

REQUEST FOR PROPOSALS

INDEPENDENT PROFESSIONAL EVALUATOR  
FOR ADMINISTRATION OF  
THE CONSUMER EXPERIENCE SURVEY TO  
HOME AND COMMUNITY BASED SERVICE PARTICIPANTS

RESEARCH AND MANAGEMENT DIVISION  
OFFICE OF AGING AND ADULT SERVICES  
LOUISIANA DEPARTMENT OF HEALTH

**RFP #320 LDH-RFP-SURVEY-FY17-OAAS**  
**Proposal Due Date/Time: 12:00 pm CT, September 6, 2016**

**Release Date: August 5, 2016**

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## GLOSSARY

**Adult Day Health Care Waiver (ADHC):** The Home and Community Based Services waiver program for Adult Day Health Care is available to Medicaid eligible clients aged 65 years or older, or clients aged 22 years old or older who are disabled according to Social Security Administration disability standards. These clients must meet nursing facility level of care. Services available under the ADHC program are: support coordination (case management), adult day health care services, transition services (for persons transitioning from nursing facilities to the community), and transition intensive support coordination. Waiver support coordinators perform in-home assessments and develop comprehensive plans of care for program clients. Clients are given choices of service providers.

**Centers for Medicare and Medicaid Services (CMS):** A federal agency which administers the Medicare program and works in partnership with state governments to administer Medicaid and other initiatives.

**Community Choices Waiver (CCW):** This Home and Community Based waiver program is available to Medicaid eligible clients aged 65 years or older, or clients aged 21 to 64 who are disabled according to Social Security Administration disability standards. These clients must meet nursing facility level of care. Services available under the CCW program are: support coordination (case management), environmental accessibility adaptation (home modifications), personal emergency response system, Personal Assistant Services, skilled maintenance therapy services (Physical Therapy, Occupational Therapy, Respiratory Therapy and Speech and Language Therapy), nursing services, home delivered meal services, caregiver temporary support (respite), monitored in-home caregiving, transition services (for persons transitioning from nursing facilities to the community), and transition intensive support coordination. Assistive Devices and medical supplies specified in the plan of care that enable individuals to increase or maintain their abilities to perform activities of daily living will also be included. Waiver support coordinators perform in-home assessments and develop comprehensive plans of care for program clients. Clients are given choices of service providers.

**HIPAA:** Refers to the federal regulations known as the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules, found at 45 CFR Parts 160 and 164, which were originally promulgated by the U.S. Department of Health and Human Services (DHHS) pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996 and were subsequently amended pursuant to the Health Information Technology for Economic and Clinical Health (“HITECH”) Act of the American Recovery and Reinvestment Act of 2009.

**Home and Community Based Services (HCBS):** The HCBS referred to in this RFP are administered by OAAS which provide care in the community rather than in nursing

facilities. These HCBS services include waiver and State Plan programs approved by CMS.

**LDH:** Louisiana Department of Health

**Long Term – Personal Care Services (LT-PCS):** LT-PCS is available to all Medicaid clients age 65 or older, or age 21 or older with a disability that meets the Social Security Administration disability criteria. In addition, the client must meet the LT-PCS eligibility criteria and initial targeting criteria. The client must be able to participate in his/her care and direct the services provided by the worker independently or through a responsible representative. Clients must require at least limited assistance with at least one Activity of Daily Living. Services to be provided in LT-PCS are assistance with activities of daily living and instrumental activities of daily living (ADL/IADL). These include assistance with: toileting and grooming, bladder and/or bowel requirements or problems, eating and food preparation, performance of incidental household chores (only for the client), accompanying client to medical appointments, and grocery shopping.

**Must:** Denotes a mandatory requirement.

**Nursing Facility service:** Nursing facilities provide 24 hour care for rehabilitative, restorative and/or ongoing skilled nursing care to patients or residents in need of assistance with activities of daily living such as bathing, dressing, transferring, toileting and eating. Clients can qualify for Medicaid nursing facility services if they meet the nursing facility level of care, have an order from a licensed physician, and are screened prior to admission for a history or active treatment of mental illness and/or mental retardation/developmental disabilities according to federal regulations.

**Participant Experience Survey (PES):** Developed by The MEDSTAT Group, Inc. for the Centers for Medicare and Medicaid Services (CMS). In August 2003 CMS released the PES as a way to solicit feedback from HCBS waiver participants about the services that they receive. The PES allows results to be compared between other services in Louisiana and with results from other states.

**Protected Health Information (PHI):** As defined in the HIPAA Privacy Rule.

**Redacted Proposal:** The removal of confidential and/or proprietary information from one copy of the proposal for public records purposes.

**Request for Services Registry (RFSR):** The registry of requestors for waiver services offered by OAAS. The contractor which currently manages the Request for Services Registry is Statistical Resources, Inc. (SRI).

**Shall:** Denotes a mandatory requirement.

**Should, May, Can:** Denote a preference, but not a mandatory requirement.

**Will:** Denotes a mandatory requirement.

## I. GENERAL INFORMATION

### A. Background

1. The mission of the Louisiana Department of Health (LDH) is to protect and promote health and to ensure access to medical, preventive, and rehabilitative services for all citizens of the State of Louisiana. The Louisiana Department of Health is dedicated to fulfilling its mission through direct provision of quality services, the development and stimulation of services of others, and the utilization of available resources in the most effective manner.
2. LDH is comprised of the Medical Vendor Administration (Medicaid), the Office for Citizens with Developmental Disabilities, the Office of Behavioral Health, the Office of Aging and Adult Services, and the Office of Public Health. Under the general supervision of the Secretary, these principal offices perform the primary functions and duties assigned to LDH.
3. LDH, in addition to encompassing the program offices, has an administrative office known as the Office of the Secretary, a financial office known as the Office of Management and Finance, and various bureaus and boards. The Office of the Secretary is responsible for establishing policy and administering operations, programs, and affairs.
4. The Office of Aging and Adult Services (OAAS) was formed within the Louisiana Department of Health as a health care reform initiative in 2006. The Office of Aging and Adult Services brings together all of the long-term care programs that serve aging adults and people with adult-onset disabilities. These programs currently include but are not limited to Medicaid home and community-based long-term care programs.

OAAS currently operates the following HCBS programs for the elderly and/or people with disabilities:

- Community Choices Waiver (CCW)
- Adult Day Health Care (ADHC) Waiver
- Long-Term Personal Care Services (LT-PCS)
- Program for All Inclusive Care for the Elderly (PACE)

### B. Purpose of RFP

1. The purpose of this RFP is to solicit proposals from qualified proposers to provide the administration of an in-person, face-to-face Participant Experience Survey (PES) to Home and Community Based waiver or State Plan service participants throughout the State of Louisiana. The independent professional evaluator will measure the participant's experience and satisfaction with the quality of services provided. The face-to-face survey includes questions across multiple Dimensions of Quality including: access to services, service planning and delivery, health and safety, community and

social connections, work and employment, housing, and rights, responsibilities and risks.

2. A contract is necessary to provide OAAS with important information for improving services. OAAS will use this Consumer Experience Survey to measure the information about program participants' experiences with services and supports they receive under the 1915(c) Medicaid Home and Community Based Services waivers and the State Plan personal care service. The RFP will assist in gathering information through the survey process in order to identify whether participants' needs for personal assistance and adaptive equipment are being met; whether case manager access is adequate; whether program participants have an input into the types of services they receive and who provides them; whether program participants are treated with respect by providers; and whether participants participate in activities and events outside the home when they want to. The information gathered will directly influence policy for service plan development and will provide aggregate comparative data on case management agency and direct service provider performance. The survey instrument will be used to gain information useful for continuous quality improvement projects.

#### **C. Invitation to Propose**

LDH Office of Aging and Adult Services is inviting qualified proposers to submit proposals for services to administer the Consumer Experience Survey for Office of Aging and Adult Services waiver and State Plan participants in accordance with the specifications and conditions set forth herein.

#### **D. RFP Addenda**

In the event it becomes necessary to revise any portion of the RFP for any reason, the Department shall provide addenda, supplements, and/or amendments to all potential proposers known to have received the RFP. Additionally, all such supplements shall be posted at the following web address: <http://new.dhh.louisiana.gov/index.cfm/newsroom/category/47> and <https://www.cfprd.doa.louisiana.gov/osp/lapac/pubMain.cfm>

It is the responsibility of the proposer to check the websites for addenda to the RFP, if any.



## II. ADMINISTRATIVE INFORMATION

### E. RFP Coordinator

1. Requests for copies of the RFP and written questions or inquiries must be directed to the RFP coordinator listed below:

Karen Whitworth  
Program Manager - Contracts  
Office of Aging and Adult Services  
Louisiana Department of Health  
628 North 4<sup>th</sup> Street, Baton Rouge, LA 70821  
Telephone Number: (225) 219-5852  
Facsimile Number: (225) 219-0202  
Email: Karen.Whitworth@LA.GOV

2. This RFP is available in pdf at the following weblinks:  
<http://new.dhh.louisiana.gov/index.cfm/newsroom/category/47> and  
<https://wwwcfprd.doa.louisiana.gov/osp/lapac/pubMain.cfm>
3. All communications relating to this RFP must be directed to the LDH RFP contact person named above. All communications between Proposers and other LDH staff members concerning this RFP shall be strictly prohibited. Failure to comply with these requirements shall result in proposal disqualification.

### F. Proposer Inquiries

1. The Department will consider written inquiries regarding the requirements of the RFP or Scope of Services to be provided before the date and time specified in the Schedule of Events. To be considered, written inquiries and requests for clarification of the content of this RFP must be received at the above address or via the above fax number or email address by the date specified in the Schedule of Events. Any and all questions directed to the RFP coordinator will be deemed to require an official response and a copy of all questions and answers will be posted by the date specified in the Schedule of Events to both of the following web links:  
<http://new.dhh.louisiana.gov/index.cfm/newsroom/category/47> and  
<https://wwwcfprd.doa.louisiana.gov/osp/lapac/pubMain.cfm>
2. Action taken as a result of verbal discussion shall not be binding on the Department. Only written communication and clarification from the RFP Coordinator shall be considered binding.

### G. Pre-Proposal Conference

Not required for this RFP.

## H. Schedule of Events

LDH reserves the right to deviate from this Schedule of Events

| <b>Schedule of Events</b>                 |                                  |
|---|----------------------------------|
| Public Notice of RFP                      | August 5, 2016                   |
| Deadline for Receipt of Written Questions | August 16, 2016, 12:00 pm CT     |
| Response to Written Questions             | August 23, 2016                  |
| Deadline for Receipt of Written Proposals | September 6, 2016<br>12:00 pm CT |
| Proposal Evaluation Begins                | September 11, 2016               |
| Contract Award Announced                  | September 16, 2016               |
| Contract Negotiations Begin               | September 17, 2016               |
| Contract Begins                           | September 26, 2016               |

### III. SCOPE OF WORK

#### A. Project Overview

The result of this contract will be obtaining the services of an independent professional evaluator to administer an in-person, face-to-face consumer satisfaction survey to measure the experiences of those receiving Home and Community Based Services waivers or state plan services. The face-to-face survey, in conjunction with the annual monitoring of 1915(c) waiver assurances, provides insight into participants' experiences with respect to service delivery and is an important component of the OAAS Quality Improvement Strategy.

OAAS shall provide the Contractor with a list of participants randomly selected to be included in the face-to-face survey. OAAS shall notify prospective participants of the Consumer Experience Surveys and will request their participation in the face-to-face survey. The Contractor shall follow up with telephone calls, finalize agreements to participate, and schedule the interviews. From the sample, the statistically valid numbers of in-person, face-to-face interviews are to be completed during the survey project by the Contractor.

If the participant consents to be surveyed, the Interviewer will visit him/her at home, at the ADHC, at another location that the participant chooses, or in the OAAS Regional Office. For those interviews that are to take place in the Regional Offices, the Regional Office shall facilitate scheduling of the interviews.

The result of this contract will be that OAAS will receive feedback directly from participants about experiences with their services and their general quality of life in their homes. This will inform OAAS to identify promising practices and opportunities for improvement through OAAS' quality improvement system.

#### B. Deliverables

1. General Requirements
  - a. Contractor shall work cooperatively with the OAAS to assist in defining project goals, objectives, analyzing data and outcomes.
  - b. Contractor shall provide a debriefing and a report to OAAS on the status of pre-survey activities, such as staffing and training at least fourteen (14) calendar days prior to the scheduling of face-to-face surveys.
  - c. Contractor shall utilize the OAAS sample selection that targets customer populations throughout the State of Louisiana.
  - d. Contractor shall complete the required number of face-to-face interviews/surveys, as specified by OAAS, estimated number of face-to-face surveys per year is between 250 and 350.
  - e. Face-to-face surveys are to be administered beginning October 1st and submitted to OAAS for February 1st of the initial year of the contract. In

the following contract years, face-to-face surveys are to be administered beginning in August and commencing no later than December 1<sup>st</sup>.

- f. Contractor shall provide hard copies of the OAAS Consumer Experience Surveys that are required by the Contractor's staff throughout each survey period.
  - g. Contractor must administer the Consumer Experience Survey to participants and ask participants about their experience with paid services, in addition to a number of other issues, as documented on the Consumer Experience Survey.
  - h. Survey responses must be entered by the Contractor in the data entry software provided by OAAS.
2. Programmatic Requirements
- a. OAAS will provide the Contractor with data entry software containing the face-to-face survey instrument.
  - b. Contractor shall assure maintenance of the data entry software is protected to maintain the privacy of personal health information throughout the survey period.
  - c. Contractor must report any suspected violation of HIPAA regulations to OAAS immediately during the survey period.
  - d. Contractor shall retain all survey instruments until the completion of the survey project so that the contractor can research and correct any discrepancies between the survey, data files, or billing invoices within thirty (30) days of completion of each required surveys.
3. Operations Requirements
- The Contractor shall be responsible for all expenses associated with provisions of services under this contract. Costs per Consumer Experience Survey includes the travel cost for the in-person, face-to-face surveys throughout the State of Louisiana as well as the costs of scheduling, interviewing and data entry for each face-to-face survey into the Survey software.
4. Staffing Requirements / Qualifications
- a. Contractor shall assign a designated project manager who will be responsible for all aspects of the administration of the face-to-face survey. The project manager shall have prior experience with administering face-to-face surveys and/or assessments. Prior experience should be with projects of a scope and size similar to or larger than this procurement. Preference shall be given to experience with populations receiving long term care and/or home and community based services.
  - b. Contractor shall assure that staff are experienced in conducting in person, face-to-face interviews/surveys and adequately trained in OAAS HCBS programs and policies prior to administering any surveys.

5. Record Keeping Requirements
  - a. Contractor shall maintain Protected Health Information (PHI) in hardcopy or electronic format, in a secure manner. Contractor shall follow all HIPAA requirements and procedures at all times.
  - b. Contractor shall ensure accurate data entry for all face-to-face surveys.
  - c. Contractor will provide OAAS with hard copies of all completed face-to-face surveys within thirty days of completion of each survey period.
  
6. Reporting Requirements
  - a. Contractor must schedule conference calls with OAAS approximately every two (2) weeks during the survey period. Contractor shall report to OAAS the number of participant surveys completed every two (2) weeks during the survey period.
  - b. Contractor shall provide OAAS with a debriefing and a report on the process of conducting the interviews every two (2) weeks.
  - c. Contractor must determine and notify OAAS within two (2) weeks of the survey whether or not another sample is needed to have a statewide, random sample that is without stratification during the survey period.
  - d. Contractor shall notify OAAS of any deviation from the established timelines; with a revised timeline subject to approval of the OAAS.
  - e. Contractor must notify OAAS of any event / incident / error that may compromise the contract deliverables. Initial notification to contract monitor may be by telephone and/or electronic form no later than 24 hours after the event / incident / error is identified.
  - f. Contractor shall evaluate the survey instrument as it is used and make suggestions for the improvement of the survey instrument and/or any improvements in the process/procedures used by OAAS or the contractor's interviewers.
  
7. Transition Plan
  - a. Contractor shall retain all survey instruments and related materials until the completion of the survey project so that the Contractor can research and correct any discrepancies between the survey, data files, or billing invoices.
  - b. Contractor shall transfer all survey instruments, data, and related materials to OAAS within thirty (30) days after completion of each survey project.
  - c. Contractor shall submit to OAAS all project data and any documents, records or papers containing Protected Health Information (PHI) including hard copies and electronic files at completion of each survey project.
  - d. Contractor shall provide OAAS with a final comprehensive proposal for improving the Consumer Survey methodology for all targeted OAAS populations within thirty (30) days after completion of the project.
  - e. Contractor must submit the final invoice for each survey project to OAAS within thirty (30) days after completion of the project.

- f. Contractor shall receive payment upon receipt of invoices and evidence of deliverables as approved by OAAS on completion of each survey project.

### **C. Liquidated Damages**

1. In the event the Contractor fails to meet the performance standards specified within the contract, the liquidated damages defined below may be assessed. If assessed, the liquidated damages will be used to reduce the Department's payments to the Contractor or if the liquidated damages exceed amounts due from the Department, the Contractor will be required to make cash payments for the amount in excess.
  - a. Late submission of any surveys beginning 10 business days after the stated due date - \$20 per working day, per survey.

Late submission of invoices beginning 10 business days after the stated due date - \$50 per working day per invoice.

2. The decision to impose liquidated damages may include consideration of some or all of the following factors:
  - a. The duration of the violation;
  - b. Whether the violation (or one that is substantially similar) has previously occurred;
  - c. The Contractor's history of compliance;
  - d. The severity of the violation and whether it imposes an immediate threat to the health or safety of the consumers;
  - e. The "good faith" exercised by the Contractor in attempting to stay in compliance.

### **D. Fraud and Abuse**

1. The Contractor shall have internal controls and policies and procedures in place that are designed to prevent, detect, and report known or suspected fraud and abuse activities.
2. Such policies and procedures must be in accordance with state and federal regulations. Contractor shall have adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist the Contractor in preventing and detecting potential fraud and abuse activities.

### **E. Technical Requirements**

The Contractor will be required to transmit all non-proprietary data which is relevant for analytical purposes to LDH on a regular schedule in XML format. Final determination of relevant data will be made by LDH based on collaboration between both parties. The schedule for transmission of the data will be established by LDH and dependent on the needs of the Department related to the data being transmitted. XML files for this purpose will be transmitted via

SFTP to the Department. Any other data or method of transmission used for this purpose must be approved via written agreement by both parties.

The contractor is responsible for procuring and maintaining hardware and software resources which are sufficient to successfully perform the services detailed in this RFP.

1. The contractor should adhere to state and federal regulations and guidelines as well as industry standards and best practices for systems or functions required to support the requirements of this RFP.
2. Unless explicitly stated to the contrary, the contractor is responsible for all expenses required to obtain access to LDH systems or resources which are relevant to successful completion of the requirements of this RFP. The contractor is also responsible for expenses required for LDH to obtain access to the Contractor's systems or resources which are relevant to the successful completion of the requirements of this RFP. Such expenses are inclusive of hardware, software, network infrastructure and any licensing costs.
3. Any confidential information must be encrypted to FIPS 140-2 standards when at rest or in transit.
4. Contractor owned resources must be compliant with industry standard physical and procedural safeguards (NIST SP 800-114, NIST SP 800-66, NIST 800-53A, ISO 17788, etc.) for confidential information (HITECH, HIPAA part 164)
5. Any contractor use of flash drives or external hard drives for storage of LDH data must first receive written approval from the Department and upon such approval shall adhere to FIPS 140-2 hardware level encryption standards.
6. All contractor utilized computers and devices must:
  - a. Be protected by industry standard virus protection software which is automatically updated on a regular schedule.
  - b. Have installed all security patches which are relevant to the applicable operating system and any other system software.
  - c. Have encryption protection enabled at the Operating System level. The contractor shall use existing applications and data owned by OAAS or its contractors.

#### **F. Subcontracting**

1. The State shall have a single prime contractor as the result of any contract negotiation, and that prime contractor shall be responsible for all deliverables specified in the RFP and proposal. This general requirement notwithstanding, proposers may enter into subcontractor arrangements, however, shall acknowledge in their proposals total responsibility for the entire contract.
2. Unless provided for in the contract with the State, the prime contractor shall not contract with any other party for any of the services herein contracted without the express prior written approval of the Department.
3. For subcontractor(s), before commencing work, the contractor will provide letters of agreement, contracts or other forms of commitment which demonstrate that all requirements pertaining to the contractor will be satisfied by all subcontractors through the following:

- a. The subcontractor(s) will provide a written commitment to accept all contract provisions.
- b. The subcontractor(s) will provide a written commitment to adhere to an established system of accounting and financial controls adequate to permit the effective administration of the contract

#### **G. Compliance with Civil Rights Law**

The Contractor shall agree to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and Contractor shall agree to abide by the requirements of the Americans with Disabilities Act of 1990.

Contractor shall agree not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, veteran status, political affiliation, disability or age in any matter relating to employment. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

#### **H. Insurance Requirements**

Insurance shall be placed with insurers with an A.M. Best's rating of no less than A-: VI. This rating requirement shall be waived for Worker's Compensation coverage only.

##### **1. Contractor's Insurance**

The Contractor shall not commence work under this contract until it has obtained all insurance required herein. Certificates of Insurance, fully executed by officers of the Insurance Company shall be filed with the Department for approval. The Contractor shall not allow any subcontractor to commence work on subcontract until all similar insurance required for the subcontractor has been obtained and approved. If so requested, the Contractor shall also submit copies of insurance policies for inspection and approval of the Department before work is commenced. Said policies shall not be canceled, permitted to expire, or be changed without thirty (30) days' notice in advance to the Department and consented to by the Department in writing and the policies shall so provide.

##### **2. Workers' Compensation Insurance**

Before any work is commenced, the Contractor shall obtain and maintain during the life of the contract, Workers' Compensation Insurance for all of the Contractor's employees employed to provide services under the contract. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's



employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in work under the contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide for any such employees, and shall further provide or cause any and all subcontractors to provide Employer's Liability Insurance for the protection of such employees not protected by the Workers' Compensation Statute.

3. Commercial General Liability Insurance

The Contractor shall maintain during the life of the contract such Commercial General Liability Insurance which shall protect Contractor, the Department, and any subcontractor during the performance of work covered by the contract from claims or damages for personal injury, including accidental death, as well as for claims for property damages, which may arise from operations under the contract, whether such operations be by the Contractor or by a subcontractor, or by anyone directly or indirectly employed by either of them, or in such a manner as to impose liability to the Department. Such insurance shall name the Department as additional insured for claims arising from or as the result of the operations of the Contractor or its subcontractors. In the absence of specific regulations, the amount of coverage shall be as follows: Commercial General Liability Insurance, including bodily injury, property damage and contractual liability, with combined single limits of \$1,000,000.

4. Insurance Covering Special Hazards

Special hazards as determined by the Department shall be covered by rider or riders in the Commercial General Liability Insurance Policy or policies herein elsewhere required to be furnished by the Contractor, or by separate policies of insurance in the amounts as defined in any Special Conditions of the contract included therewith.

5. Licensed and Non-Licensed Motor Vehicles

The Contractor shall maintain during the life of the contract, Automobile Liability Insurance in an amount not less than combined single limits of \$1,000,000 per occurrence for bodily injury/property damage. Such insurance shall cover the use of any non-licensed motor vehicles engaged in operations within the terms of the contract on the site of the work to be performed thereunder, unless such coverage is included in insurance elsewhere specified.

6. Subcontractor's Insurance

The Contractor shall require that any and all subcontractors, which are not protected under the Contractor's own insurance policies, take and maintain insurance of the same nature and in the same amounts as required of the Contractor.

**I. Resources Available to Contractor**

The Office of Aging and Adult Services will have an assigned staff member who will be responsible for primary oversight of the contract. This individual will schedule meetings to discuss progress of activities and problems identified.

**J. Contract Monitor**

All work performed by the contractor will be monitored by the contract monitor. Contact information for the monitor will be provided during the contract process.

**K. Term of Contract**

1. The contract shall commence on or near the date approximated in the Schedule of Events. The term of this contract is for a period of three (3) years. With all proper approvals and concurrence with the successful contractor, LDH may also exercise an option to extend for up to twenty-four (24) additional months at the same rates, terms and conditions of the initial contract term. Prior to the extension of the contract beyond the initial 36 month term, approval by the Joint Legislative Committee on the Budget (JLCB) or other approval authorized by law shall be obtained. Such written evidence of JLCB approval shall be submitted, along with the contract amendment to the Office of State Procurement (OSP) to extend contract terms beyond the initial 3 year term.
2. No contract/amendment shall be valid, nor shall the state be bound by the contract/amendment, until it has first been executed by the head of the using agency, or his designee, the contractor and has been approved in writing by the director of the OSP. Total contract term, with extensions, shall not exceed five (5) years. The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract.

**L. Payment Terms**

1. The Contractor shall submit deliverables in accordance with established timelines and shall submit itemized invoices monthly or as defined in the contract terms. Payment of invoices shall be subject to approval of the Contract Monitor. Continuation of payment shall be dependent upon available funding.
2. Payments will be made to the Contractor after written acceptance by the Louisiana Department of Health of the payment task and approval of an invoice. LDH will make every reasonable effort to make payments within **30 calendar days** of the approval of invoice and under a valid contract. Such payment amounts for work performed must be based on at least equivalent progress as reflected in written reports submitted with the invoices. Contractor will not be paid more than the maximum amount of the contract.

## IV. PROPOSALS

### A. General Information

This section outlines the provisions which govern determination of compliance of each proposer's response to the RFP. The Department shall determine, at its sole discretion, whether or not the requirements have been reasonably met. Omissions of required information shall be grounds for rejection of the proposal by the Department.

### B. Blackout Period

The Blackout Period is a specified period of time during a competitive sealed procurement process in which any proposer, bidder, or its agent or representative, is prohibited from communicating with any state employee or contractor of the State involved in any step in the procurement process about the affected procurement. The Blackout Period applies not only to state employees, but also to any contractor of the State. "Involvement" in the procurement process includes but may not be limited to project management, design, development, implementation, procurement management, development of specifications, and evaluation of proposals for a particular procurement. All solicitations for competitive sealed procurements will identify a designated contact person. All communications to and from potential proposers, bidders, vendors and/or their representatives during the Blackout Period must be in accordance with this solicitation's defined method of communication with the designated contact person. The Blackout Period will begin upon posting of the solicitation. The Blackout Period will end when the contract is awarded.

Any bidder, proposer, or state contractor who violates the Blackout Period may be liable to the State in damages and/or subject to any other remedy allowed by law.

Notwithstanding the foregoing, the Blackout Period shall not apply to:

1. A protest to a solicitation submitted pursuant to La.R.S. 39:1671 or LAC 34:V.2545.A.4; or
2. Any communication regarding a particular solicitation between any person and staff of the procuring agency provided the communication is limited strictly to matters of procedure. Procedural matters include deadlines for decisions or submission of proposals and the proper means of communicating regarding the procurement, but shall not include any substantive matter related to the particular procurement or requirements of the RFP.

### C. Code of Ethics

1. The contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42; 1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in

this contract. The contractor agrees to immediately notify the state if potential violations of the Code of Governmental Ethics arise at any time during the term of this contract.

2. Proposers are responsible for determining that there will be no conflict or violation of the Ethics Code if their company is awarded the contract. The Louisiana Board of Ethics is the only entity which can officially rule on ethics issues. Notwithstanding, any potential conflict of interest that is known or should reasonable be known by a proposer as it relates to the RFP should be immediately reported to the Department by proposer.

#### **D. Rejection and Cancellation**

Issuance of this solicitation does not constitute a commitment by LDH to award a contract or contracts. The Department reserves the right to take any of the following actions that it determines to be in its best interest:

1. Reject all proposals;
2. Cancel this RFP; or
3. Cancel or decline to enter into a contract with a successful proposer at any time after the award is made and before the contract receives final approval from DOA/OSP.

Any costs associated with cancellation or termination will be the responsibility of the proposer or bidder.

In accordance with the provisions of R.S. 39:2192, in awarding contracts after August 15, 2010, any public entity shall be authorized to reject a proposal from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more, has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony or equivalent federal felony crime committed in the solicitation or execution of a contract or RFP awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, and all contracts under Title 39, Chapter 17 of the Louisiana Procurement Code, including contracts for professional, personal, consulting, and social services.

#### **E. Contract Award and Execution**

1. The Secretary of LDH reserves the right to:
  - a. Make an award without presentations by proposers or further discussion of proposals received.
  - b. Enter into a contract without further discussion of the proposal submitted based on the initial offers received.
  - c. Contract for all or a partial list of services offered in the proposal.
2. The RFP and proposal of the selected Proposer shall become part of any contract initiated by the State.
3. The selected Proposer shall be expected to enter into a contract that is substantially the same as the sample contract included in Appendix B. In no event shall a Proposer submit its own standard contract terms and conditions

as a response to this RFP. The Proposer should submit with its proposal any exceptions or exact contract deviations that its firm wishes to negotiate. Negotiations may begin with the announcement of the selected Proposer.

4. If the contract negotiation period exceeds 120 days or if the selected Proposer fails to sign the final contract within 120 days of delivery, the State may elect to cancel the award and award the contract to the next-highest-ranked Proposer

#### **F. Assignments**

Any assignment, pledge, joint venture, hypothecation of right or responsibility to any person, firm or corporation should be fully explained and detailed in the proposal. Information as to the experience and qualifications of proposed subcontractors or joint ventures should be included in the proposal. In addition, written commitments from any subcontractors or joint ventures should be included as part of the proposal.

#### **G. Determination of Responsibility**

Determination of the proposer's responsibility relating to this RFP shall be made according to the standards set forth in LAC 34:V.2536. The State must find that the selected proposer:

1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance;
2. Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them;
3. Is able to comply with the proposed or required time of delivery or performance schedule; Has a satisfactory record of integrity, judgment, and performance; and
4. Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

Proposers should ensure that their proposals contain sufficient information for the State to make its determination by presenting acceptable evidence of the above to perform the contracted services.

#### **H. Proposal and Contract Preparation Costs**

The proposer assumes sole responsibility for any and all costs and incidental expenses associated with the preparation and reproduction of any proposal submitted in response to this RFP. The proposer to which the contract is awarded assumes sole responsibility for any and all costs and incidental expenses that it may incur in connection with: (1) the preparation, drafting or negotiation of the final contract; or (2) any activities that the proposer may undertake in preparation for, or in anticipation or expectation of, the performance of its work under the contract before the contract receives final approval from the Division of Administration, Office of State Procurement. The proposer shall not include these costs or any portion thereof in the proposed contract cost. The proposer is fully responsible for all preparation costs associated therewith even if an award is made but subsequently terminated by the Department.

**I. Errors and Omissions**

The Department reserves the right to make minor corrections due to errors identified in the proposals by State or the proposer. The Department, at its option, has the right to request clarification or additional information from proposer.

**J. Ownership of Proposal**

All proposals become the property of the Department and will not be returned to the proposer. The Department retains the right to use any and all ideas or adaptations of ideas contained in any proposal received in response to this solicitation. Selection or rejection of the offer will not affect this right. Once a contract is awarded, all proposals will become subject to the Louisiana Public Records Act.

**K. Procurement Library/Resources Available To Proposer**

Relevant material related to this RFP will be posted at the following web address: <http://new.dhh.louisiana.gov/index.cfm/newsroom/category/47>

**L. Proposal Submission**

1. All proposals must be received by the due date and time indicated on the Schedule of Events. Proposals received after the due date and time will not be considered. It is the sole responsibility of each proposer to assure that its proposal is delivered at the specified location prior to the deadline. Proposals which, for any reason, are not so delivered will not be considered.
2. Proposer shall submit:
  - a. One (1) original hard copy of its complete proposal (the Certification Statement must have original signature signed in ink).
3. Proposer should submit:
  - a. Five (5) duplicate hard copies of the complete proposal;
  - b. One (1) electronic copy (flash drive or CD) of the complete proposal; and
  - c. One (1) hard copy and one (1) electronic copy (flash drive or CD) of its redacted proposal, if it chooses to submit one.
4. No facsimile or emailed proposals will be accepted. The cost proposal and financial statements should each be submitted separately from the technical proposal; however, for mailing purposes, all packages may be shipped in one container.
5. Proposals must be submitted via U.S. mail, courier or hand delivered to:

If courier mail or hand delivered:

Karen Whitworth  
Louisiana Department of Health  
Office of Aging and Adult Services  
628 N 4th Street, 2nd Floor  
Baton Rouge, LA 70802

If delivered via US Mail:

Karen Whitworth  
Louisiana Department of Health  
Office of Aging and Adult Services  
P.O. Box 2031  
Baton Rouge, LA 70821-2031

**M. Confidential Information, Trade Secrets and Proprietary Information**

1. All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the contractor in order to carry out this contract, or which become available to the contractor in carrying out this contract, shall be protected by the contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the contractor. If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The contractor shall not be required under the provisions of the paragraph to keep any confidential data or information which is or becomes publicly available, is already rightfully in the contractor's possession, is independently developed by the contractor outside the scope of the contract, or is rightfully obtained from third parties.
2. Under no circumstance shall the contractor discuss and/or release information to the media concerning this project without prior express written approval of the Department.
3. Only information which is in the nature of legitimate trade secrets or non-published financial data shall be deemed proprietary or confidential. Any material within a proposal identified as such must be clearly marked in the proposal and will be handled in accordance with the Louisiana Public Records Act, R.S. 44:1-44, and applicable rules and regulations. Any proposal marked as confidential or proprietary in its entirety shall be rejected without further consideration or recourse.

**N. Proposal Format**

1. Proposer shall use the template and instructions in Appendix E, "Proposal Submission and Evaluation Requirements" emphasis should be on simple, straightforward and concise statements of the proposer's ability to satisfy the requirements of this RFP.
2. Each proposal shall be economically prepared, with emphasis on completeness and clarity of content. Text shall be no smaller than 11-point

- font; pages may be single sided or double sided. All proposal pages shall be numbered and identified with the Proposer's name.
3. The RFP Appendix E, "Proposal Submission and Evaluation Requirements," details the specific Requirements for making a Proposal in response to this RFP. The requirements include mandatory and general requirements.

**O. Proposal Content**

1. Proposals should include information that will assist the Department in determining the level of quality and timeliness that may be expected. The Department shall determine, at its sole discretion, whether or not the RFP provisions have been reasonably met. The proposal should describe the background and capabilities of the proposer, give details on how the services will be provided, and shall include a cost proposal.
2. Proposals should address how the proposer intends to assume complete responsibility for timely performance of all contractual responsibilities in accordance with federal and state laws, regulations, policies, and procedures.
3. Proposals should define proposer's functional approach in providing services and identify the tasks necessary to meet the RFP requirements of the provision of services, as outlined in this RFP.
4. Proposals should include enough information to satisfy evaluators that the Proposer has the appropriate experience, knowledge and qualifications to perform the scope of services described herein.
5. The Proposer may not submit the Proposer's own contract terms and conditions or other requirements in a response to this RFP.
6. The Proposer must submit an original, signed Certification Statement (See Appendix A).

**P. Interpretive Conventions**

1. Whenever the terms "shall," "must," or "is required" are used in this RFP in conjunction with a specification or performance requirement, the specification or requirement is mandatory. Proposals that are not consistent with mandatory requirements may be cause for LDH's rejection of the proposal.
2. Whenever the terms "can," "may," or "should" are used in this RFP in conjunction with a specification or performance requirement, the specification or performance requirement is a desirable, but not mandatory, requirement.

**Q. Waiver of Administrative Informalities**

The Louisiana Department of Health reserves the right, at its sole discretion, to waive minor administrative informalities contained in any proposal.

**R. Withdrawal of Proposal**

A proposer may withdraw a proposal that has been submitted at any time up to the date and time the proposal is due. To accomplish this, a written request signed by the authorized representative of the proposer must be submitted to the RFP Coordinator.



## V. EVALUATION AND SELECTION

### A. Evaluation Criteria

The following criteria will be used to evaluate proposals:

1. Evaluations will be conducted by a Proposal Review Committee.
2. Evaluations of the financial statements will be conducted by a member of the LDH Office of the Secretary Division of Fiscal Management.
3. Scoring will be based on a possible total of **100** points and the proposal with the highest total score will be recommended for award.

4. Cost Evaluation:

The proposer with the lowest face-to-face survey cost shall receive 25 points, which represents 25% of the maximum possible points for the entire proposal. Other proposers shall receive points for cost based upon the following formula:

$$\text{CPS} = (\text{LPC}/\text{IPC}) * 25$$

LPC = Lowest Proposal Cost of all proposers

IPC = Individual Proposal Cost

5. Scoring for Veteran and Hudson Initiative:

Ten percent (10%) of the total evaluation points on this RFP shall be reserved for proposers who are themselves a certified Veteran or Hudson Initiative small entrepreneurship or who will engage the participation of one or more certified Veteran or Hudson Initiatives small entrepreneurships as subcontractors.

Reserved points shall be added to the applicable proposers' evaluation score as follows:

- a. Proposer is a certified small entrepreneurship: Full amount of the reserved points
- b. Proposer is not a certified small entrepreneurship but has engaged one (1) or more certified small entrepreneurships to participate as subcontractors or distributors. Points will be allocated based on the following criteria:
  1. The number of certified small entrepreneurships to be utilized;
  2. The experience and qualifications of the certified small entrepreneurship(s); and
  3. The anticipated earnings to accrue to the certified small entrepreneurship(s).

6. Evaluation Criteria and Assigned Points

Proposals that pass the preliminary screening and mandatory requirements review will be evaluated based on the information provided in the proposal. The evaluation will be conducted according to the following:

| Evaluation Criteria           | Maximum Points Possible |
|-------------------------------|-------------------------|
| Corporate Experience          | 15                      |
| Organizational Structure      | 12                      |
| Project Execution             | 33                      |
| Cost                          | 25                      |
| Veteran and Hudson Initiative | 10                      |
| Financial Statements          | 5                       |
|                               | 100                     |

**B. On-Site Presentations/Demonstrations**

Not required for this RFP.

**C. Evaluation Team**

The evaluation of proposals will be accomplished by an evaluation team to be designated by the Department, which will determine the proposal most advantageous to the Department, taking into consideration cost and the other evaluation factors set forth in the RFP.

**D. Administrative and Mandatory Screening**

All proposers will be reviewed to determine compliance with administrative and mandatory requirements as specified in the RFP. Proposals that are not in compliance will be excluded from further consideration.

**E. Clarification of Proposals**

The Department reserves the right to seek clarification of any proposal for the purpose of identifying and eliminating minor irregularities or informalities, including resolving inadequate proposal content, or contradictory statements in a proposer's proposal.

**F. Announcement of Award**

1. The Evaluation Team will compile the scores and make a recommendation to the head of the agency on the basis of the responsive and responsible proposer with the highest score.
2. The State will notify the successful Proposer and proceed to negotiate terms for final contract. Unsuccessful proposers will be notified in writing accordingly.
3. The proposals received (except for that information appropriately designated as confidential in accordance with R.S. 44:1 *et seq.*), selection memorandum along with list of criteria used along with the weight assigned each criteria;

- scores of each proposal considered along with overall scores of each proposal considered, and a narrative justifying selection shall be made available, upon request, to all interested parties after the "Notice of Intent to Award" letter has been issued.
4. Any Proposer aggrieved by the proposed award has the right to submit a protest in writing to the State Director of Procurement within 14 calendar days after the award has been announced by the Department.
  5. The award of a contract is subject to the approval of the Division of Administration, Office of State Procurement.

**G. Best and Final Offers (BAFO)**

1. The State reserves the right to conduct a BAFO with one or more proposers determined by the committee to be reasonably susceptible of being selected for award. If conducted, the proposers selected will receive written notification of their selection, with a list of specific items to be addressed in the BAFO along with instructions for submittal. The BAFO negotiation may be used to assist the state in clarifying the scope of work or to obtain the most cost effective pricing available from the proposers.
2. The written invitation to participate in BAFO will not obligate the state to a commitment to enter into a contract.

## VI. SUCCESSFUL CONTRACTOR REQUIREMENTS

### A. Contract

The contract between LDH and the Contractor shall include the standard LDH contract form (CF-1/Attachment II) including a negotiated scope of work, the RFP and its amendments and addenda, and the Contractor's proposal. The attached CF-1 contains basic information and general terms and conditions of the contract to be awarded. In addition to the terms of the CF-1 and supplements, the following will be incorporated into the contract awarded through this RFP:

1. Personnel Assignments

The Contractor's key personnel assigned to this contract shall not be replaced without the written consent of the Department. Such consent shall not be unreasonably withheld or delayed provided an equally qualified replacement is offered. Key personnel for these purposes will be determined during contract negotiation.

2. Force Majeure

The contractor and the Department are excused from performance under contract for any period they may be prevented from performance by an Act of God, strike, war, civil disturbance, epidemic or court order.

3. Order of Precedence

The contract shall, to the extent possible, be construed to give effect to all provisions contained therein; however, where provisions conflict, the intent of the parties shall be determined by giving a first priority to provisions of the contract excluding the RFP and the proposal; second priority to the provisions of the RFP; and third priority to the provisions of the proposal.

4. Entire Agreement

This contract, together with the RFP and addenda issued thereto by the Department, the proposal submitted by the contractor in response to the Department's RFP, and any exhibits specifically incorporated herein by reference constitute the entire agreement between the parties with respect of the subject matter.

5. Board Resolution/Signature Authority

The contractor, if a corporation, shall secure and attach to the contract a formal Board Resolution indicating the signatory to the contract is a corporate representative and authorized to sign said contract.

6. Warranty to Comply with State and Federal Regulations

The contractor shall warrant that it shall comply with all state and federal regulations as they exist at the time of the contract or as subsequently amended.

7. Warranty of Removal of Conflict of Interest

The contractor shall warrant that it, its officers, and employees have no interest and shall not acquire any interest, direct or indirect, which conflicts in any manner or degree with the performance of services hereunder. The contractor shall periodically inquire of its officers and employees concerning such conflicts, and shall inform the Department promptly of any potential

conflict. The contractor shall warrant that it shall remove any conflict of interest prior to signing the contract.

8. Corporation Requirements

If the contractor is a corporation, the following requirements must be met prior to execution of the contract:

- a. If a for-profit corporation whose stock is not publicly traded-the contractor must file a Disclosure of Ownership form with the Louisiana Secretary of State.
- b. If the contractor is a corporation not incorporated under the laws of the State of Louisiana-the contractor must obtain a Certificate of Authority pursuant to R.S. 12:301-302 from the Louisiana Secretary of State.
- c. The contractor must provide written assurance to the agency from contractor's legal counsel that the contractor is not prohibited by its articles of incorporation, bylaws or the laws under which it is incorporated from performing the services required under the contract.

9. Contract Controversies

Any claim or controversy arising out of the contract shall be resolved by the provisions of Louisiana Revised Statutes 39:1672.2-1672.4.

10. Right to Audit

The State Legislative Auditor, agency, and/or federal auditors and internal auditors of the Division of Administration shall have the option to audit all accounts directly pertaining to the contract for a period of three (3) years from the date of the last payment made under this contract. Records shall be made available during normal working hours for this purpose.

11. Contract Modification

No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.

12. Severability

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

13. Applicable Law

This contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this contract shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

14. Record Ownership

All records, reports, documents, or other material related to any contract resulting from this RFP and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of the State and shall, upon request, be returned by Contractor to the State, at Contractor's expense, at termination or expiration of the contract.

## **B. Mutual Obligations and Responsibilities**

The state requires that the mutual obligations and responsibilities of LDH and the successful proposer be recorded in a written contract. While final wording will be resolved at contract time, the intent of the provisions will not be altered and will include all provisions as specified in the attached CF-1

## **C. Retainage**

The Department shall secure a retainage of 10% from all billings under the contract as surety for performance. On successful completion of contract deliverables, the retainage amount may be released on an annual basis. Within ninety (90) days of the termination of the contract, if the Contractor has performed the contract services to the satisfaction of the State and all invoices appear to be correct, the State shall release all retained amounts to the Contractor.

## **D. Indemnification and Limitation of Liability**

1. Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under Contract.
2. Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State and its Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State. If applicable, Contractor will indemnify, defend and hold the State and its Authorized Users harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State or its Authorized Users may require Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

3. The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: i) Authorized User's unauthorized modification or alteration of a Product, Material or Service; ii) Authorized User's use of the Product in combination with other products not furnished by Contractor; iii) Authorized User's use in other than the specified operating conditions and environment.
4. In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the Authorized User's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part (s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract.
5. For all other claims against the Contractor where liability is not otherwise set forth in the Contract as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges rendered by the Contractor under the Contract. Unless otherwise specifically enumerated herein or in the work order mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Contractor is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.
6. The State and Authorized User may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

## **E. Termination**

1. Termination For Cause
  - a. State may terminate this Contract for cause based upon the failure of Contractor to comply with the terms and/or conditions of the Contract; provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and the Contract shall terminate on the date specified in such notice. Failure to perform within the time agreed upon in the

contract may constitute default and may cause cancellation of the contract.

- b. Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this contract provided that the Contractor shall give the State written notice specifying the State agency's failure and a reasonable opportunity for the state to cure the defect.

2. Termination For Convenience

State may terminate the Contract at any time without penalty by giving thirty (30) calendar days written notice to the Contractor of such termination or negotiating with the Contractor an effective date. Contractor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily

3. Termination For Non-Appropriation Of Funds

The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated.

**Table of Appendices:**

- A.** Certification Statement
- B.** LDH Standard Contract Form (CF-1)
- C.** HIPAA Business Associate Addendum
- D.** Veteran and Hudson Initiatives
- E.** Proposal Submission and Evaluation Requirements
- F.** Disclosure of Ownership