project.

Allowable Costs: There is no monetary consideration for this contract.

Invoicing and Payment of Invoice: Candidate examination fees shall be paid directly to the Provider and shall cover all costs for the resulting program. The Department will not make payment on any invoices under any resulting contract.

8. Cost Proposal

Any resulting contract will be non-monetary, candidate examination fees shall cover costs for services rendered under the contract. Proposed costs shall be based upon services provided to Candidates, including any additional services or materials needed to complete activities. Applicants shall submit the cost proposal on Attachment II listing fees for:

1. Written Examination fee
2. Oral Written Examination fee
3. Spanish Written Examination fee
4. Oral Spanish Written Examination fee
5. Clinical Skills Test fee
6. Examination Review

9. Performance Bond

The resulting contract is estimated to generate yearly revenue totaling of \$3,500,000. Within thirty (60) calendar days of notification of award, the successful Applicant shall be required to submit a performance bond in the amount of one hundred and seventy-five thousand (\$175,000) dollars. The bond must be furnished prior to commencement of any work under the resulting contract. Should Applicant fail to provide the performance bond within the time designated the Department, in its sole discretion, may withdraw the award and proceed to award the next best Applicant or re-procure.

The bond shall be furnished on an annual basis, thirty calendar days following the beginning of a new contract year and shall be in the amount of five percent (%5) of the current annual contract revenue. The bond must be issued by a surety company licensed to do business in the State of Florida and the Department shall be named as the beneficiary of the successful Applicant's bond. The bond shall provide that the insurer or bonding company(s) pay losses suffered by the Department directly to the Department. The cost of the performance bond shall be borne by the Applicant.

Should the successful vendor terminate the resulting contract prior to the end of the contract period, an assessment against the bond will be made by the State to cover costs of issuing a new RFA and selecting a new vendor. The successful Applicant agrees that the Agency's damages in the event of termination by the successful vendor shall be considered to be for the full amount of the bond. The Department need not prove the damage amount in exercising its right of recourse against the bond.

L. PROVIDER SELECTION CRITERIA

1. Evaluation of Application

Each response will be evaluated and scored based on the criteria defined in Attachments I, II and III. Evaluation sheets will be used by an Evaluation Team to designate the point value assigned to each Application. The scores of each member of the Evaluation Team will be averaged to determine final scoring. The Applicant receiving the highest score will be selected for award. The Department reserves the right to accept or reject any and all Applications, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interests. The Department may reject any response not submitted in the manner specified by the RFA documents.

2. Public Records and Trade Secrets

Notwithstanding any provisions to the contrary, public records shall be made available pursuant to the provisions of the Public Records Act. If the Applicant considers any portion of its response to this RFA to be confidential, exempt, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, the Applicant must segregate and clearly mark the document(s) as "CONFIDENTIAL."

Simultaneously, the Applicant will provide the Department with a separate redacted paper and electronic copy of its response with the claimed protected information redacted and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the RFA name, number, and the name of the Applicant on the cover, and shall be clearly titled "REDACTED COPY."

The Redacted Copy shall be provided to the Department at the same time the Applicant submits its response and must only exclude or obliterate those exact portions that are claimed confidential, proprietary, or trade secret. The Applicant shall be responsible for defending its determination that the redacted portions of its response are confidential, trade secret or otherwise not subject to disclosure. Further, the Applicant shall protect, defend, and indemnify the Department for any and all claims arising from or relating to the determination that the redacted portions of its response are confidential, proprietary, trade secret or otherwise not subject to disclosure. If the Applicant fails to submit a redacted copy with its response, all records submitted are public records and the Department shall produce all documents, data or records submitted by the Applicant in answer to a public records request.

3. Applicants Inquiries

Questions related to this RFA must be received in writing (either via U.S. Mail, courier, e-mail, fax, or hand-delivery) by the contact person listed below, within the time indicated in the Timeline. Oral inquiries or inquiries submitted after the period specified in the Timeline will not be addressed. Answers to questions submitted in accordance with the RFA Timeline will be posted on the myflorida.com Vendor Bid System web site: http://vbs.dms.state.fl.us/vbs/main_menu. All inquiries must be submitted to:

Florida Department of Health
Attention: Jennifer Quinn Miller
4052 Bald Cypress Way, Bin C90
Tallahassee, FL 32399-1749
Fax: 850-487-9537
Email: Jennifer_Miller@doh.state.fl.us

NOTE: FLORIDA LAW, Applicants to this RFA or persons acting on their behalf may not contact, between the release of the RFA and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this RFA, except in writing to the procurement officer as provided in the RFA documents. Violation of this provision may be grounds for rejecting a response. Section 287.057(23), Florida Statutes

4. Standard Contract

Each Applicant shall review and become familiar with the Department's Standard Contract, which contains administrative, financial and non-programmatic terms and conditions mandated by federal or state statute and policy of the Department of Financial Services. Use of one of these documents is mandatory for departmental contracts as they contain the basic clauses required by law. The terms and conditions contained in the Standard Contract are non-negotiable. The terms covered by the "DEPARTMENT APPROVED MODIFICATIONS AND ADDITIONS FOR STATE UNIVERSITY SYSTEM CONTRACTS" are hereby incorporated by reference. The standard contract terms and conditions are Attachment III. Acknowledge acceptance on Required Certifications, Attachment IV.

5. Addenda

If the Department finds it necessary to supplement, modify or interpret any portion of the specifications or documents during the RFA period a written addendum will be posted on the myflorida.com Vendor Bid System, http://vbs.dms.state.fl.us/vbs/main_menu. It is the responsibility of the Applicant to be aware of any addenda that might affect the submitted Application.

6. E-Verify

In accordance with Executive Order 11-116, "The provider agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired during the contract term by the Provider. The Provider shall also include a requirement in subcontracts that the subcontractor shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Contractors meeting the terms and conditions of the E-Verify System are deemed to be in compliance with this provision."

7. Scrutinized Companies

In accordance with Section 287.135, Florida Statutes, agencies are prohibited from contracting with companies, for goods or services over \$1,000,000, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List which have been combined to one [PFIA LIST OF PROHIBITED COMPANIES](#) which is updated quarterly. This list is created pursuant to section 215.473, Florida Statutes which provides that false certification may subject company to civil penalties, attorney's fees, and/or costs.

ATTACHMENTS:

- Attachment I - Experience Form
- Attachment II - Cost Proposal Scoring Tool
- Attachment III - Evaluation Team Criteria
- Attachment IV - Standard Contract
- Attachment V - Direct Order Terms and Conditions
- Attachment VI - Required Certifications
- Attachment VII – Subcontract Report
- Attachment VIII – HIPAA Business Associate Agreement

ATTACHMENT I: EXPERIENCE FORM
Part 1 of 2

Applicant Name: _____

Applicants are required to submit with the Application, contact information for three (3) entities it has provided with services similar to those requested in this RFA. References should be available for contact during the hours of 9:00 AM – 5:00 PM, Eastern Time. In the event the indicated contact person cannot be reached following three (3) attempts, the Applicant will receive a score of zero (0) for that reference evaluation. The Department’s determination is not subject to review or challenge.

1.) Name of Company/Agency: _____

Contact Person: _____

Phone Number: _____

Fax Number: _____

Address: _____

Email Address: _____

2.) Name of Company/Agency: _____

Contact Person: _____

Phone Number: _____

Fax Number: _____

Address: _____

Email Address: _____

3.) Name of Company/Agency: _____

Contact Person: _____

Phone Number: _____

Fax Number: _____

Address: _____

Email Address: _____

Signature of Applicant Representative _____

ATTACHMENT I: EXPERIENCE FORM

Part 2 of 2

Name of Applicant: _____

The following questions will be asked of three (3) references.	Score
1. How would you rate the contract implementation with this vendor? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
2. Did the vendor consistently meet all of its performance deadlines? Yes =3; No=0	
3. How would you rate Applicant's performance with scheduling candidates? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
4. How would you rate Applicant's performance in test administration? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
5. How would you rate Applicant's performance with score reporting? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
6. How would you rate the vendor's key staff and their ability to work with your organization? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
7. Did vendor maintain open lines of communication with your organization? Yes =3; No=0	
8. Was the vendor's staff responsive to technical direction from your organization? Yes =3; No=0	
9. Did the vendor make requested technical modifications within designated time-frames? Yes =3; No=0	
10. How would you rate the vendor's customer services to clients? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
11. Did the vendor go beyond the call of duty to resolve urgent issues/concerns expediently? Yes =3; No=0	
12. Was the vendor's staff knowledgeable of your business rules regarding services? Yes =3; No=0	
13. How would you rate the vendor's responsiveness to any concerns raised about the project after it was initiated? Excellent =5; Good=4, Acceptable=3; Fair =2; Poor=1	
14. Did the vendor produce a quality final product that met contract requirements? Yes =3; No=0	
15. Would you contract with this vendor again? Yes =3; No=0	
Possible Total Score – 59	Total Score:

Name of Company/Agency (reference): _____

Contact Person: _____ Phone Number: _____

Reference verified by (Name and Title): _____

Date/Time of contact: 1. _____ 2. _____ 3. _____

ATTACHMENT II: Cost Proposal

Part 1 of 2 (for Applicant use only)

A maximum of thirty (30) points will be given for the six cost factors listed below. The points for each cost criteria will be individually calculated based upon the cost factor formula below.

Proposed Cost

Per candidate cost for Written examination: _____

Per candidate cost for Clinical Skills Test: _____

Per candidate cost for oral examination: _____

Per candidate cost for Spanish examination: _____

Per candidate cost for Spanish oral examination: _____

Per candidate cost for review of examination: _____

Applicant Name _____

Cost Factor: $a/n \times (b) = c$

Where:

- A- Lowest proposed total cost
- N- Proposed total cost for Applicant under review
- B- Number of total points awarded for lowest proposal
- C- Score awarded to next lowest total cost

The EXAMPLE below shows sample cost proposals for the Written Exam:

Applicant 1		Applicant 2		Applicant 3	
Proposed Cost	Points Awarded	Proposed Cost	Points Awarded	Proposed Cost	Points Awarded
\$10 Written Exam	5	\$25 Written Exam	2	\$50 Written Exam	1

ATTACHMENT II: Cost Proposal

Part 2 of 2 (For Evaluator use only)

A maximum of thirty (30) points will be given for the six cost factors listed below. The points for each cost criteria will be individually calculated based upon the cost factor formula below.

	<u>Proposed Cost</u>	<u>Maximum Points</u>	<u>Awarded Points</u>
Per candidate cost for Written examination:	_____	5	_____
Per candidate cost for Clinical Skills Test:	_____	5	_____
Per candidate cost for oral Written examination:	_____	5	_____
Per candidate cost for Spanish translation Written examination:	_____	5	_____
Per candidate cost for oral Spanish translation Written examination:	_____	5	_____
Per candidate cost for review of examination:	_____	5	_____
		Total Points Awarded:	_____

Applicant Name _____

- Cost Factor: $a/n \times (b) = c$
 A- Lowest proposed total cost
 N- Proposed total cost for Applicant under review
 B- Number of total points awarded for lowest proposal
 C- Score awarded to next lowest total cost

The EXAMPLE below shows sample cost proposals for the Written Exam:

Applicant 1		Applicant 2		Applicant 3	
Proposed Cost	Points Awarded	Proposed Cost	Points Awarded	Proposed Cost	Points Awarded
\$10 Written Exam	5	\$25 Written Exam	2	\$50 Written Exam	1

Evaluator: _____ Date: _____

ATTACHMENT III: Evaluation Team Criteria

Applicants can achieve a possible score of seventy (70) points for this section. The Application shall be evaluated by at least three (3) persons associated with testing or the certified nursing assistant profession. Each response determined to be in compliance with all mandatory criteria will be evaluated based on the criteria and point scale indicated below. The number of points awarded to each Applicant shall be the average score of the raters.

Criteria components will be evaluated and awarded points based on the following point scale:

Points Scale

- 0 The Application did not address this task.
- 1 The Application contained significant deficiencies for this task.
- 2 The Application for the task is below average.
- 3 The Application for the task is average.
- 4 The Application for the task is above average.
- 5 The Application for the task is excellent.

(*5 extra points will be given for preference)

Maximum Points Available is noted to the right of each indicated task. Zero is the minimum amount of points available.

EVALUATION CRITERIA		
TASK:	MAXIMUM POINTS AVAILABLE	POINTS AWARDED
Task 1 – Receive and Process Applications and Examination Fees. How well does the Application demonstrate the ability to receive and process applications and examination fees? - <i>Five (5) preference points for Applications processing applications (from receipt to demographic file to the Department) in minimal time. Where a tie exists, both Applicants will receive the points.</i>	5 <i>(*5 extra points will be given for preference)</i>	
Task 2 – Imaging and Record Storage How well does Application demonstrate a capacity to efficiently transfer generated and received documentation to the Department?	5	
Task 3 - Develop an Examination How well does Application demonstrate the ability to develop an accurate and reliable examination?	5	
Task 4 - Schedule candidates for examination How well does the Application demonstrate Applicant’s ability to schedule candidates for examination and secure examination sites? - <i>Five (5) preference points for Applications providing for the quickest examination scheduling process from receipt of eligibility file to testing date turn-around time for candidates.</i> - <i>Five (5) preference points for Applications providing examination sites where candidates may take both the computer-based Written Examination and the Clinical Skills Test at the same site.</i>	5 <i>(*10 extra points included for preference)</i>	
Task 5 – Administer the Examination How well does Application demonstrate Applicant’s ability to administer a	5	

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 Certified Nursing Assistant Licensure Examination

secure and valid examination?		
Task 6 – Score the Examination and Report Scores to the Department How well does the Application demonstrate Applicants ability to accurately and efficiently report scores to the Department? - <i>The Applicant completing this task in minimal time will be given five (5) extra points for preference. If more than one Applicant quotes the same time frame, both Applicants will receive the points.</i>	5 (*5 extra points for preference)	
Task 7 – Defend the Examination How well did the Application demonstrate Applicant’s ability to provide examination appeal, review processes and defend the examination against legal challenge?	5	
Task 8 – Provide Examination Data to the Department How well does the Application demonstrate the Applicant’s ability to provide the Department with data on the examination?	5	
Task 9 – Additional Tasks Does the Application demonstrate Applicant’s understanding of the tasks listed in this section?	5	
Section E., Vendor Staff Skill and Ability How well did the Applicants description and qualifications of staff meet and/or exceed Department expectations?	5	
Total Possible Points for the Response	70 Points	

Application Rating

The scores of each member of the Evaluation Team will be averaged with the scores of the other members to determine the final scoring. The Applicant receiving the highest score will be selected for award.

Applicant Name: _____

	<u>Possible Score</u>	<u>Applicant’s Score</u>
Attachment III – Evaluation Team Criteria	70	_____
Attachment I – Experience Form	59	_____
Attachment II - Cost Proposal	30	_____
TOTAL	159	_____

ATTACHMENT IV: Standard Contract

CFDA No.
CSFA No.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH
STANDARD CONTRACT**

Client Non-Client
 Multi-County

THIS CONTRACT is entered into between the State of Florida, Department of Health, hereinafter referred to as the *department*, and _____ hereinafter referred to as the *provider*.

THE PARTIES AGREE:

I. THE PROVIDER AGREES:

A. To provide services in accordance with the conditions specified in Attachment I.

B. Requirements of §287.058, Florida Statutes (FS)

To provide units of deliverables, including reports, findings, and drafts as specified in Attachment I, to be received and accepted by the contract manager prior to payment. To comply with the criteria and final date by which such criteria must be met for completion of this contract as specified in Section III, Paragraph A. Of this contract. To submit bills for fees or other compensation for services or expenses in sufficient detail for a proper pre-audit and post-audit thereof. Where applicable, to submit bills for any travel expenses in accordance with §112.061, FS. The department may, if specified in Attachment I, establish rates lower than the maximum provided in §112.061, FS. To allow public access to all documents, papers, letters, or other materials subject to the provisions of Chapter 119, FS, made or received by the provider in conjunction with this contract. It is expressly understood that the provider's refusal to comply with this provision shall constitute an immediate breach of contract.

C. To the Following Governing Law

1. State of Florida Law

- a. This contract is executed and entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State of Florida. Each party shall perform its obligations herein in accordance with the terms and conditions of the contract.
- b. If this contract is valued at 1 million dollars or more, the provider agrees to refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in s.215.473, F.S. Pursuant to s.287.135(5), F.S., the department shall bring a civil action against any company that falsely certifies its status on the Scrutinized Companies with Activities in Sudan or the Iran Petroleum Energy Sector Lists. The provider agrees that the department shall take civil action against the provider as described in s. 287.135(5)(a), F.S., if the provider fails to demonstrate that the determination of false certification was made in error.

2. Federal Law

- a. If this contract contains federal funds, the provider shall comply with the provisions of 45 CFR, Part 74, and/or 45 CFR, Part 92, and other applicable regulations as specified in Attachment I.
- b. If this agreement includes federal funds and more than \$2,000 of federal funds will be used for construction or repairs, the provider shall comply with the provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The act prohibits providers from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of

the compensation to which he/she is otherwise entitled. All suspected violations must be reported to the department.

c. If this agreement includes federal funds and said funds will be used for the performance of experimental, developmental, or research work, the provider shall comply with 37 *CFR*, part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Governmental Grants, Contracts and Cooperative Agreements."

d. If this contract contains federal funds and is over \$100,000, the provider shall comply with all applicable standards, orders, or regulations issued under §306 of the Clean Air Act, as amended (42 U.S.C. 1857(h) et seq.), §508 of the Clean Water Act, as amended (33 U.S.C. 1368 et seq.), Executive Order 11738, and Environmental Protection Agency regulations (40 *CFR* Part 15). The provider shall report any violations of the above to the department.

e. If this contract contains federal funding in excess of \$100,000, the provider must, prior to contract execution, complete the Certification Regarding Lobbying form, Attachment _____. If a Disclosure of Lobbying Activities form, Standard Form LLL, is required, it may be obtained from the contract manager. All disclosure forms as required by the Certification Regarding Lobbying form must be completed and returned to the contract manager.

f. Not to employ unauthorized aliens. The department shall consider employment of unauthorized aliens a violation of §§274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324 a) and section 101 of the Immigration Reform and Control Act of 1986. Such violation shall be cause for unilateral cancellation of this contract by the department. The provider agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired during the contract term by the Provider. The Provider shall also include a requirement in subcontracts that the subcontractor shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Contractors meeting the terms and conditions of the E-Verify System are deemed to be in compliance with this provision.

g. The provider shall comply with President's Executive Order 11246, Equal Employment Opportunity (30 FR 12319, 12935, 3 *CFR*, 1964-1965 Comp., p. 339), as amended by President's Executive Order 11375, and as supplemented by regulations at 41 *CFR*, Part 60.

h. The provider and any subcontractors agree to comply with Pro-Children Act of 1994, Public Law 103-277, which requires that smoking not be permitted in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

i. HIPAA: Where applicable, the provider will comply with the Health Insurance Portability Accountability Act as well as all regulations promulgated thereunder (45*CFR* Parts 160, 162, and 164).

j. Provider is required to submit a W-9 to the Department of Financial Services (DFS) electronically prior to doing business with the State of Florida via the Vendor Website at <https://flvendor.myfloridacfo.com>. Any subsequent changes shall be performed through this website; however, if provider needs to change their FEID, they must contact the DFS Vendor Ombudsman Section at (850) 413-5519.

k. If the provider is determined to be a subrecipient of federal funds, the provider will comply with the requirements of the American Recovery and Reinvestment Act (ARRA)

and the Federal Funding Accountability and Transparency Act, by obtaining a DUNS (Data Universal Numbering System) number and registering with the federal Central Contractor Registry (CCR). No payments will be issued until the provider has submitted a valid DUNS number and evidence of registration (i.e. A printed copy of the completed CCR registration) in CCR to the contract manager. To obtain registration and instructions, visit <http://fedgov.dnb.com/webform> and www.ccr.gov.

D. Audits, Records, and Records Retention

1. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the department under this contract.
2. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this contract for a period of six (6) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this contract.
3. Upon completion or termination of the contract and at the request of the department, the provider will cooperate with the department to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in Section I, paragraph D.2. Above.
4. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the department.
5. Persons duly authorized by the department and Federal auditors, pursuant to 45 CFR, Part 92.36(i)(10), shall have full access to and the right to examine any of provider's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
6. To provide a financial and compliance audit to the department as specified in Attachment ___ and to ensure that all related party transactions are disclosed to the auditor.
7. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.
8. If Exhibit 2 of this contract indicates that the provider is a recipient or subrecipient, the provider will perform the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, and/or section 215.97 Florida Statutes, as applicable and conform to the following requirements:
 - A. Documentation. To maintain separate accounting of revenues and expenditures of funds under this contract and each CSFA or CFDA number identified on Exhibit 1 attached hereto in accordance with generally accepted accounting practices and procedures. Expenditures which support provider activities not solely authorized under this contract must be allocated in accordance with applicable laws, rules and regulations, and the allocation methodology must be documented and supported by competent evidence.

Provider must maintain sufficient documentation of all expenditures incurred (e.g. Invoices, canceled checks, payroll detail, bank statements, etc.) Under this contract which evidences that expenditures are:

 - 1) Allowable under the contract and applicable laws, rules and regulations;
 - 2) Reasonable; and
 - 3) Necessary in order for the recipient or subrecipient to fulfill its obligations under this contract.

The aforementioned documentation is subject to review by the Department and/or the State Chief Financial Officer and the provider will timely comply with any requests for documentation.

- B. **Financial Report.** To submit an annual financial report stating, by line item, all expenditures made as a direct result of services provided through the funding of this contract to the Department within 45 days of the end of the contract. If this is a multi-year contract, the provider is required to submit a report within 45 days of the end of each year of the contract. Each report must be accompanied by a statement signed by an individual with legal authority to bind recipient or subrecipient by certifying that these expenditures are true, accurate and directly related to this contract.
- To ensure that funding received under this contract in excess of expenditures is remitted to the Department within 45 days of the earlier of the expiration of, or termination of, this contract.

E. Monitoring by the Department

To permit persons duly authorized by the department to inspect any records, papers, documents, facilities, goods, and services of the provider, which are relevant to this contract, and interview any clients and employees of the provider to assure the department of satisfactory performance of the terms and conditions of this contract. Following such evaluation the department will deliver to the provider a written report of its findings and will include written recommendations with regard to the provider's performance of the terms and conditions of this contract. The provider will correct all noted deficiencies identified by the department within the specified period of time set forth in the recommendations. The provider's failure to correct noted deficiencies may, at the sole and exclusive discretion of the department, result in any one or any combination of the following: (1) the provider being deemed in breach or default of this contract; (2) the withholding of payments to the provider by the department; and (3) the termination of this contract for cause.

F. Indemnification

NOTE: Paragraph I.F.1. And I.F.2. Are not applicable to contracts executed between state agencies or subdivisions, as defined in §768.28, FS.

1. The provider shall be liable for and shall indemnify, defend, and hold harmless the department and all of its officers, agents, and employees from all claims, suits, judgments, or damages, consequential or otherwise and including attorneys' fees and costs, arising out of any act, actions, neglect, or omissions by the provider, its agents, or employees during the performance or operation of this contract or any subsequent modifications thereof, whether direct or indirect, and whether to any person or tangible or intangible property.
2. The provider's inability to evaluate liability or its evaluation of liability shall not excuse the provider's duty to defend and indemnify within seven (7) days after such notice by the department is given by certified mail. Only adjudication or judgment after highest appeal is exhausted specifically finding the provider not liable shall excuse performance of this provision. The provider shall pay all costs and fees related to this obligation and its enforcement by the department. The department's failure to notify the provider of a claim shall not release the provider of the above duty to defend.

G. Insurance

To provide adequate liability insurance coverage on a comprehensive basis and to hold such liability insurance at all times during the existence of this contract and any renewal(s) and extension(s) of it. Upon execution of this contract, unless it is a state agency or subdivision as defined by §768.28, FS, the provider accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the provider and the clients to be served under this contract. The limits of coverage under each policy maintained by the provider do not limit the provider's liability and obligations under this contract. Upon the execution of this contract, the provider shall furnish the department written verification supporting both the determination and existence of such insurance coverage. Such coverage may be provided by a self-

insurance program established and operating under the laws of the State of Florida. The department reserves the right to require additional insurance as specified in Attachment I where appropriate.

H. Safeguarding Information

Not to use or disclose any information concerning a recipient of services under this contract for any purpose not in conformity with state and federal law or regulations except upon written consent of the recipient, or his responsible parent or guardian when authorized by law.

I. Assignments and Subcontracts

1. To neither assign the responsibility of this contract to another party nor subcontract for any of the work contemplated under this contract without prior written approval of the department, which shall not be unreasonably withheld. Any sub-license, assignment, or transfer otherwise occurring shall be null and void.
2. The provider shall be responsible for all work performed and all expenses incurred with the project. If the department permits the provider to subcontract all or part of the work contemplated under this contract, including entering into subcontracts with vendors for services and commodities, it is understood by the provider that the department shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and the provider shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The provider, at its expense, will defend the department against such claims.
3. The State of Florida shall at all times be entitled to assign or transfer, in whole or part, its rights, duties, or obligations under this contract to another governmental agency in the State of Florida, upon giving prior written notice to the provider. In the event the State of Florida approves transfer of the provider's obligations, the provider remains responsible for all work performed and all expenses incurred in connection with the contract. In addition, this contract shall bind the successors, assigns, and legal representatives of the provider and of any legal entity that succeeds to the obligations of the State of Florida.
4. The contractor shall provide a monthly Minority Business Enterprise report summarizing the participation of certified and non-certified minority subcontractors/material suppliers for the current month, and project to date. The report shall include the names, addresses, and dollar amount of each certified and non-certified MBE participant and a copy must be forwarded to the Contract Manager of the Department of Health. The Office of Supplier Diversity (850-487-0915) will assist in furnishing names of qualified minorities. The Department of Health, Minority Coordinator (850-245-4199) will assist with questions and answers.
5. Unless otherwise stated in the contract between the provider and subcontractor, payments made by the provider to the subcontractor must be within seven (7) working days after receipt of full or partial payments from the department in accordance with §§287.0585, FS. Failure to pay within seven (7) working days will result in a penalty charged against the provider and paid by the provider to the subcontractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due.

J. Return of Funds

To return to the department any overpayments due to unearned funds or funds disallowed and any interest attributable to such funds pursuant to the terms of this contract that were disbursed to the provider by the department. In the event that the provider or its independent auditor discovers that overpayment has been made, the provider shall repay said overpayment within 40 calendar days without prior notification from the department. In the event that the department first discovers an overpayment has been made, the department will notify the provider by letter of such a finding. Should repayment not be made in a timely manner, the department will charge

interest of one (1) percent per month compounded on the outstanding balance after 40 calendar days after the date of notification or discovery.

K. Incident Reporting

Abuse, Neglect, and Exploitation Reporting

In compliance with Chapter 415, FS, an employee of the provider who knows or has reasonable cause to suspect that a child, aged person, or disabled adult is or has been abused, neglected, or exploited shall immediately report such knowledge or suspicion to the Florida Abuse Hotline on the single statewide toll-free telephone number (1-800-96ABUSE).

L. Transportation Disadvantaged

If clients are to be transported under this contract, the provider will comply with the provisions of Chapter 427, FS, and Rule Chapter 41-2, FAC. The provider shall submit to the department the reports required pursuant to Volume 10, Chapter 27, DOH Accounting Procedures Manual.

M. Purchasing

1. It is agreed that any articles which are the subject of, or are required to carry out this contract shall be purchased from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) identified under Chapter 946, FS, in the same manner and under the procedures set forth in §§946.515(2) and (4), FS. For purposes of this contract, the provider shall be deemed to be substituted for the department insofar as dealings with PRIDE. This clause is not applicable to subcontractors unless otherwise required by law. An abbreviated list of products/services available from PRIDE may be obtained by contacting PRIDE, 1-800-643-8459.
2. Procurement of Materials with Recycled Content
It is expressly understood and agreed that any products or materials which are the subject of, or are required to carry out this contract shall be procured in accordance with the provisions of §403.7065, and §287.045, FS.
3. Myfloridamarketplace Vendor Registration
Each vendor doing business with the State of Florida for the sale of commodities or contractual services as defined in section 287.012, Florida Statutes, shall register in the myfloridamarketplace system, unless exempted under Florida Administrative Code Rule 60A-1.030(3) (F.A.C.).
4. Myfloridamarketplace Transaction Fee
The State of Florida, through the Department of Management Services, has instituted myfloridamarketplace, a statewide eprocurement system. Pursuant to section 287.057(23), Florida Statutes (2008), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Provider shall pay to the State.
For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.
The Provider shall receive a credit for any Transaction Fee paid by the Provider for the purchase of any item(s) if such item(s) are returned to the Provider through no fault, act, or omission of the Provider. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor's failure to perform or comply with specifications or requirements of the agreement. Failure to comply with these requirements shall constitute grounds for declaring the vendor in default and recovering reprocurement costs from the vendor in addition to all outstanding fees. Providers delinquent in paying transaction fees may be excluded from conducting future business with the State.

N. Civil Rights Requirements

Civil Rights Certification: The provider will comply with applicable provisions of DOH publication, "Methods of Administration, Equal Opportunity in Service Delivery."

O. Independent Capacity of the Contractor

1. In the performance of this contract, it is agreed between the parties that the provider is an independent contractor and that the provider is solely liable for the performance of all tasks contemplated by this contract, which are not the exclusive responsibility of the department.
2. Except where the provider is a state agency, the provider, its officers, agents, employees, subcontractors, or assignees, in performance of this contract, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Nor shall the provider represent to others that it has the authority to bind the department unless specifically authorized to do so.
3. Except where the provider is a state agency, neither the provider, its officers, agents, employees, subcontractors, nor assignees are entitled to state retirement or state leave benefits, or to any other compensation of state employment as a result of performing the duties and obligations of this contract.
4. The provider agrees to take such actions as may be necessary to ensure that each subcontractor of the provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.
5. Unless justified by the provider and agreed to by the department in Attachment I, the department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, or clerical support) to the provider, or its subcontractor or assignee.
6. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds, and all necessary insurance for the provider, the provider's officers, employees, agents, subcontractors, or assignees shall be the responsibility of the provider.

P. Sponsorship

As required by §286.25, FS, if the provider is a non-governmental organization which sponsors a program financed wholly or in part by state funds, including any funds obtained through this contract, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: *Sponsored by (provider's name) and the State of Florida, Department of Health*. If the sponsorship reference is in written material, the words *State of Florida, Department of Health* shall appear in at least the same size letters or type as the name of the organization.

Q. Final Invoice

To submit the final invoice for payment to the department no more than ___ days after the contract ends or is terminated. If the provider fails to do so, all right to payment is forfeited and the department will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this contract may be withheld until all reports due from the provider and necessary adjustments thereto have been approved by the department.

R. Use of Funds for Lobbying Prohibited

To comply with the provisions of §216.347, FS, which prohibit the expenditure of contract funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

S. Public Entity Crime and Discriminatory Vendor

1. Pursuant to §287.133, FS, the following restrictions are placed on the ability of persons convicted of public entity crimes to transact business with the department: When a person or affiliate has been placed on the convicted vendor list following a conviction for a public entity

crime, he/she may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, FS, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

2. Pursuant to §287.134, FS, the following restrictions are placed on the ability of persons convicted of discrimination to transact business with the department: When a person or affiliate has been placed on the discriminatory vendor list following a conviction for discrimination, he/she may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in §287.017, FS, for CATEGORY TWO for a period of 36 months from the date of being placed on the discriminatory vendor list.

T. Patents, Copyrights, and Royalties

1. If any discovery or invention arises or is developed in the course or as a result of work or services performed under this contract, or in anyway connected herewith, the provider shall refer the discovery or invention to the department to be referred to the Department of State to determine whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this contract are hereby reserved to the State of Florida.
2. In the event that any books, manuals, films, or other copyrightable materials are produced, the provider shall notify the Department of State. Any and all copyrights accruing under or in connection with the performance under this contract are hereby reserved to the State of Florida.
3. The provider, without exception, shall indemnify and save harmless the State of Florida and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured by the provider. The provider has no liability when such claim is solely and exclusively due to the Department of State's alteration of the article. The State of Florida will provide prompt written notification of claim of copyright or patent infringement. Further, if such claim is made or is pending, the provider may, at its option and expense, procure for the Department of State, the right to continue use of, replace, or modify the article to render it non-infringing. If the provider uses any design, device, or materials covered by letters, patent, or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

U. Construction or Renovation of Facilities Using State Funds

Any state funds provided for the purchase of or improvements to real property are contingent upon the provider granting to the state a security interest in the property at least to the amount of the state funds provided for at least (5) years from the date of purchase or the completion of the improvements or as further required by law. As a condition of a receipt of state funding for this purpose, the provider agrees that, if it disposes of the property before the department's interest is vacated, the provider will refund the proportionate share of the state's initial investment, as adjusted by depreciation.

Electronic Fund Transfer

The provider agrees to enroll in Electronic Fund Transfer, offered by the State Comptroller's Office. Copies of Authorization form and sample bank letter are available from the Department.

Questions should be directed to the EFT Section at (850) 410-9466. The previous sentence is for notice purposes only.

Information Security

The provider shall maintain confidentiality of all data, files, and records including client records related to the services provided pursuant to this agreement and shall comply with state and federal laws, including, but not limited to, sections 384.29, 381.004, 392.65, and 456.057, Florida Statutes. Procedures must be implemented by the provider to ensure the protection and confidentiality of all confidential matters. These procedures shall be consistent with the Department of Health Information Security Policies, as amended, which is incorporated herein by reference and the receipt of which is acknowledged by the provider, upon execution of this agreement. The provider will adhere to any amendments to the department's security requirements provided to it during the period of this agreement. The provider must also comply with any applicable professional standards of practice with respect to client confidentiality.

II. THE DEPARTMENT AGREES:

A. Contract Amount

To pay for contracted services according to the conditions of Attachment I in an amount not to exceed ___ subject to the availability of funds. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The costs of services paid under any other contract or from any other source are not eligible for reimbursement under this contract.

B. Contract Payment

Pursuant to §215.422, FS, the department has five (5) working days to inspect and approve goods and services, unless the bid specifications, Purchase Order, or this contract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to §55.03, FS, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, contact the fiscal office/contract administrator. Payments to health care providers for hospitals, medical, or other health care services, shall be made not more than 35 days from the date eligibility for payment is determined, at the daily interest rate of 0.03333%. Invoices returned to a vendor due to preparation errors will result in a payment delay. Interest penalties less than one dollar will not be enforced unless the vendor requests payment. Invoice payment requirements do not start until a properly completed invoice is provided to the department.

C. Vendor Ombudsman

A *Vendor Ombudsman* has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or (800) 342-2762, the State of Florida Chief Financial Officer's Hotline.

III. THE PROVIDER AND THE DEPARTMENT MUTUALLY AGREE

A. Effective and Ending Dates

This contract shall begin on _____ or on the date on which the contract has been signed by both parties, whichever is later. It shall end on _____.

B. Termination

1. Termination at Will

This contract may be terminated by either party upon no less than thirty (30) calendar days' notice in writing to the other party, without cause, unless a lesser time is mutually agreed upon

in writing by both parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

2. Termination Because of Lack of Funds

In the event funds to finance this contract become unavailable, the department may terminate the contract upon no less than *twenty-four (24) hours'* notice in writing to the provider. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The department shall be the final authority as to the availability and adequacy of funds. In the event of termination of this contract, the provider will be compensated for any work satisfactorily completed prior to notification of termination.

3. Termination for Breach

This contract may be terminated for the provider's non-performance upon no less than *twenty-four (24) hours'* notice in writing to the provider. If applicable, the department may employ the default provisions in Chapter 60A-1.006 (3), FAC. Waiver of breach of any provisions of this contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this contract. The provisions herein do not limit the department's right to remedies at law or in equity.

4. Termination for Failure to Satisfactorily Perform Prior Agreement

Failure to have performed any contractual obligations with the department in a manner satisfactory to the department will be a sufficient cause for termination. To be terminated as a provider under this provision, the provider must have: (1) previously failed to satisfactorily perform in a contract with the department, been notified by the department of the unsatisfactory performance, and failed to correct the unsatisfactory performance to the satisfaction of the department; or (2) had a contract terminated by the department for cause.

C. Renegotiation or Modification

Modifications of provisions of this contract shall only be valid when they have been reduced to writing and duly signed by both parties. The rate of payment and dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the department's operating budget.

D. Official Payee and Representatives (Names, Addresses and Telephone Numbers)

1. The name (provider name as shown on page 1 of this contract) and mailing address of the official payee to whom the payment shall be made is:

3. The name, address, and telephone number of the contract manager for the department for this contract is:

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

4. The name, address, and telephone number of the provider's representative responsible for administration of the program under this contract is:

-
5. Upon change of representatives (names, addresses, and telephone numbers) by either party, notice shall be provided in writing to the other party and said notification attached to originals of this contract.

E. All Terms and Conditions Included

This contract and its attachments as referenced, _____, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of the contract is found to be illegal or unenforceable, the remainder of the contract shall remain in full force and effect and such term or provision shall be stricken.

I have read the above contract and understand each section and paragraph.

IN WITNESS THEREOF, the parties hereto have caused this ___ page contract to be executed by their undersigned officials as duly authorized.

PROVIDER:

**STATE OF FLORIDA, DEPARTMENT OF
HEALTH**

SIGNATURE: _____

SIGNATURE: _____

PRINT/TYPE NAME: _____

PRINT/TYPE NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

STATE AGENCY 29-DIGIT FLAIR CODE: _____

FEDERAL EID# (OR SSN): _____

PROVIDER FISCAL YEAR ENDING DATE: _____

ATTACHMENT V

**DIRECT ORDER TERMS AND CONDITIONS
STATE OF FLORIDA, DEPARTMENT OF HEALTH (the "Department")**

For good and valuable consideration, received and acknowledged sufficient, the parties agree to the following in addition to terms and conditions expressed in the myfloridamarketplace (MFMP) direct order:

1. The Provider is an independent contractor for all purposes hereof.
2. The laws of the State of Florida shall govern this direct order and the venue for any legal actions arising herefrom is Leon County, Florida, unless issuer is a county health department, in which case, venue for any legal actions shall be the issuing county.
3. The Provider agrees to maintain appropriate insurance as required by law and the terms hereof.
4. The Provider will comply, as required, with the Health Insurance Portability and Accountability Act (42 USC & 210, et seq.) And regulations promulgated thereunder (45 CFR Parts 160, 162 and 164).
5. The Provider shall maintain confidentiality of all data, files, and records related to the services/commodities provided pursuant to this direct order and shall comply with all state and federal laws, including, but not limited to Sections 381.004, 384.29, 392.65 and 456.057, F.S. Provider's confidentiality procedures shall be consistent with the most recent edition of the Department of Health Information Security Policies, Protocols, and Procedures. A copy of this policy will be made available upon request. Provider shall also comply with any applicable professional standards of practice with respect to confidentiality of information.
6. Excluding Universities, Provider agrees to indemnify, defend, and hold the State of Florida, its officers, employees and agents harmless, to the full extent allowed by law, from all fines, claims, assessments, suits, judgments, or damages, consequential or otherwise, including court costs and attorneys' fees, arising out of any acts, actions, breaches, neglect or omissions of Provider, its employees and agents, related to this direct order, as well as for any determination arising out of or related to this direct order, that Provider or Provider's employees, agents, subcontractors, assignees or delegates are not independent contractors in relation to the Department. This direct order does not constitute a waiver of sovereign immunity or consent by the Department or the State of Florida or its subdivisions to suit by third parties in any matter arising herefrom.
7. Excluding Universities, all patents, copyrights, and trademarks arising, developed or created in the course or as a result hereof are Department property and nothing resulting from Provider's services or provided by the Department to Provider may be reproduced, distributed, licensed, sold or otherwise transferred without prior written permission of the Department. This paragraph does not apply to Department purchase of a license for Provider's intellectual property.
8. If this direct order is for personal services by Provider, at the discretion of the Department, Provider and its employees, or agents, as applicable, agree to provide fingerprints and be subject to a background screen conducted by the Florida Department of Law Enforcement and / or the Federal Bureau of Investigation. The cost of the background screen(s) shall be

borne by the Provider. The Department, solely at its discretion, reserves the right to terminate this agreement if the background screen(s) reveal arrests or criminal convictions. Provider, its employees, or agents shall have no right to challenge the department's determination pursuant to this paragraph.

9. Unless otherwise prohibited by law, the Department, at its sole discretion, may require the Provider to furnish, without additional cost to the Department, a performance bond or negotiable irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. The type of security and amount is solely within the discretion of the Department. Should the Department determine that a performance bond is needed to secure the agreement, it shall notify potential Providers at the time of RFA.
10. Section 287.57(17)(c), F.S., provides, "A person who receives a contract that has not been procured pursuant to subsections (1)-(3) to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a RFA or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract. However, this prohibition does not prevent a Provider who responds to a request for information from being eligible to contract with an agency."

The Department considers participation through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or any other advisory capacity to constitute participation in drafting of the RFA.

11. **TERMINATION:** This direct order agreement may be terminated by either party upon no less than thirty (30) calendar days notice, without cause, unless a lesser time is mutually agreed upon by both parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

In the event funds to finance this direct order agreement become unavailable, the department may terminate the agreement upon no less than twenty-four (24) hours notice in writing to the provider. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Department shall be the final authority as to the availability of funds. Unless the provider's breach is waived by the Department in writing, the Department may, by written notice to the provider, terminate this direct order agreement upon no less than twenty-four (24) hours notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. If applicable, the Department may employ the default provisions in Chapter 60A-1.006(4), F.A.C. Waiver of breach of any provisions of this contract shall not be deemed to be a waiver of any other breach and shall not be constructed to be a modification of the terms of this agreement. The provisions herein do not limit the Department's right to remedies at law or to damages.

12. The terms of this direct order will supersede the terms of any and all prior or subsequent agreements you may have with the Department with respect to this purchase. Accordingly, in the event of any conflict, the terms of this direct order shall govern.
4. In accordance with Executive Order 11-116, "The Provider agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired during the contract term by the Provider. The Provider shall also include a requirement in subcontracts that the subcontractor

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shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Contractors meeting the terms and conditions of the E-Verify System are deemed to be in compliance with this provision.”

ATTACHMENT VI: Required Certifications

ACCEPTANCE OF TERMS, CONDITIONS, PROVISIONS AND SPECIFICATIONS

BY AFFIXING MY SIGNATURE ON THIS APPLICATION, I HEREBY STATE THAT I HAVE READ THE ENTIRE RFA TERMS, CONDITIONS, PROVISIONS AND SPECIFICATIONS INCLUDING PUR 1000 AND PUR 1001. I hereby certify that my company, its employees, and its principals agree to abide to all of the terms, conditions, provisions and specifications during the competitive RFA and contracting process(if applicable) including those contained in the attached Standard Contract/Direct order. (Attachment IV & Attachment V). **

Signature of Authorized Official

Date

STATEMENT OF NO INVOLVEMENT
CONFLICT OF INTEREST STATEMENT (NON-COLLUSION)

I hereby certify that my company, its employees and its principals, had no involvement in performing a feasibility study of the implementation of the subject contract, in the drafting of this RFA document, or in developing the subject program. Further, my company, its employees, and principals, engaged in no collusion in the development of the instant Application. This Application is made in good faith and there has been no violation of the provisions of Chapter 287, Florida Statutes, the Administrative Code Rules promulgated pursuant thereto, or any procurement policy of the Department of Health. I certify I have full authority to legally bind the Applicant to the provisions of this Application.

Signature of Authorized Official

Date

Optional: Only use the SCRUTINIZED COMPANIES LISTS language if the RFA exceeds \$1,000,000.

SCRUTINIZED COMPANIES LISTS

I HEREBY CERTIFY THAT THE MY COMPANY IS NOT LISTED ON EITHER THE SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR THE SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST WHICH HAVE BEEN COMBINED TO ONE [PFIA LIST OF PROHIBITED COMPANIES](#) WHICH IS UPDATED QUARTERLY. I UNDERSTAND THAT PURSUANT TO SECTION 287.135, FLORIDA STATUTES, THE SUBMISSION OF A FALSE CERTIFICATION MAY SUBJECT COMPANY TO CIVIL PENALTIES, ATTORNEY'S FEES, AND/OR COSTS.

Signature of Authorized Official

Date

*An authorized official is an officer of the vendor's organization who has legal authority to bind the organization to the provisions of the Applications. This usually is the President, Chairman of the Board, or owner of the entity. A document establishing delegated authority must be included with the Application if signed by other than the President, Chairman or owner.

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** The terms and conditions contained in the Standard Contract or Direct order are non-negotiable. If a vendor fails to certify their agreement with these terms and conditions and or abide by, their response shall be deemed non-responsive

ATTACHMENT VII



SUBCONTRACT REPORT:

DEPARTMENT OF HEALTH REPORTING OF SUBCONTRACTOR EXPENDITURES

PRIME CONTRACTORS SHALL REPORT ALL SUBCONTRACTING EXPENDITURES REGARDLESS OF VENDOR DESIGNATION (SEE PAGE 2 FOR TYPES OF DESIGNATIONS)

PLEASE COMPLETE AND REMIT THIS REPORT TO YOUR DOH CONTRACT MANAGER.

COMPANY NAME: _____

DEPARTMENT OF HEALTH CONTRACT NUMBER: _____

REPORTING PERIOD-FROM: _____ **TO:** _____

SUBCONTRACTOR'S/VENDORNAME & ADDRESS	FEID NO.	EXPENDITURE AMOUNT

NOTE: YOU MAY USE A SEPARATE SHEET

DOH USE ONLY - REPORTING ENTITY (DIVISION, OFFICE, CHD, ETC.):
PLEASE SUBMIT ALL SUBCONTRACT FORMS TO: MAUREEN LIVINGS, MBE
COORDINATOR, BUREAU OF GENERAL SERVICES, 4052 BALD CYPRESS WAY,
STE. 310, TALLAHASSEE, FL. 32399-1734

1. DESIGNATIONS:

MINORITY PERSON as defined by [Section 288.703](#) FS; means a lawful, permanent resident of Florida who is, one of the following:

- (A) **AN AFRICAN AMERICAN**, a person having origins in any of the racial groups of the African Diaspora.
- (B) **A HISPANIC AMERICAN**, a person of Spanish or Portuguese cultures with origins in Spain, Portugal, Mexico, South America, Central America or the Caribbean regardless of race.
- (C) **AN ASIAN AMERICAN**, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778.
- (D) **A NATIVE AMERICAN**, a person who has origins in any of the Indian Tribes of North America prior to 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services
- (E) **AN AMERICAN WOMAN**.

CERTIFIED MINORITY BUSINESS ENTERPRISE as defined by [Section 288.703](#) FS, means a small business which is at least 51 percent owned and operated by a minority person(s), which has been certified by the certifying organization or jurisdiction in accordance with Section 287.0943(1).

SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE: As defined by [Section 295.187](#), FS, means an Independently owned and operated business that employees 200 or fewer permanent full-time employees; Is organized to engage in commercial transactions; Is domiciled in Florida; Is at least 51% owned by one or more service-disabled veterans; and, who's management and daily business operations of which are controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE as defined by [Section 295.187](#), FS means a business that has been certified by the Department of Management Services to be a service-disabled veteran business enterprise

SMALL BUSINESS means an independently owned and operated business concern that employs 100 or fewer permanent full-time employees and has a net worth of not more than \$3,000,000 and an average net income, after federal income taxes, of not more than \$2,000,000.

NON-CERTIFIED MINORITY BUSINESS means a small business which is at least 51 percent owned and operated by a minority person(s).

MINORITY NON-PROFIT ORGANIZATION means a not-for-profit organization that has at least 51 percent minority board of directors, at least 51 percent minority officers, or at least 51 percent minority community served.

II. INSTRUCTIONS TO PRIME CONTRACTORS:

- A) ENTER THE COMPANY NAME AS IT APPEARS ON YOUR DOH CONTRACT.
- B) ENTER THE DEPARTMENT CONTRACT NUMBER.
- C) ENTER THE TIME PERIOD THAT YOUR CURRENT INVOICE COVERS.
- D) ENTER THE CMBE SUBCONTRACTOR'S NAME and ADDRESS.
- E) ENTER THE SUBCONTRACTOR'S FEDERAL EMPLOYMENT IDENTIFICATION NUMBER.
THE SUBCONTRACTOR CAN PROVIDE YOU WITH THIS NUMBER

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- F) ENTER THE AMOUNT EXPENDED WITH THE SUBCONTRACTOR FOR THE TIME PERIOD COVERED BY THE INVOICE.
- G) ENCLOSE THIS FORM AND SEND TO YOUR DOH CONTRACT MANAGER

ATTACHMENT VIII: HIPAA Business Associate Agreement

Combined HIPAA Privacy Business Associate Agreement and Confidentiality Agreement and HIPAA Security Rule Addendum and HI-TECH Act Compliance Agreement

This Agreement is entered into between the _____ (“Covered Entity”), and _____ (“Business Associate”). The parties have entered into this Agreement for the purpose of satisfying the Business Associate contract requirements in the regulations at 45 CFR 164.502(e) and 164.504(e), issued under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Security Rule, codified at 45 Code of Federal Regulations (“C.F.R.”) Part 164, Subparts A and C; Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations.

1.0 Definitions

Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR 160.103 and 164.501. Notwithstanding the above, "Covered Entity" shall mean the State of Florida Department of Health. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g); "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or his designee; and "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

Part I: Privacy Provisions

2.0 Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or further disclose Protected Health Information (“PHI”) other than as permitted or required by Sections 3.0 and 5.0 of this Agreement, or as required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity or an Individual, and in a prompt and reasonable manner consistent with the HIPAA regulations, to Protected Health Information in a designated record set, to the Covered Entity or directly to an Individual in order to meet the requirements under 45 CFR 164.524.
- (g) Business Associate agrees to make any Amendment(s) to Protected Health Information in a designated record set that the Covered Entity or an Individual directs or agrees to pursuant to 45 CFR 164.526, in a prompt and reasonable manner consistent with the HIPAA regulations.
- (h) Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on

behalf of Covered Entity available to the Covered Entity, or at the request of the Covered Entity, to the Secretary in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (i) Business Associate agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528, in a prompt and reasonable manner consistent with the HIPAA regulations.
- (k) Business Associate agrees to satisfy all applicable provisions of HIPAA standards for electronic transactions and code sets, also known as the Electronic Data Interchange (EDI) Standards, at 45 CFR Part 162 no later than October 16, 2003. Business Associate further agrees to ensure that any agent, including a subcontractor, that conducts standard transactions on its behalf, will comply with the EDI Standards.
- (l) Business Associate agrees to determine the Minimum Necessary type and amount of PHI required to perform its services and will comply with 45 CFR 164.502(b) and 514(d).

3.0 Permitted or Required Uses and Disclosures by Business Associate General Use and Disclosure.

- (a) Except as expressly permitted in writing by Department of Health, Business Associate may use Protected Health Information only to carry out the legal responsibilities of the Business Associate, but shall not disclose information to any third party without the expressed written consent of the Covered Entity.
- (b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (c) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j) (1).

4.0 Obligations of Covered Entity to Inform Business Associate of Covered Entity's Privacy Practices, and any Authorization or Restrictions.

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, Authorization by Individual or his or her personal representative to use or disclose Protected Health Information, if such changes affect Business Associate's uses or disclosures of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, if such changes affect Business Associate's uses or disclosures of Protected Health Information.

5.0 Confidentiality under State Law.

- (a) In addition to the HIPAA privacy requirements, Business Associate agrees to observe the confidentiality requirements of _____, Florida Statutes. (Program to supply applicable laws related to confidentiality)
- (b) Receipt of a Subpoena. If Business Associate is served with subpoena requiring the production of Department of Health records or information, Business Associate shall immediately contact the Department of Health, Office of the General Counsel, (850) 245-4005. A subpoena is an

official summons issued by a court or an administrative tribunal, which requires the recipient to do one or more of the following:

1. Appear at a deposition to give sworn testimony, and may also require that certain records be brought to be examined as evidence.
 2. Appear at a hearing or trial to give evidence as a witness, and may also require that certain records be brought to be examined as evidence.
 3. Furnish certain records for examination, by mail or by hand-delivery.
- (c) Employees and Agents. Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, against Department of Health, including costs and attorneys' fees, resulting from the breach of the confidentiality requirements of this Agreement.

6.0 Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

7.0 Term and Termination.

(a) Term.

The Term of this Agreement shall be effective as of _____, and shall terminate on _____. Prior to the termination of this Agreement, the Business Associate shall destroy or return to the Covered Entity all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity. If it is infeasible or impossible to return or destroy Protected Health Information, the Business Associate shall immediately inform the Covered Entity of that and the parties shall cooperate in securing the destruction of Protected Health Information, or its return to the Covered Entity. Pending the destruction or return of the Protected Health Information to the Covered Entity, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause.

Without limiting any other termination rights the parties may have, upon Covered Entity's knowledge of a material breach by Business Associate of a provision under this Agreement, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If the Agreement of Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, the Covered Entity shall have the right to immediately terminate the Agreement. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(c) Effect of Termination.

1. Within sixty (60) days after termination of the Agreement for any reason, or within such other time period as mutually agreed upon in writing by the parties, Business Associate shall return to Covered Entity or destroy all Protected Health Information maintained by Business Associate in any form and shall retain no copies thereof. Business Associate also shall recover, and shall return or destroy with such time period, any Protected Health Information in the possession of its subcontractors or agents.
2. Within fifteen (15) days after termination of the Agreement for any reason, Business Associate shall notify Covered Entity in writing as to whether Business Associate elects to return or destroy such Protected Health Information, or otherwise as set forth in this Section 4.4. If Business Associate elects to destroy such Protected Health Information, it shall certify to Covered Entity in writing when and that such Protected Health Information has been destroyed. If any subcontractors or agents of the Business Associate elect to destroy the

Protected Health Information, Business Associate will require such subcontractors or agents to certify to Business Associate and to Covered Entity in writing when such Protected Health Information has been destroyed. If it is not feasible for Business Associate to return or destroy any of said Protected Health Information, Business Associate shall notify Covered Entity in writing that Business Associate has determined that it is not feasible to return or destroy the Protected Health Information and the specific reasons for such determination.
Business

3. Associate further agrees to extend any and all protections, limitations, and restrictions set forth in this Agreement to Business Associate's use or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.
4. If it is not feasible for Business Associate to obtain, from a subcontractor or agent, any Protected Health Information in the possession of the subcontractor or agent, Business Associate shall provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions set forth in this Agreement to the subcontractors' or agents' uses or disclosures of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.

Part II: Security Addendum

8.0 Security

WHEREAS, Business Associate and Department of Health agree to also address herein the applicable requirements of the Security Rule, codified at 45 Code of Federal Regulations ("C.F.R.") Part 164, Subparts A and C, issued pursuant to the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA-AS"), so that the Covered Entity may meet compliance obligations under HIPAA-AS, the parties agree:

(a) **Security of Electronic Protected Health Information.**

Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information (as defined in 45 C.F.R. § 160.103) that Business Associate creates, receives, maintains, or transmits on behalf of the Plans consistent with the Security Rule.

(b) **Reporting Security Incidents.**

1. Business Associate will report to Covered Entity within 24 hours of the discovery of any incident of which Business Associate becomes aware that is:
 - (a) a successful unauthorized access, use or disclosure of the Electronic Protected Health Information; or
 - (b) a successful major
 - (1) modification or destruction of the Electronic Protected Health Information or
 - (2) interference with system operations in an information system containing the Electronic Protected Health Information.
2. Upon the Department of Health's request, Business Associate will report any incident of Which Business Associate becomes aware that is a successful minor
 - (a) modification or destruction of the Electronic Protected Health Information or
 - (b) interference with system operations in an information system containing the Electronic Protected Health Information.

(c) **Compliance Date.**

The parties to this Amendment will comply with Sections (a) through (c) of this Section 9 by the later of the (1) the last date set forth in the signature blocks below.

- (d) Conflicts.
The provisions of this Section 9 will override and control any conflicting provision of this agreement.
- (e) Corrective Action:
Business Associate agrees to take prompt corrective action and follow all provisions required in state and federal law to notify all individuals reasonably believed to be potentially affected by the breach.
- (f) Cure:
Business Associate agrees to take prompt corrective action to cure any security deficiencies.

Part III

9.0 Miscellaneous

- (a) Regulatory References. A reference in this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended, and for which compliance is required.
- (b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, Standard Transactions, the security of Health Information, or other aspects of HIPAA-AS applicable or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either party may, by written notice to the other party, amend this Agreement in such manner as such party determines necessary to comply with such law or regulation. If the other party disagrees with such Amendment, it shall so notify the first party in writing within thirty (30) days of the notice. If the parties are unable to agree on an Amendment within thirty (30) days thereafter, then either of the parties may terminate the Agreement on thirty (30) days written notice to the other party.
- (c) Survival. The respective rights and obligations of Business Associate under Section 7.0 of this Agreement shall survive the termination of this Agreement.
- (d) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule and the confidentiality requirements of the State of Florida.
- (e) No third party beneficiary. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assignees of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.
- (g) The laws of the State of Florida shall apply to the interpretation of this Agreement or in case of any disagreement between the parties; the venue of any proceedings shall be the appropriate federal or state court in Leon County, Florida.
- (h) Indemnification and performance guarantees. Business Associate shall indemnify, defend, and save harmless the State of Florida and Individuals covered for any financial loss as a result of claims brought by third parties and which are caused by the failure of Business Associate, its officers, directors or agents to comply with the terms of this Agreement.
- (i) Assignment: Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

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For: **DEPARTMENT OF HEALTH**

By: _____

Title: _____

Date: _____

For: (Name of Business Associate)

By: _____

Title: _____

Date: _____

Approved as to form and legality:

_____ Office of the General Counsel

Date: _____