STATE OF OHIO

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Northwest Ohio Developmental Center

Invitation to Bid

Specialized Professional and Clinical Services

July 1, 2011 - June 30, 2013

STATE OF OHIO
DEPARTMENT OF DEVELOPMENTAL DISABILITIES
NORTHWEST OHIO DEVELOPMENTAL CENTER

INVITATION TO BID
SPECIALIZED PROFESSIONAL AND CLINICAL SERVICES

Northwest Ohio Developmental Center (NODC) is a state-operated residential and habilitative facility for individuals with developmental disabilities. The center is currently licensed by the Ohio Department of Developmental Disabilities (DODD) and is certified as an Intermediate Care Facility for Individuals with Mental Retardation (ICF/MR) under the federal and state Medicaid programs.

NODC is inviting all interested and qualified individuals and firms to submit bids for the purpose of entering into personal service contracts for the provision of specialized professional and clinical services. Services are required for the period of July 1, 2011, through June 30, 2013. All prospective bidders must comply with the terms of this Invitation to Bid (ITB).

A public bid opening will be conducted on April 15, 2011, at 10:00 a.m., in the Northwest Ohio Developmental Center Administrative Conference Room.

Criteria for selection of successful bidders shall be the lowest responsive and responsible bidder which meets or exceeds the requirements specified in this Invitation to Bid. Contract awards are further contingent upon completion of successful criminal background checks/fingerprinting and health screening of all individuals who will provide services under the terms of these contracts. Persons providing services under the terms of these contracts shall be selected by the successful bidders and, at the discretion of the center; these providers may be interviewed by the center approximately one to two weeks after the bid opening. Bidders failing to comply with this request may result in having their bids refused by the center.

The provisions of **the Ohio Department of Developmental Disabilities will** become part of the final agreement between the successful bidder and the center (see attached). Therefore, the evaluation process resulting in the final award of a contract rests with the center and the Ohio Department of Developmental Disabilities. The center and the Ohio Department of Developmental Disabilities reserve the right to determine that the award of a contract would not be in the best interest of the center, the Ohio Department of Developmental Disabilities, or the state of Ohio.

The center and the Ohio Department of Developmental Disabilities reserve the right to accept or reject any and all bids, in whole or in part, and may determine that any irregularities or deviations from the specifications do not result in the bidder being non-responsive, provided this does not affect the offer or result in a competitive advantage to the bidder.

By submitting a signed bid for these services, vendors affirm that, as applicable to the vendor, no party listed in Divisions (I) and (J) of Section 3517.13 of the Ohio Revised Code (ORC) or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars ($1,000) to the governor or to his campaign committees.

ORC Section 9.24 prohibits the award of any contract for goods, services, or construction, paid in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the Auditor of State if the finding for recovery is unresolved. Paragraph (E) requires that a state agency or political subdivision verify that the person to whom the state agency or political subdivision plans to award the contract does not appear in the database maintained by the Auditor of State. In the response review process, the fact that there is a finding for recovery as defined in ORC 9.24 may be considered in the scoring process, and a response rejected for this reason alone.

In accordance with ORC Sections 2909.32, 2909.33, and 2909.34, bidders seeking certain state-issued licenses, public employment, or business contracts and funding from the state of Ohio must complete a Declaration Regarding Material Assistance/No Assistance to a Terrorist Organization (DMA) form indicating that the bidder has not provided financial assistance or support to a terrorist organization.

Bidders must provide copies of all applicable licenses, certifications, resumes/vitas, and registrations for each service provider.

Bidders are requested to disclose relevant information concerning all other state of Ohio contracts for the current fiscal year and two (2) previous fiscal years (July 1 through June 30), as well as relevant EEO (Equal Employment Opportunity) information as specified on the Bid Response form.

Bidders may submit bids for more than one service area; however, only one bid per service will be accepted. One (1) Bid Response form shall be completed for each service being bid. Prospective bidders may reproduce the Bid Response form as necessary to complete all applicable bids.

Successful bidders will be notified by the center after April 15, 2011.

Each successful contractor will agree that he/she/they are a separate and independent enterprise from the state of Ohio, the Ohio Department of Developmental Disabilities, and the Northwest Ohio Developmental Center and that he/she/they have a full opportunity to find other business and have made an investment in his/her/their business. Moreover, each contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the contractor's activities and responsibilities under the contract. The contract is not to be construed as creating any joint employment relationship between the contract and the public agency or the state of Ohio.

***Please note: this posting represents a sample contract. Minor changes may be made to the contract form once the contract is awarded.

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INSTRUCTIONS TO BIDDERS

The original bid response must be submitted in a sealed envelope with the word "Bid" clearly marked on the outside of the envelope. If the bidder is using an express mail or similar type of courier service, the word "Bid" must be clearly marked on the outside of the express mail or courier service envelope or the bid must be enclosed in a sealed envelope within the express mail or courier service envelope. Failure to comply with this requirement will result in immediate disqualification and no further consideration will be given.

To protect the integrity of the bidding process, bids shall not be prepared, completed, or altered on the premises of the Northwest Ohio Developmental Center. Any bid which is, or is known to have been, prepared, altered, or completed on the premises shall be immediately disqualified and will receive no further consideration for award.

The original bid must be submitted to the Director of Operations of the Northwest Ohio Developmental Center prior to 4:00 p.m., April 14, 2011. All bids will be time/date stamped upon receipt and shall be the official time/date of receipt. Postmarks or other times/dates appearing will not be considered as the official time/date of receipt.

Bids may be submitted to the Director of Operations, Northwest Ohio Developmental Center, 1101 South Detroit Avenue, Toledo, Ohio, 43614. Bids will be received during regular business hours, 8:00 a.m. to 4:00 p.m., Monday through Friday. Telegraphic, facsimile, or any other modes of transmission, other than stated above, shall not be considered as a valid submission of a bid.

The original bid must be properly completed and signed by the bidder **(in blue ink)** and accompanied by one copy of the required supportive documentation. Bidders need only return the response page of the bid packet.

Bidders responding with a "No Bid" bid are requested to state thereon, or by attachment, the reason(s) for not bidding.

Any bid received after 4:00 p.m., April 14, 2011, will be marked late, remain sealed, and will receive no further consideration for award. The center will not be responsible for a late bid due to failure of the bidder to allow sufficient time for delivery of the bid, nor will the center be responsible or liable for non-delivery and/or late delivery of bid due to failure of the bidder to list a correct address or provide sufficient postage.

Bidders shall furnish all information as requested in the Request for Bids. Additional information, necessary for evaluation of the bid, may be attached to the original bid response and shall be properly identified as being part of the bid. The center reserves the right to request literature or other documentation for clarification, although such may not have been set forth in the Request for Bids.

All bidders are expected to attend the public bid opening which will be held on April 15, 2011, at 10:00 a.m. If a bid is being submitted by a firm, the person(s) designated to provide the specified services on behalf of the firm shall be selected by the company and be interviewed by the center approximately one to two weeks after the bid opening. If this stipulation is not fulfilled, the bid can be refused.

Bidders may submit bids for more than one service area; however, only one bid per service will be accepted. One (1) Bid Response form shall be completed for each service being bid. Prospective bidders may reproduce the Bid Response form as necessary to complete all applicable bids.

All bids for services shall be provided based on a unit rate. All bids are firm and bidders shall deliver at the rate and terms quoted. Such quotes shall remain valid for a period of ninety (90) calendar days after the bid opening date.

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BID RESPONSE

I/We have reviewed NODC's Invitation to Bid, dated March 14, 2011, and wish to indicate my/our response to said request.

_____ I/We are interested in providing services to Northwest Ohio Developmental Center in accordance with the specifications set forth in the Request for Bids.

Service to Be Provided: _____

Bid for Specified Services: $_____ per Unit (07/01/11 - 06/30/12)
$_____ per Unit (07/01/12 - 06/30/13)

(If submitting fee schedule, please provide itemized schedule for each contract year.)

Does bidder have, or did bidder have in the past two (2) years, a contract with any other state of Ohio agency? _____ Yes _____ No

If yes, complete the following for each applicable contract (use additional sheets if necessary).
Contracted Service:
Contracting State Agency:
Contract Period:
Contract Rate:
Percent of Contract Complete:
Maximum Amount of Contract:

EEO Statistics for Individual/Firm: *Ohio Offices* *Nationwide*
Total Employees:
Percent Women:
Percent Minorities:

Attach copies of all applicable licenses, certifications, resumes/vitas, and registrations as required in the specifications.

* * * * *

_____ I/We are not interested in providing services to Northwest Ohio Developmental Center.

_____ Not able to meet requirements of specifications.
_____ Not able to meet minimum qualifications.
_____ Not able to meet time constraints.
_____ Other (please specify):_____

* * * * *

_____ Signature of Bidder

_____ Date of Bid

_____ Printed Name of Bidder

_____ Tax Identification or Social Security Number

_____ Firm Name

_____ Street Address

_____ City, State, Zip

_____ Telephone Number with Area Code

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GENERAL SPECIFICATIONS

Contractor shall perform all services rendered in accordance with all applicable state of Ohio, Ohio Department of Developmental Disabilities (DODD) regulations/licensure requirements, federal and state Medicaid (ICF/MR) regulations, Northwest Ohio Developmental Center (NODC) policies and procedures, and any and all other regulatory statutes and/or procedures NODC desires to institute at any time during the contract period.

Contractor shall perform all services rendered in accordance with the service provider's licensure/certification requirements and the code of ethics established by the discipline/profession and/or state of Ohio licensing board.

Contractor shall perform all services as stipulated herein by NODC.

Contractor shall present prior to initiating services, and maintain current throughout the contracting period, all licenses, certifications, and registrations.

Contractor shall provide written service delivery documentation for each unit of service rendered in accordance with established facility procedures and documentation systems.

Contractor shall provide a written monthly work schedule; all subsequent changes must be approved by NODC at least one (1) week in advance of the change. No individual(s) performing services under the terms of this contract shall be permitted to work more than forty (40) hours per week.

Contractor shall attend all meetings related to the assigned client caseload as well as any other meetings deemed necessary by NODC.

Contractor shall not knowingly employ individuals to provide services to NODC who have been convicted or who have plead guilty to a violation of offenses set forth in Section 5123.081(1) or (2) or Section 5123.081(3) of the Ohio Revised Code.

Contractor shall certify that all its employees, while working at the Northwest Ohio Developmental Center, will not purchase, transfer, use, be under the influence of, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

NODC reserves the expressed right and authority to designate the number of individuals who can provide any specific service required under the contract and to reject any individual service provider who fails to meet center standards and established minimum qualifications.

Contractor shall comply with all applicable provisions of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), both in the provision of specified services and in its employment practices.

DENTAL SERVICES

Performance Objectives:

1. Continue implementation and maintenance of oral hygiene rating scales, per dental appointment.

2. Utilize oral hygiene rating scale to develop strategies in problem-solving for improvement of oral hygiene.

3. Facilitate improvement of oral hygiene for individuals served who have poor oral hygiene, showing a five percent (5%) reduction in those indicating poor oral hygiene.

Specifications: In addition to the provisions contained in the General Specifications, contractor shall

- Provide oversight and/or guidance to the University of Toledo Medical College Dental interns in the provision of dental services to our individuals.
- Provide dental services which include preventive services, in-services on oral hygiene, ongoing screening, and follow-up care for approximately one hundred seventy (130 clients with developmental disabilities residing at the center; services shall be provided on the grounds of the center or in coordination of needed follow-up hospitalizations.

- Perform needed screenings, cleanings, and restorations approximately two (2) days per week, seeing approximately six (6) to ten (10) individuals per week.

- Utilize acceptable methods of dentistry in accordance with applicable licensure, Medicaid, and other standard-setting authorities.

- Maximize client services in the least intrusive fashion possible.

- Provide ongoing consultations to clients and staff regarding oral hygiene and preventive dentistry.

- Provide written orders, documentation, and progress notes regarding all client contacts and treatments.

- Secure necessary consents for treatment in accordance with facility and applicable hospital regulations.

- Provide any necessary in-services and/or training sessions for clients and staff on oral hygiene as scheduled via the center's annual training calendar.

- Coordinate off-grounds (hospital) medical dental services in conjunction with the Medical College of Ohio Dental Program in a timely fashion.

- Direct center Clinic staff in appropriate follow-up/recall practices to ensure ongoing and appropriate dental intervention.

- Provide appliances/services as indicated based on client need.

- Serve as a member of appropriate interdisciplinary teams and attend meetings if requested.

- Order appropriate medication for dental care.

- Collect appropriate payment from third party payers for direct and qualifying services and accept such payment as payment in full for such services.

- Provide assistance in developing and implementing desensitization programs to reduce the need for physical and/or chemical intervention.

- Perform other related duties as determined necessary by NODC.

Any modifications, variations, or addendums to the above-specified duties or services shall result in the immediate disqualification of that bid.

Minimum Qualifications: Contractor and any other service providers hereunder shall maintain a current state of Ohio license to practice as a dentist, or other applicable license, certification, and/or registration.

SAMPLE COPY OF PERSONAL SERVICE CONTRACT

Fund	Account	ALI	Department	Program	Grant	PO Number	CB and/or R&P Number (if applicable)

Ohio Department Developmental Disabilities

PERSONAL SERVICE CONTRACT

SECTION A. CONTRACT PARTIES

This contract is entered into between the Ohio Department Developmental Disabilities (Agency), on behalf of the following:

Name of Developmental Center, Office, or other Contracting Entity	Address (Street, City, State, Zip)

and

Contractor's Name	Address (Street, City, State, Zip)	OAKS Vendor Number

Type of Service Provided:

_____

SECTION B. EFFECTIVE DATES

This contract is effective _____ through _____ unless terminated prior thereto pursuant to Section G. Services shall not begin until Agency receives OBM approved Purchase Order.

SECTION C. COMPENSATION

1. The Contractor will be paid for the term of this contract as follows (check option a or b):

   a. ☐ Fee Schedule. Attach Fee Schedule to Contract or include Fee Schedule in Section D.1.a.

   b. ☐ Hourly Rate. Complete the information below

Fiscal Year	Rate per Hour	Maximum Hours Worked	Maximum Fiscal Year Contract Amount
2010			
2011			

Maximum Contract Amount for Biennium _____

2. Contractor shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of this Contract.

3. Contractor shall submit a valid invoice on letterhead for the compensation incurred consistent with this Section, within twenty (20) days of the end of each month. Each invoice shall contain the following information:

   a. a description of the services performed;
   b. date of the services rendered;
   c. a total for the invoice;
   d. vendor's name and address;
   e. Department's name; and
   f. an attestation that the information contained in the invoice is accurate and true;

4. Agency shall pay Contractor within thirty (30) days of receipt and approval of the invoice.

5. This Contract does not guarantee a minimum amount of service. Services shall be performed on an as needed basis as directed by Agency.

SECTION D. DUTIES OF CONTRACTOR

1. Contractor shall:

   a. (Either list duties and associated fees OR type "See Request for Proposal and Response to Request")

   b. Contractor shall maintain all necessary licenses or registrations. Contractor shall perform all services with reasonable care, skill and diligence as would normally be provided by an experienced consultant and in accordance with industry standards.

   OR

   Contractor shall maintain all necessary licenses and registrations. All services shall be performed in accordance with: (1) generally accepted standards of care in the community and the quality criteria adopted by the Agency; (2) policies of the Agency; and (3) applicable rules and standards for the certification of an intermediate care facility for the mentally retarded.

   c. The contractor reports directly to (name and title of supervisor) _____who will verify the contract's time and service charged to this contract.

SECTION E. NATURE OF CONTRACT

1. Agency enters into this Contract in reliance upon Contractor's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience. It is specifically understood that the nature of the services to be rendered under this Contract are of such a personal nature that Agency is the sole judge of the adequacy of such services. Agency thus reserves the right to terminate this Contract should Agency at any time be dissatisfied with Contractor's performance of its duties under this Contract.

2. In the event of a termination of this Contract by Agency, Contractor shall be reimbursed in accordance with Section G., Termination of Contractor's Services.

3. Agency may, from time to time, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Contract. Upon such notice, Contractor shall comply with such instructions and fulfill such requests to Agency's satisfaction. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this Contract. The management of the work, including the exclusive right to control or direct the manner or means by which the work is performed, remains with the Contractor. Agency retains the right to ensure that Contractor's work is in conformity with the terms and conditions of this Contract.

SECTION F. CERTIFICATION OF FUNDS

1. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Contract shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds

are used, until such time that Agency gives Contractor written notice that such funds have been made available to Agency by Agency's funding source.

SECTION G. TERMINATION OF CONTRACT

1. Agency may, at any time prior to the completion of services by Contractor under this Contract, suspend or terminate this Contract with or without cause by giving five (5) days written notice to Contractor.

2. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Contract, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by Agency, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Contract, including, without limitation, results, conclusions resulting therefrom, and any other matters Agency requires.

3. Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with invoices as required under Section C. In the event of suspension or termination, any payments made by Agency for which Contractor has not rendered services shall be refunded.

4. In the event this Contract is terminated prior to its completion, Contractor, upon payment as specified, shall deliver to Agency all work products and documents which have been prepared by Contractor in the course of providing services under this Contract. All such materials shall become and remain the property of Agency, to be used in such manner and for such purpose as Agency may choose.

5. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against Agency by reason of such suspension or termination.

6. Contractor may terminate this Contract with or without cause upon thirty (30) days prior written notice to Agency.

SECTION H. INDEPENDENT CONTRACTOR

1. No relationship of employer and employee is created by this contract. Contractor will act hereunder as an independent contractor with no claim under this Contract or otherwise against Agency or the State of Ohio for business expenses, travel expenses, vacation pay, sick pay, retirement benefits, workers compensation, or disability or unemployment insurance benefits or employee benefits of any kind. Contractor is not eligible to participate in any employee benefit or retirement plans offered by Agency or the State or Ohio. Agency shall withhold no payroll or employment taxes of any kind.

2. Contractor is solely responsible for all of Contractor's business expenses, including the payment or withholding of all federal, state and local income taxes, workers compensation insurance, social security and unemployment insurance, and the payment of wages and salaries, travel expenses, insurance of every kind, and health and retirement plans. Contractor shall indemnify and hold Agency harmless from and against any and all claims, demands, liabilities, losses, damages and expenses resulting in any manner from any act or omission of Contractor or its employees related to its obligation to pay and withhold income tax, social security, unemployment insurance and to maintain worker's compensation insurance.

3. Nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder on an independent contractor basis, that Agency shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.

4. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

5. Contractor shall submit to a BCI (Ohio residents for more than five (5) years) and/or FBI (Ohio residents less than five (5) years) electronic background check. Contractor's Personal Services Contract is contingent upon successful completion of that criminal records check.

SECTION I. RECORD KEEPING

1. Until the expiration of six (6) years after the termination of this Contract, Contractor will, upon proper request, allow the Comptroller General of the United States, the U.S. Department of Health and Human Services, the State of Ohio, the Ohio Medicaid Fraud Control Unit and the Ohio Department of Job and Family Services and their duly-authorized representatives access to Contractor's books, documents and records necessary to certify the nature and extent of costs of reimbursable services provided under this Contract. For each subcontract in excess of $2,500, the Contractor shall require the subcontractor to agree to these record keeping provisions. If Contractor is requested to disclose any books, documents or records relevant to their Contract for the purpose of an audit or investigation by any government agency, Contractor shall immediately notify Agency of the nature and scope of the request and shall make available to Agency all books, documents and records relevant to the request.

2. All provisions under this section survive the expiration or termination of this Contract.

SECTION J. CONFLICTS OF INTEREST AND ETHICS AND LEGAL COMPLIANCE

1. No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Contract is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Contract or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

2. Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Contract, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to Agency in writing. Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless Agency shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

3. Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Contract are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws and Executive Order No. 2007-01S. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws and Executive Order. The Governor's Executive Orders may be found by accessing the following website: http://governor.ohio.gov/Default.aspx?tabid=1495

4. Contractor represents and warrants that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. Section 3517.13.

5. Contractor represents and warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. Section 9.24. If this warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

6. Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either O.R.C. Section 153.02 or O.R.C. Section 125.25. If this representation and warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

7. Contractor hereby represents and warrants to Agency that it has not provided any material assistance, as that term is defined in O.R.C. Section 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Contractor further represents and warrants that it has provided or will provide such Declaration to Agency prior to execution of this Contract. If these representations and warranties are found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

8. Contractor represents and warrants that neither it nor any of its employees or agents are excluded from participation under any Federal health care program, as defined under 42 U.S.C. Section 1320a-7b(D), for the provision of items or services for which payment may be made under a Federal health care program; Contractor has not arranged or contracted (by employment or otherwise) with any employee, contractor or agent that Contractor knows is excluded from participation in any Federal health care program, and no final adverse action, as defined under 42 USC Section 1320a-7e(g) has occurred or is pending against Contractor or to its knowledge against any employee contractor or agent engaged to provide items or services under this Contract (collectively, "Exclusions/Adverse Actions"). Contractor shall notify Agency of any Exclusions/Adverse Actions within five (5) business days of its learning of such Exclusions/Adverse Actions.

9. Contractor shall comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

10. Contractor warrants that it has not entered into, nor shall it enter into, other Contracts, without prior written approval of Agency, to perform substantially identical work for the State of Ohio such that the product contemplated hereunder duplicates the work called for by the other Contracts.

11. Contractor represents and warrants that neither it nor any of its employees or agents has been convicted of any offense set forth in Section 5123.081(E) of the Ohio Revised Code.

12. Contractor affirms that neither it nor any of its employees or agents is presently holding a civil service position with the State of Ohio. The Contractor (if an individual) declines a civil service position for the reason(s) identified below.

☐ contractor is not an individual
☐ not interested in benefits
☐ not interested in civil service appointment
☐ compensation and benefits is inadequate
☐ other

SECTION K. NONDISCRIMINATION

1. Pursuant to O.R.C. Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, national origin, veteran

status, or disability against any citizen of this state in the employment of any person qualified and available to perform the work under this Contract.

2. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex, age, national origin, veteran status or disability.

3. Pursuant to Ohio Revised Code Section 125.111, Contractor shall maintain a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Department of Administrative Services.

4. Contractor shall not discriminate in the provision of services on account of race, color, religion, sex, age, natural origin, veteran status or disability.

SECTION L. LIABILITY

1. Contractor agrees to indemnify and to hold Agency and the State of Ohio harmless and immune from any and all claims, costs and liabilities for injury or damages arising from this Contract which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint venturers while acting under this Contract. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.

2. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

3. Contractor shall purchase and maintain comprehensive general and professional liability insurance each in the minimum amount of $1,000,000 per occurrence. Upon request, Contractor shall furnish Agency with a certificate of coverage.

SECTION M. COMPLIANCE WITH LAWS

1. Contractor, in the execution of duties and obligations under this Contract, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

2. a. The Contractor affirms to have read and understands Executive Order 2010-09S issued by Ohio Governor Ted Strickland and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States. The Executive Order is provided as an attachment.

b. The Contractor also affirms, understands, and agrees to immediately notify Agency of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

c. The Agency is not obligated and shall not pay for any services provided under this Contract that the Contractor or any of its subcontractors performed outside of the United States. If services are performed outside of the United States, this will be treated as a material breach of the Contract, and Contractor shall immediately return to the Agency all funds paid for those services. In addition, if the Contractor or any of its subcontractors perform any such services outside of the United States, the Agency may, at any time after the breach, terminate this Contract for such breach, upon written

notice to the Contractor. If the Agency terminates the Contract, the Agency may buy substitute services from a third party, and the Agency may recover the additional costs associated with acquiring the substitute services.

d. If the Contractor or any of its subcontractors prepares to perform services, changes or shifts the location(s) of services performed by the Contractor or its subcontractors under this Contract to a location(s) outside of the United States, but no services are actually performed, the Contractor has 30 days to change or shift the location(s) of services performed to location(s) within the United States. The Agency may recover liquidated damages in the amount of 5% of the value of the contract for every day past the time permitted to change or shift the location(s).

SECTION N. CONFIDENTIALITY

1. Contractor agrees that all data, reports and information received from Agency shall be used only for the services to be provided under this Contract. Contractor agrees that all discussions with Agency personnel and all reports prepared by Contractor are confidential. Contractor agrees to maintain the confidentiality of all such information and will not release such information without the prior written authorization of Agency.

2. Contractor ☐ IS or ☐ IS NOT a "business associate" pursuant to the definition under the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder specifically 45CFR160.03. If Contractor is a business associate then Contractor shall comply with Addendum A.

3. All provisions under this section survive the expiration or termination of this Contract.

SECTION O. ENTIRE CONTRACT/WAIVER

1. This Contract contains the entire Contract between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.

2. This Contract supersedes any and all previous Contracts, whether written or oral, between the parties.

3. A waiver by any party of any breach or default by the other party under this Contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

SECTION P. NOTICES

1. All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon mailing and shall be sent to the addresses set forth below:

[Name]
DODD
[Title]
[Address]

[Name]
[Contractor Name]
[Title]
[Address]

SECTION Q. SEVERABILITY

1. The provisions of this Contract are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

SECTION R. CONTROLLING LAW

1. This Contract and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder.

SECTION S. SUCCESSORS AND ASSIGNS

1. Neither this Contract nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Contractor, without the prior written consent of Agency.

SECTION T. ACCESS TO PREMISES

1. Contractor acknowledges that all packages and bags brought into or taken from Agency premises may be subject to inspection by security, supervisory and management personnel. Video surveillance may also be used to assist in the protection of individuals, staff and property.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized officers, as of the day and year first written above.

[Name]
Ohio Department of Developmental Disabilities
Director

By:_____

Date:_____

[Name]
[Contractor Name]
[Title]

By:_____

Date:_____

[Name]
Ohio Department of Developmental Disabilities
Deputy Director

By:_____

Date:_____

[Name]
Ohio Department of Developmental Disabilities
Superintendent (if applicable)

By:_____

Date:_____

TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2010-09S

Banning the Expenditure of Public Funds for Offshore Services

1. **Ohio's Economic Vitality Necessitates Constant Vigilance in State Job Creation Efforts.** State officials and employees must at all times remain passionately focused on initiatives that will create and retain jobs in the United States in general and in Ohio, in particular, and must do so especially during Ohio's continuing efforts to recover from the recent global recession.

2. **No Public Funds Should be Spent on Services Provided Offshore.** Allowing public funds to pay for offshore services undermines economic development objectives and any such offshore services carry unacceptable quality and security risks.

   a. **The Purchase of Offshore Services with Public Funds Undermines Economic Development and Other Job Creation and Retention Objectives.** The expenditure of public funds for services provided offshore deprives Ohioans and other Americans critical employment opportunities. It also undermines efforts to attract businesses to Ohio and retain them in Ohio, initiatives in which the State has invested heavily.

   b. **The Purchase of Offshore Services Has Unacceptable Business Consequences.** The use of offshore service providers could pose unacceptable data security, and thus privacy and identity theft risks. There are pervasive service delivery problems with offshore providers, including dissatisfaction with the quality of their services and with the fact that services are being provided offshore. It is difficult and expensive to detect illegal activity and contract violations and to pursue legal recourse for poor performance or data security

violations. The State's use of offshore service providers ill-serves the people of Ohio who are the primary consumers of the services provided by the State.

3. **Ohio's Policy Has Been – and Must Continue To Be – That Public Funds Should Not Be Spent on Services Provided Offshore.** Throughout my Administration, procurement procedures have been in place that restrict the purchase of offshore services. Despite these requirements, federal stimulus funds were recently used to purchase services from a domestic company which ultimately provided some of those services offshore. This incident was unacceptable and has caused me, through this Order, to redouble my commitment to ensure that public funds are not expended for offshore services.

4. **Additional Steps Will Ensure that Public Funds Are Not Spent on Services Provided Offshore.** In order to ensure that the State of Ohio makes no expenditures for services provided offshore, I hereby order the following:

   a. No Cabinet Agency, Board or Commission (Executive Agency) shall enter into any contract which uses any funds within its control to purchase services which will be provided outside the United States. This Order applies to all funds in the custody of an Executive Agency, be they from state, federal, philanthropic or private sources. It applies to all purchases of service made directly by an Executive Agency and services provided by sub-contractors of those providing services purchased by an Executive Agency.

   b. This Executive Order will be personally provided, by the Director, Chair or other chief executive official of each Executive Agency, to the Chief Procurement Officer or other individual at that entity responsible for contracts for services.

   c. The Department of Administrative Services, through Ohio's Chief Procurement Officer (OCPO), shall have in place, by August 31, 2010, procedures to ensure all of the following:

      i. All agency procurement officers, or the person with equivalent duties at each Executive Agency (APOs), have standard language in all Executive Agency contracts which:

         (a) Reflect this Order's prohibition on the purchase of offshore services.

         (b) Require service providers or prospective service providers to:

(i) Affirm that they understand and will abide by the requirements of this Order.

(ii) Disclose the location(s) where all services will be performed by any contractor or subcontractor.

(iii) Disclose the locations(s) where any state data associated with any of the services they are providing, or seek to provide, will be accessed, tested, maintained, backed-up or stored.

(iv) Disclose any shift in the location of any services being provided by the contractor or any subcontractor.

(v) Disclose the principal location of business for the contractor and all subcontractors who are supplying services to the state under the proposed contract.

ii. All APOs are ensuring that all quotations, statements of work, and other such proposals for services affirm this Order's prohibition on the purchase of offshore services and include all of this Order's disclosure requirements.

(a) Any such proposal for services lacking the affirmation and disclosure requirements of this Order will not be considered.

(b) Any such proposal where the performance of services is proposed to be provided at a location outside the United States by the contractor or any sub-contractor, will not be considered.

iii. All procurement manuals, directives, policies, and procedures reflect the requirements of this Order.

iv. All APOs have adequate training which addresses the terms of this Order.

5. **Exceptions.** Nothing in this Order is intended to contradict any state or federal law. In addition, this Order does not apply to:

a. Services necessary to support the efforts of the Department of Development Global Markets Division to attract jobs and business to the State of Ohio, including incidental services for the support of trade missions, payment of international staff, and services necessary for the operation of international offices.

b. Academic, instructional, educational, research or other services necessary to support the international missions of Ohio's public colleges and universities.

6. I signed this Executive Order on August 6, 2010 in Columbus, Ohio and it will not expire unless rescinded.

Ted Strickland

Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State

DEPARTMENT OF ADMINISTRATIVE SERVICES

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2010-09S

Banning the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2010-09S issued by Ohio Governor Ted Strickland. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States. The Executive Order is attached and is available at the following website: (http://www.governor.ohio.gov/Default.aspx?tabid=1495).

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror's offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

_____ _____
(Address) (City, State, Zip)

Name/Principal location of business of subcontractor(s):

_____ _____
(Name) (Address, City, State, Zip)

_____ _____
(Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

_____ _____
(Address) (City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

_____ _____
(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

Insert Declaration regarding Material Assistance/Non-Assistance to Terrorist Organizations

Available at http://www.publicsafety.ohio.gov/links/HLS0038.doc

ADDENDUM A
Business Associate Addendum

This Business Associate Addendum (the "Addendum") is entered into by and between the Ohio Department of Developmental Disabilities ("Agency") and Contractor.

Whereas, Agency and Contractor are parties to an agreement entered into contemporaneously herewith ("Underlying Agreement"); and

Whereas, Agency, pursuant to the Underlying Agreement, provides Contractor with certain individually identifiable protected health information that is necessary for Contractor to perform the services called for in the Underlying Agreement and is subject to protection under the Health Insurance Portability and Accountability Act of 1996("HIPAA") and the Standards for Privacy of Individually Identifiable Health Information and Security Standards for the Protection of Electronic Protected Health Information, 45 C.F.R. Part 160 and Part 164 ("Rules"); and

Whereas, the parties purpose for entering into this Addendum is to comply with the requirements of applicable laws and regulations, including but not limited to HIPAA and the Rules.

NOW, THEREFORE, in consideration of the forgoing and the promises and mutual covenants contained herein, the parties agree as follows:

1. Definitions. Unless otherwise provided in this Addendum, capitalized terms shall have the same meaning as set forth in the Rules.

2. Duties and Responsibilities of Contractor:

   A. Contractor acknowledges and agrees that all protected health information (the "PHI"), as defined by the Rules, provided to Contractor by Agency is confidential and the property of Agency without regard to medium of storage or method of transmission of such information. Contractor agrees to keep all PHI confidential.

   B. Except as otherwise limited in this Addendum, Contractor may use or disclose PHI necessary to perform functions, activities, or services for, or on behalf of, Agency as specified in the Underlying Agreement or for the proper management and administration of Contractor, provided that such use or disclosure would not violate the Rules if done by Agency.

   C. Contractor agrees to take reasonable steps necessary to protect the security and confidentiality of PHI so as to enable Agency to comply with HIPAA, the Rules and other laws relating to the privacy and security of PHI, which are now in force or which may hereafter be in force, including, without limitation, the following actions:

      (1.) use or disclose PHI only as permitted or required by the Underlying Agreement and this Addendum, or as Required by Law; and

      (2.) use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by the Underlying Agreement and this Addendum; and

      (3.) to the extent practicable, mitigate any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Underlying Agreement or this Addendum; and

      (4.) promptly report in writing to Agency any use or disclosure of the PHI not provided for by the Underlying Agreement or this Addendum, of which Contractor becomes aware; and

(5.) require any contractors or agents, including subcontractors, to whom Contractor provides PHI received from, or created or received by Contractor on behalf of Agency, to agree to the same restrictions and conditions that apply to Contractor pursuant to this Addendum; and

(6.) make its internal practices (including policies and procedures), books, and records relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of Agency, available to the Secretary of the Department of Health and Human Services (the "Secretary") for purposes of determining Covered Entities compliance with the Rules. Contractor shall provide Agency with a copy of any PHI that Contractor provides to the Secretary concurrently with providing such PHI to the Secretary; and

(7.) within fifteen (15) days of receiving a written request from Agency, provide to Agency the information necessary for the Agency to make an accounting of disclosures of PHI about an Individual as necessary for Agency to comply with 45 C.F.R. 164.528; and

(8.) make available information necessary for Agency to respond to an Individual's request for access to PHI about them as is necessary for Agency to comply with 45 C.F.R. 164.524. Such information shall be made available within ten (10) ten days of receiving a written request from Agency for such information. In the event an Individual contacts Contractor, or its agents or subcontractors, directly requesting access to PHI, Contractor will not grant access to PHI but will notify Agency in writing within five (5) business days of such contact; and

(9.) within fifteen (15) days of receiving a written request from Agency, incorporate any amendments or corrections to PHI as necessary for Agency to comply with 45 C.F.R. 164.526. In the event an Individual contacts Contractor, or its agents or subcontractors, directly about making amendment to PHI, Contractor will not make any amendments to PHI but will notify Agency in writing within five (5) business days of such contact.

3. Security Rule Provisions. Contractor agrees to the following additional obligations in order that Agency may meet its obligations under HIPAA Security Rule, 45 C.F.R. Part 164, Subpart C, with respect to electronic PHI:

A. Contractor will employ appropriate administrative, technical, and physical safe guards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Agency.

B. Contractor will Report to Agency any Security Incident of which it becomes aware.

C. Contractor will ensure that any agent, including a subcontractor, to whom it provides such electronic PHI agrees to implement reasonable and appropriate safeguards to protect it.

4. Termination. Agency may immediately terminate the Underlying Agreement, including this Addendum, by giving Contractor written notice of termination, if Agency determines that Contractor has violated a material term of this Addendum. Alternatively, Agency may in its sole discretion provide an opportunity for Contractor to cure the breach and end the violation. If Contractor fails to cure the breach to the satisfaction of Agency, the Agency may immediately thereafter terminate the Underlying Agreement. Termination of the Underlying Agreement shall result in the termination of this Addendum.

Contractor agrees that upon termination of the Underlying Agreement, it will return or destroy all PHI received from, or created or received on behalf of Agency, that Contractor still maintains in any form and retain no copies of such information. This provision shall apply to PHI that is in the possession of Contractor and any subcontractors or agents of Contractor. In the event that returning or destroying the PHI is infeasible, as determined by Agency, Contractor agrees to extend the protections of the Underlying Agreement and this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI.

5. Amendment. It is the intent of the parties that the Underlying Agreement and this Addendum comply with the requirements of HIPAA and the Rules. Any ambiguity in the Underlying Agreement or this Addendum shall be resolved to permit Agency to comply with HIPAA and the Rules. If necessary, the parties agree to use good faith efforts to amend the Underlying Agreement and this Addendum from time to time as is necessary for Agency to be in compliance with HIPAA and regulations promulgated thereunder.

6. Survival. The obligations of the Contractor under this Addendum shall survive the expiration or termination of the Underlying Agreement and this Addendum.

7. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall confer, upon any person other than the parties, and their permitted successors and assigns if any, rights, remedies, obligations or liabilities whatsoever.

8. Miscellaneous: As amended by this Addendum, the Underlying Agreement and all its terms and conditions shall remain in full force and effect.