

OHIO DEPARTMENT OF HEALTH

Project Title

Ohio Strategic National Stockpile Assessment Project

Request for Proposals (RFP)

RFP Number: Admin-20390

**Notice: This RFP is not an offer or a contract. Contractor's written response to this RFP offering shall be considered as a formal offer to provide the services requested in this RFP.**

This RFP is issued pursuant to a grant awarded by the Centers for Disease Control under the PHER Phase 1 Supplemental Grant. The resultant contract will require the CONTRACTOR to provide products and/or services that are funded in whole or in part under said grant and therefore, the CONTRACTOR will be required to agree to comply with all requirements and regulations applicable to vendors/subcontractors therein.

Ohio Department of Health  
246 North High Street  
Columbus, Ohio 43215

Release Date: April 14, 2010

Response Due Date: May 5, 2010

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## 1. Introduction

The Ohio Department of Health (ODH) is soliciting competitive proposals (“Proposals”) from qualified individuals, agencies or organizations to analyze the data that was generated by RSS H1N1 operations, and provide a series of reports and recommendations on RSS operations and corresponding plans in the event of a man-made public health disaster incident—specifically an anthrax attack. These findings and recommendations will form the base of Strategic National Stockpile (SNS) Receive, Stage and Store (RSS) plan reviews and future exercises and trainings. If a suitable offer is made in response to this RFP, ODH may enter into a contract (the Contract) to have the selected Offeror (the Contractor) perform all or part of the Project (the Work). This RFP provides details on what is required to submit a Proposal for the Work, how ODH will evaluate the Proposals, and what will be required of the Contractor in performing the Work.

## 2. Project Background

The Centers for Disease Control and Prevention (CDC) provides the State of Ohio with funding to ensure all aspects of public health preparedness, including efforts undertaken to provide vaccination and prophylaxis to Ohio residents through Points of Dispensing (POD) sites and pharmaceuticals obtained from Strategic National Stockpile (SNS) Receive, Stage and Store (RSS) operations are conducted.

## 3. Contract Award, Negotiations and Duration

Contingent upon the availability of funds and approval by the Director of Health, one will be awarded. The project shall run from approximately May 15, 2010 through June 30, 2010.

The successful Contractor will be required to contract with ODH to perform the work and deliver the deliverables as set forth in a contract substantially similar to the sample in Attachment A. ODH may, but is not required, initiate negotiations with the potential successful Contractor. The potential successful Contractor shall negotiate in good faith.

## 4. Qualifications of the Contractors

4.1 Qualified Contractors are individuals, agencies or organizations with at least one year of experience working with assessment of CDC/SNS and RSS operations or similar experience. Contractor must have experience with or knowledge of:

- CDC and SNS Point of Dispensing Standards and Requirements
- RSS Operations

Other preferred qualifications:

Qualified Contractors should demonstrate familiarity/experience with:

- Medical Supplies Management and Distribution
- Statistical analysis expertise
- Data review and analysis
- Report Writing
- Experience working with CDC RSS exercises.
- Warehousing knowledge/best practices

## 5. Project Scope of Work and Deliverables

The successful Contractor shall perform all of the following activities for which there is an executed contract in consultation with, and with the approval of the ODH Contract Manager:

### 5.1 Scope of Work

- 5.1.1 The successful Contractor will review RSS Operations and Workflow using a flow chart provided by the ODH Project Manager (a copy of which is attached to this RFP and marked *Attachment B*) and interview RSS staff selected by ODH to define process, use knowledge of best warehousing practices to include unidentified process steps.
- 5.1.2 The successful Contractor will prepare a written report that will identify the number of pallet loads and cases of antibiotics that should be supplied by RSS to each POD in the event of the disaster incident. The successful Contractor will use documents provided by ODH [number of bottles and cases per pallet load; an OPHAN spreadsheet] (copies of which will be attached to this RFP and marked *Attachment C* and *Attachment D*).
- a. The report will include proposed Initial and Re-supply levels of antibiotics for each POD, constituting a Resource Allocation Table for use by the RSS.
  - b. The report will include recommendations on how to streamline/improve current operations to efficiently and expeditiously pick, pull and pack the antibiotics for RSS distribution to the PODs.
  - c. The report will include the The successful Contractor 's review of the ODH Communications Matrix document (a copy of which will be attached to this RFP and marked *Attachment E*), and based upon the document and data obtained, determine the best communications procedures that will provide essential inventory needs information to the RSS in a timely fashion.
  - d. The report will address improvement of RSS and POD operations by providing information the PODS need from the RSS, and a timeline for such information dissemination.
- 5.1.3 The successful Contractor will develop a model of the ODH RSS process AS-IS and include any recommendations for improvement. The successful Contractor shall include in the model time

elements that are known from ODH data or best warehousing practice, and resource needs for each process.

- 5.1.4 The successful Contractor will prepare recommendations to the ODH Project Manager for subsequent trainings and exercises, in the areas of testing, identified weak points and strengths in the current system. Recommendations should be aligned with US Department of Homeland Security's Target Capabilities (see link <http://www.fema.gov/pdf/government/training/tcl.pdf>).

## 5.2 Deliverables

- 5.2.1 The successful Contractor shall provide, to the Project Manager, a written analysis of the RSS processing systems currently in place.
- 5.2.2 The successful Contractor will submit the written report from 5.1.2 above.
- 5.2.3 The successful Contractor will submit the model of the ODH RSS process AS-IS as specified in 5.1.3 above.
- 5.2.4 The successful Contractor will submit the written recommendations developed in 5.1.4 above.

## 6. Proposal Format

All contractors shall submit a proposal directly responsive to the terms and conditions of this RFP. If a contractor chooses to submit an alternative proposal, the contractor must, at the same time, submit a proposal directly responsive hereto for any alternative proposal to even be considered. Such alternative proposal shall clearly identify why the acceptance of the proposal would be advantageous to ODH. Any deviations from the terms and conditions of the solicitation, as well as the comparative advantage to ODH shall be clearly identified and explicitly defined. ODH reserves the right to amend the solicitation to allow all contractors an opportunity to submit revised proposals based on the revised requirements. Proposals shall be submitted with an original with three copies and an electronic version in Microsoft Word format. Proposals shall contain the sections listed in 6.2 through 6.6 below separated by tabbed and labeled dividers.

### 6.1 Addenda to the RFP.

- 6.1.1 If ODH decides to revise this RFP before the proposal due date, addenda will be announced on the Ohio Gateway Web site. When an addendum to this RFP is necessary, ODH may extend the proposal due date through an announcement on the Ohio Gateway Web site. Addendum announcements may be provided any time before 5:00 p.m. on the day before the proposal is due. It is the responsibility of each prospective contractor to check for announcements and other current information regarding the RFP.
- 6.1.2 After the submission of proposals, addenda will be distributed only to those contractors whose submissions are under active consideration. When ODH makes an addendum to the RFP after proposals have been submitted, ODH will permit contractors to withdraw their proposals. This

withdrawal option will allow any contractor to remove its proposal from active consideration should the contractor feel that the addendum changes the nature of the transaction so much that the contractor's proposal is no longer in its interests. Alternatively, ODH may allow contractors that have proposals under active consideration to modify their proposals in response to the addendum.

6.1.3 If, however, ODH makes an addendum after the proposal due date, ODH will tell all contractors whose proposals are under active consideration whether they have the option to modify their proposals in response to the addendum. Any time ODH amends the RFP after the proposal due date, a contractor will have the option to withdraw its proposal even if ODH permits modifications to the proposals. If the contractors are allowed to modify their proposals, ODH may limit the nature and scope of the modifications. Unless otherwise stated in ODH's notice, modifications and withdrawals must be made in writing and must be submitted within 10 business days after the addendum is issued. If this RFP provides for a negotiation phase, this procedure will not apply to changes negotiated during that phase. Withdrawals and modifications must be made in writing and submitted to ODH at the address and in the same manner required for the submission of the original proposals. Any modification that is broader in scope than ODH has authorized may be rejected and treated as a withdrawal of the contractor's proposal

## 6.2 Proposal Cover Sheet and Executive Summary

6.2.1 Contractor's name, address and federal tax identification number.

6.2.2 Name of contractor's contact person, title, address, telephone and fax numbers and e-mail address.

6.2.3 Indication that Cost Proposal included under separate cover.

6.2.4 RFP number and project title.

6.2.5 Executive summary

## 6.3 Table of Contents

## 6.4 Technical Proposal

### 6.4.1 Profile of the Contractor

6.4.1.1 The technical proposal shall include a description of the Contractor's experience and expertise conducting similar projects. The description must include how the Contractor meets the qualifications in section 4 above. If applicable, please demonstrate how you meet the preferred qualification. Contractor shall list the number of contract terminated for default or cause in the last seven (7) years as well as being assessed any penalties including liquidated damages under any existing or past contract with any organization, including government agencies.

- 6.4.1.2 The technical proposal shall identify and describe the Contractor's experience. Include success stories as an example of the Contractor's capacity.
- 6.4.1.3 Identification and qualifications of key project personnel and their responsibilities to the project. Include resumes.
- 6.4.1.4 The Contractor should also attach a list of three (3) references (other than ODH) by previous users of the Contractor's services in performing similar projects. Include contact name and appropriate phone number. ODH may, at its sole discretion, contact the references. There is no obligation on the part of ODH to contact any reference.
- 6.4.1.5 Identification and description of the Contractor's subcontractors to be used, if any. Subcontractors must be approved by ODH. However Contractor may subcontract without ODH's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in the Scope of Work or Deliverables in this RFP, but which are required for its satisfactory completion.
- 6.4.1.6 A description of the Contractor's Affirmative Action activities and program.
- 6.4.1.7 Include at least one sample of a project final report as a writing sample.
- 6.4.2 Project Implementation
  - 6.4.2.1 The Contractor will provide ODH with a proposed detailed plan (Work Plan) description of how all of the requirements specific to this project will be implemented, including each item under section 5.0, Project Scope of Work and Deliverables. All the tasks outlined in section 5.0, Project Scope of Work and Deliverables, must be clearly identified and discussed. Responses should address and specify the exact section number as described in this document. For example, Contractors should specify section number 5.1.1.2 when discussing the written report that will identify the number of pallet loads and cases of antibiotics.
  - 6.4.2.2 A description of the location and principal office from which the work is to be performed.
  - 6.4.2.3 Identification of the amount of time that lead and key project personnel will be expected to work on the project and proposed staffing (Staffing Plan).
  - 6.4.2.4 A description of contingency plans for completing the project, should the lead or key project personnel become unavailable for any reason.
  - 6.4.2.5 Identification of any anticipated difficulties in meeting the project specifications and a description of proposed solutions to these difficulties.
  - 6.4.2.6 Contractors are cautioned that failure to submit at the appropriate level of detail for the information required in the sections detailed herein will result in a determination that the Contractor's proposal is non-responsive. Such a determination may result in ineligibility for contract award. If a requirement can be exceeded by the Contractor, the proposal should state

the degree to which the requirement will be exceeded and how this will be accomplished. If a requirement cannot be fully met, the Contractor must state the reasons and must provide alternatives that can accomplish all the requirements specified.

- 6.4.2.7 Proposals should be prepared simply and economically, providing a straightforward, concise, yet complete description of the contractor's capabilities to satisfy the contract. Emphasis should be on completeness and on specificity and clarity of content.
- 6.4.2.8 Proposals should include documentation of the financial stability of the Contractor in order to demonstrate the financial capacity to complete the project.

## 6.5 Cost Proposal

The cost proposal shall provide a cost for each deliverable. Is the total cost given shall be as a fixed price, not to exceed amount. Provide a budget and budget narrative for all costs reflected in the proposal, e.g., personnel, materials, and equipment.

## 6.6 Other submissions

- 6.6.1 The contractor shall include a statement that it does not take exception to the terms of the proposed contract. (Attachment A). If the contractor does take an exception, any exceptions must be included in the contractor's proposal. Note: Taking exception to the terms of the contract or RFP may be grounds for eliminating the contractor from consideration for award of a contract.
- 6.6.2 IRS Form W-9 request for Taxpayer Identification Number and Certification –Enclosed is IRS Form W-9 (Attachment F). The contractor shall complete all applicable sections of the document including taxpayer type, a valid tax identification number, and the signature of the authorized party. The information provided must match how the information is registered with the IRS. Should the contractor require additional assistance in completing the W-9 form, the contractor should contact the IRS at 1-800-829-1040.
- 6.6.3 Vendor Information Form (Attachment G) (OBM-3456-(rev. 5/2007)). – The contractor shall complete the Vendor Information Form in order to assure an accurate, up-to-date record of company information. The contractor shall verify all fields are complete. Additionally, the contractor shall verify that information contained on the IRS Form W-9 matches that provided on the Vendor Information Form, specifically, legal business name, taxpayer ID # (TIN), business type/business entity and address.

## 7. Evaluation of Proposals

### 7.1 Initial Review:

The ODH procurement representative will review all proposals for their compliance with format requirements and completeness. The procurement representative normally rejects any incomplete or incorrectly formatted proposal, although he or she may waive any defects or allow

a contractor to submit a correction. Any proposal that is not received by the due date will not be evaluated.

## 7.2 Committee Review of the Proposals:

The evaluation committee will evaluate each proposal that the procurement representative has determined is timely, complete and properly formatted. The evaluation will be according to the criteria contained in the RFP.

## 7.3 Proposal Evaluation Criteria:

In the proposal evaluation phase, the evaluation committee will rate the proposal submitted in response to the RFP based on the following criteria and weight assigned to each criterion. If the contractor meets the mandatory requirements in section 7.4, Mandatory Requirements, the contractor's proposal will be included in the next part of the evaluation, i.e., Technical Criterion.

Any proposal that does not meet the mandatory requirements of the RFP will not be considered. All other proposals will be evaluated and scored according to the requirements of the evaluation criteria outlined below. In order to be considered for the project, each proposal must receive at least 60% of the total points available under the technical scoring component. Total technical points available are 500.

Each proposal that meets the 60% or better standard will be evaluated based on price. The proposal that is considered the best value or most advantageous to the State/ODH will be considered further for the award.

In the best-value approach, weighted technical evaluation factors are applied to rate proposals along with cost. Award is made to the offeror whose proposal represents the best value to the State/ODH.

## 7.4 Mandatory Requirements

The contractor has experience or knowledge of

- CDC and SNS Point of Dispensing Standards and Requirements
- Receive Stage Store Operations in accordance with CDC requirements

Yes or No

Evaluation Committee must document how the successful Contractor meets or does not meet the mandatory requirement.

## 7.5 The scale below (0 – 5) will be used to rate each proposal on the technical criteria.

Does Not Meet (0) – Proposal does not comply with the requirements. Document shortfall or what is missing in the response.

Weak (1) – Response does not substantially meet the requirements. Document shortfalls or what is missing in the response.

Moderate (2) – Proposal meets most of the requirements, however, is weak in some areas. Document the weakness/what is missing. Also, document what is good.

Meets (3) – Proposal generally meets the requirements. Document how proposal meets requirements.

Strong (4) – Proposal exceeds requirement. Document how response exceeds the requirements.

Greatly Exceeds (5) – Proposal significantly exceeds requirements Document how response greatly exceeds the requirements.

**Technical Requirements, Evaluation and Scoring: Each Proposal will be scored and numerical technical point values will be assigned according to the criteria listed.**

TECHNICAL CRITERION	Weight	Rating (0-5)	Technical Score
Past performance /experience in meeting the requirements of section 4.1 above which includes mandatory and preferred qualification.	35		
Personnel requirements -Staffing Plan -Personnel Profile Summaries	15		
Proposed activities to meet program requirements Work Plan	50		
Total Weight	100		
Total Technical Score		Max 500	

The Technical Score is determined by multiplying the Weight by the Rating. The Total Technical Score is obtained by adding each of the individual Technical Scores.

The preference designated in the Buy Ohio Guidelines as codified in Ohio Administrative Code section 123:5-1-06 will apply to the evaluation of proposals under this RFP.

Based on the evaluation committee’s evaluation of the proposals and cost, a recommendation of selection will be sent to the Director of the Ohio Department of Health. The Director will make a selection and his decision is final.

8. Submission of Proposals

- 8.1 To be considered, an original and three copies of the proposal must be submitted no later than 4:00 p.m. on May 5, 2010. No FAX proposals will be accepted. Proposals may be mailed or delivered to:

Ohio Department of Health  
Office of Financial Affairs  
Attention: Paul Maragos  
246 North High Street, 4th Floor  
Columbus, Ohio 43215

- 8.2 From the issuance date of this RFP, until a contract is awarded to a contractor, there shall be no communications concerning the RFP between any contractor who expects to submit a proposal and any employee of ODH involved in the issuing of the RFP, or other state employee who is in any way involved in the ODH project. The only exception to this prohibition is communications provided through the submission of written questions per section 8.3 below and, if required, communications in a contractor interview.
- 8.3 If a Contractor finds any perceived conflict, error, omission or discrepancy in the RFP documents, the Contractor shall submit a written request for interpretation. Questions can be submitted using the Ohio Department of Administrative Services (DAS) website where the RFP is located. All questions must be submitted by 4:00 pm on April 20, 2010. Answers to the questions will be posted to the DAS website: <http://procure.ohio.gov/proc/searchProcOpps.asp>, by April 22, 2010. In order to submit and see responses to questions, you need to search for the procurement number for this item, which is DOH-Admin20390. Telephone inquiries will not be accepted.

## 9. Protest Procedure

- 9.1 Any potential, or actual, contractor objecting to an award of a contract resulting from the issuance of this RFP may file a protest of the award of the contract, or any other matter relating to the process of soliciting the proposals. Such a protest must comply with the following guidelines:
- 9.2 A protest may be filed by a prospective or actual contractor objecting to the award of a contract resulting from this RFP. The protest shall be in writing and shall contain the following information:
- 9.2.1 The name, address, and telephone number of the protestor;
- 9.2.2 The name and number of the RFP being protested;
- 9.2.3 A detailed statement of the legal and factual grounds for the protest, including copies of any relevant documents;
- 9.2.4 A request for a ruling by ODH;

- 9.2.5. A statement as to the form of relief requested from ODH; and
- 9.2.6 Any other information the protestor believes to be essential to the determination of the factual and legal questions at issue in the written protest.
- 9.3 A protest shall be considered timely by ODH, if ODH's Office of General Counsel received it, within the following periods:
  - 9.3.1 A protest based upon alleged improprieties in the issuance of the RFP or any other event preceding the closing date for receipt of proposals which are apparent or should be apparent prior to the closing date for receipt of proposals shall be filed no later than 4:00 p.m. the closing date for receipt of proposals, which is May 5, 2010.
  - 9.3.2 If the protest relates to the announced intent to award a contract, the protest shall be filed no later than 3:00 pm of the tenth (10th) business day after the announcement of intent to award.
- 9.4 An untimely protest may be considered by ODH if ODH determines that the protest raises issues significant to ODH's procurement system. An untimely protest is one received by ODH's Office of General Counsel after the time period set forth in paragraph 2 sections 9.3.1 and 9.3.2 of this section.
- 9.5 All protests must be filed with the following:

Chief Legal Counsel  
Ohio Department of Health  
246 North High Street, 7th floor  
Columbus, Ohio 43215
- 9.6 When a timely protest is filed, a contract award shall not proceed until a decision on the protest is issued or the matter is otherwise resolved, unless the Director of ODH determines that a delay will severely disadvantage ODH. The contractor(s) who would have been awarded the contract shall be notified of the receipt of the protest.
- 9.7. ODH shall issue written decisions on all timely protests and shall notify any contractor who filed an untimely protest as to whether or not the protest will be considered.

## 10. Certifications

- 10.1 The successful Offeror will be required to complete a certification of Declaration of Material Assistance (DMA) form as required by Ohio Revised code section 2909.33. Applicants seeking certain state issued licenses, public employment or business contracts and funding must file forms indicating that they have not provided financial assistance or support to a terrorist organization. The contractor must either complete the DMA form as found on the Homeland Security web-site, pre-certify at the Ohio Business Gateway or by completing the appropriate check box in the resultant contract. The most current U.S. Department of State Terrorist Exclusion List as well as the DMA form in pdf format can be found at:

<http://www.homelandsecurity.ohio.gov/dma/dma.asp>

The Form may also be found at:

<http://www.publicsafety.ohio.gov/links/HLS0038.pdf>.

A contractor may also pre-certify at the Ohio Business Gateway at:

<http://business.ohio.gov/efiling/help/dma.stm>.

The precertification is valid for all state agencies and is good for up to two years or the end of the current biennium, whichever is shorter.

- 10.2 The successful contractor will be required to complete an Affirmative Action Program Verification Form in accordance with section 125.111 of the O.R.C. Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services' (DAS) Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the DAS' Equal Opportunity Division's web site:

<https://ohiobusinessgateway.ohio.gov/OBG/Membership/Security.mvc/Login#MainContainer>.

Users will need to login with their current Username and Password or create a new account.

## 11. Other Conditions

- 11.1 ODH is under no obligation to pay any costs incurred in the preparation of proposal submissions.
- 11.2 ODH reserves the right to reject any and all proposals where the contractor fails to meet the terms and conditions of the RFP including, but not limited to, standards, specifications, and requirements.
- 11.3 ODH may cancel and/or re-issue the RFP, in whole or in part, when the services offered are not in compliance with the requirements, specifications, and terms and conditions set forth in the RFP, or pricing offered is considered to be excessive in comparison with existing market conditions or exceeds the available funds of ODH, or it is determined that award of a contract would not be in the best interests of ODH and/or the State.
- 11.4 ODH reserves the right to waive minor defects and to provide contractors with the opportunity to correct material defects when no prejudice to the rights of other contractors or the public will result. Contractors shall be afforded fair and equal treatment regarding any clarification and/or correction.

- 11.5 ODH reserves the right to amend or withdraw the RFP any time prior to the award of a contract. The contractor may withdraw a response/proposal to the RFP any time prior to the award of a contract.
- 11.6 All products which result from the proposed contractual agreement will be the sole property of ODH.
- 11.7 All proposals will be considered firm and in the event a contract ensues as a result of this RFP, the contractor selected will be required to fulfill the contractual obligations at the amount quoted in the contractor's cost proposal.
- 11.8 Pursuant to section 149.43 of the Ohio Revised Code (O.R.C.), the proposal may be considered a public record and be released upon request, but not before the closing and evaluation of bids pursuant to section 125.071(C) of the O.R.C.
- 11.9 ODH may, from time to time as it deems appropriate, communicate specific instructions and requests to the successful contractor or contractors concerning the performance of the work described in the RFP and/or the contract. Upon such notice and within ten (10) days after receipt of instructions, the successful contractor shall comply with such instructions and fulfill such requests to the satisfaction of ODH. It is expressly understood by ODH and the successful contractor that these instructions and requests are for the sole purpose of ensuring satisfactory completion of the work described in the RFP and/or the contract. They are not intended to amend or alter the RFP and/or contract or any part thereof.
- 11.10 The state reserves the right not to award a contract under this RFP. The state reserves the right to award only one or multiple contracts under this RFP.

## 12 – Attachments

**Attachment A**

Contract # \_\_\_\_\_ ADTS# \_\_\_\_\_

**PERSONAL SERVICE CONTRACT  
By and Between  
THE OHIO DEPARTMENT OF HEALTH  
and  
[NAME OF CONTRACTOR]**

**PREAMBLE**

The Ohio Department of Health (hereinafter referred to as "ODH"), whose address is 246 North High Street, Columbus, Ohio 43215, and [NAME OF CONTRACTOR] (hereinafter referred to as the "CONTRACTOR"), whose address is [ADDRESS OF CONTRACTOR], hereby enter into this contract. For the purposes of this contract, the term "party" means ODH and the CONTRACTOR respectively and "parties" means ODH and CONTRACTOR collectively. ODH and the CONTRACTOR, in consideration of the mutual promises expressed below and intending to be legally bound, agree to the following provisions.

**ARTICLE I**

**Scope of Work and Deliverables**

- A. The CONTRACTOR shall provide the services and perform the work as specified in the following:
  - 1. As necessary, report to ODH's contract manager, [NAME OF ODH POINT OF CONTACT], the Ohio Department of Health, 246 North High Street, Columbus, Ohio 43215 (Telephone Number (614) XXX-XXXX; FAX Number (614) XXX-XXXX; Email: XXXXXXXXXXXXX).
  - 2. [INSERT HERE AND IN ADDITIONAL SUBPARAGRAPHS, IF NECESSARY, A DESCRIPTION OF THE WORK TO BE PERFORMED OR SERVICES TO BE PROVIDED BY THE CONTRACTOR]
  - 3.
  - 4.
  - 5.
  - 6.
- B. The CONTRACTOR shall furnish its own support staff and services as necessary for the satisfactory performance of the work described in ARTICLE I, Section A, above. Unless otherwise specified in this contract, ODH will not provide any staff, services, or material to the CONTRACTOR for the purpose of assisting the CONTRACTOR in the performance of this contract.

- C. **ODH** may, from time to time as it deems appropriate, communicate specific instructions and requests to the **CONTRACTOR** concerning the performance of the work described in this contract. Upon such notice and within ten (10) days after receipt of instructions, the **CONTRACTOR** shall comply with such instructions and fulfill such requests to the satisfaction of **ODH**. It is expressly understood by the parties that these instructions and requests are for the sole purpose of ensuring satisfactory completion of the work described in this contract. They are not intended to amend or alter this contract or any part thereof. All such instructions and requests shall be communicated to the **CONTRACTOR** by the **ODH** contract manager.
- D. The **CONTRACTOR** shall consult with the **ODH** contract manager as necessary to assure mutual understanding of the work to be performed and the satisfactory completion thereof.

**ARTICLE II**  
**Time of Performance**

- A. Upon approval by the Director of **ODH** and, if required, the Controlling Board, this contract shall be in effect from **[START DATE]**, or upon execution by both parties, whichever is later, through **[END DATE]**, unless this contract is suspended or terminated pursuant to **ARTICLE XI** prior to the termination date.
- B. It is expressly understood by both **ODH** and the **CONTRACTOR** that this contract shall not be valid and enforceable until the Director of the Office of Budget and Management certifies, pursuant to section 126.07 of the Ohio Revised Code (ORC), that there is a balance in the appropriation not already encumbered to pay obligations resulting from this contract.
- C. The **CONTRACTOR** shall neither perform work nor submit an invoice for payment for work performed under this contract for any time period prior to receipt of written notification from the **ODH** contract manager that the requirements of section 126.07 and, if applicable, section 127.16 of the ORC have been met.
- D. The **CONTRACTOR** shall neither perform work nor submit an invoice for payment for work performed under this contract for any time period after the termination date set forth in **ARTICLE II, Section A**, above.

**ARTICLE III**  
**Compensation for Services**

- A. In consideration of the services provided pursuant to **ARTICLE I** of this contract, **ODH** agrees to pay compensation at the rate of **\$XX.XX** per hour for a maximum of **XX** hours, resulting in a maximum allowable compensation for services rendered under this contract of \$ **[HOURLY RATE MULTIPLIED BY TOTAL HOURS]** **[OR “agrees to pay compensation in the amount of \$XX.XX for (specify competed deliverable)”]**. It is expressly understood by **ODH** and the **CONTRACTOR** that the terms of this contract limit the total compensation for services, travel and miscellaneous expenses to a maximum of \$**[SERVICE AMOUNT PLUS TRAVEL (IF ANY) PLUS MISCELLANEOUS (IF ANY)]** for the contract period set forth in **ARTICLE II**. The **CONTRACTOR** shall monitor the hours worked under this contract and shall not accept an assignment under the contract if it will cause or is reasonably likely to cause the total amount paid under the contract for the contract period specified in **ARTICLE II** to exceed the maximum allowable compensation for services. The **CONTRACTOR** hereby waives the interest provisions of section 126.30 of the ORC.
- B. Reimbursement for travel and other related expenses incurred by the **CONTRACTOR** is limited to a maximum of **\$XXX**, which is included in the total compensation set forth in **ARTICLE III, Section A**,

above. Reimbursement for travel and other related expenses shall be limited to actual and necessary expenses as specified in sections 126.31 and 126.32 of the ORC and the provisions of section 126-1-02 of the Ohio Administrative Code (OAC). The **CONTRACTOR** shall not submit claims for expenses which do not meet the requirements of this section. The **CONTRACTOR** shall submit all claims to the **ODH** contract manager for approval prior to submitting a claim for reimbursement under this section. Except as set forth in this section, no other expenses incurred by the **CONTRACTOR** will be reimbursed by **ODH**. For the purposes of determining allowable travel expenses, the **CONTRACTOR's** headquarters shall be Franklin County, Ohio. [OR “There shall be no separate reimbursement for travel and related expenses pursuant to this contract.” **The above paragraph is then deleted.**]

C. The **CONTRACTOR** shall invoice **ODH** monthly [OR the word “monthly” shall be deleted if the services are “one time only” services such as a program presentation or if the payments are to occur upon the completion of scheduled deliverables, in which case this clause shall include that payment schedule.] for services provided by the **CONTRACTOR**. An itemized statement listing the services provided, the dates services were provided, and the amount of payment due shall accompany the invoice. Invoices shall be sent to **ODH**, ATTN: Accounts Payable, P.O. Box 118, Columbus, Ohio 43216-0118. **ODH** will reimburse the **CONTRACTOR** within forty-five (45) days of receipt of a valid invoice for the amount of payment due. **ODH** shall return any invalid or incomplete invoice to the **CONTRACTOR** within fifteen (15) days after **ODH** receives the invoice. An explanation will accompany the invoice that states the reason for return and any information needed to correct the invoice. Final invoices for services provided under this contract shall be submitted by the **CONTRACTOR** no later than thirty (30) days following the termination of the contract.

D. Subject to the provisions of sections 126.07 and 131.33 of the ORC, which shall at all times govern this contract, **ODH** represents that:

1. It intends to maintain this agreement for the full period set forth herein and has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period; and
2. It will use its best efforts to obtain the appropriation of any necessary funds during the term of this agreement.

However, it is understood by the **CONTRACTOR** that the availability of funds is contingent on appropriations made by the Ohio General Assembly and, if applicable, the federal funding source. If the Ohio General Assembly or the federal funding source fails at any time to continue funding **ODH** for the payments due hereunder, this agreement is terminated as of the date funding expires without further obligation of **ODH** or the State of Ohio.

E. **ODH** will not compensate the **CONTRACTOR** for any work performed prior to receipt of written notification from the **ODH** contract manager that the requirements of section 126.07 and, if applicable, section 127.16 of the ORC have been met as set forth in **ARTICLE II, Sections B and C**. **ODH** will not compensate the **CONTRACTOR** for any work performed after the termination date set forth in **ARTICLE II, Section A**.

#### **ARTICLE IV Independent Contractor**

A. No agency, employment, joint venture or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this agreement. Inasmuch as **ODH** is interested in the **CONTRACTOR's** end product, **ODH** does not control the manner in which the **CONTRACTOR** performs

this contract. **ODH** is not liable for the workers' compensation or unemployment compensation payments required by Chapters 4123. and 4141. of the ORC, respectively. In addition, the **CONTRACTOR** assumes responsibility for tax liabilities that result from compensation paid to the **CONTRACTOR** by **ODH**. **ODH** will report any payment made under this contract to the Internal Revenue Service on Form 1099.

- B. No provision contained in this contract shall be construed as entitling the **CONTRACTOR** to participate in hospital plans, medical plans, sick leave benefits, vacation, and other benefits available to employees of **ODH** or to become a member of the Public Employees Retirement System (Chapter 145. of the ORC).

## **ARTICLE V**

### **Conflict of Interest and Ethics Laws**

- A. The **CONTRACTOR** hereby covenants that neither the **CONTRACTOR** nor any officer, member or employee of the **CONTRACTOR** has any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this contract.
- B. Neither the **CONTRACTOR** nor any officer, member or employee of the **CONTRACTOR** shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.
- C. The **CONTRACTOR** shall not promise or give to any **ODH** employee anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. The **CONTRACTOR** shall not solicit an **ODH** employee to violate any **ODH** rule or policy relating to the conduct of contracting parties or to violate sections 102.03, 102.04 or 2921.42 of the ORC.
- D. The **CONTRACTOR** hereby covenants that the **CONTRACTOR** and any officer, member or employee of the **CONTRACTOR** are in compliance with section 102.04 of the ORC and that if the **CONTRACTOR** is required to file a statement pursuant to section 102.04(D)(2) of the ORC, such statement has been filed with the **ODH** General Counsel in addition to any other required filings.
- E. The **CONTRACTOR** hereby certifies compliance with the executive agency lobbying requirements of sections 121.60 to 121.69 of the ORC.
- F. The **CONTRACTOR** hereby certifies and affirms that, as applicable to the **CONTRACTOR**, no party listed in Division (I) or (J) of section 3517.13 of the ORC or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of \$1,000.00 to the Governor or to his campaign committees. If it is determined that the **CONTRACTOR's** certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, the **CONTRACTOR** shall return to **ODH** all monies paid to the **CONTRACTOR** under this contract. The provisions of this section shall survive the expiration or termination of this contract.
- G. In accordance with the Governor's Executive Order 2007-01S, **CONTRACTOR**, by signature on this contract, certifies: (1) **CONTRACTOR** has reviewed and understands the Governor's Executive Order 2007-01S; (2) **CONTRACTOR** has reviewed and understands the Ohio ethics and conflict of interest laws; and (3) **CONTRACTOR** will take no action inconsistent with those laws and this Executive Order. The **CONTRACTOR** understands that failure to comply with Executive

Order 2007-01S is, in itself, grounds for termination of this contract and may result in the loss of other contracts or grants with the State of Ohio.

**ARTICLE VI  
Equal Employment Opportunity**

- A. In carrying out this agreement, the **CONTRACTOR** shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, disability, national origin, ancestry, veteran status, or any other factor specified in section 125.111 of the ORC, in the Civil Rights Act of 1964, as amended, or in section 504 of the Rehabilitation Act of 1973, as amended, and in any subsequent legislation pertaining to civil rights.
- B. The **CONTRACTOR** shall incorporate the foregoing requirements of **ARTICLE VI, Section A** in all of its contracts for performance of any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

**ARTICLE VII  
“Sweatshop Free” Certification**

The **CONTRACTOR** hereby certifies that all facilities used for the production of the supplies or performance of services offered in this contract are in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by the **CONTRACTOR** in furnishing the supplies or services pursuant to this contract. If it is determined that the **CONTRACTOR's** certification of this requirement is false or misleading, then the **CONTRACTOR** understands that it shall be grounds for the termination of this contract and may result in the loss of other contracts or grants with the State of Ohio.

**ARTICLE VIII  
Records, Documents and Information**

All records, documents, writings or other information produced or used by the **CONTRACTOR** in the performance of this contract shall be treated according to the following terms:

- A. All **ODH** information which, under the laws of the State of Ohio, is classified as public or private, will be treated as such by **CONTRACTOR**. Where there is a question as to whether information is public or private, **ODH** shall make the final determination. The **CONTRACTOR** shall not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. The **CONTRACTOR** agrees to be bound by the same standards of confidentiality that apply to the employees of **ODH** and the State of Ohio. The terms of this section shall be included in any subcontracts executed by the **CONTRACTOR** for work under this contract.
- B. All proprietary information of the **CONTRACTOR** shall be held to be strictly confidential by **ODH**. Proprietary information is information which, if made public, would put the **CONTRACTOR** at a disadvantage in the market place and trade of which the **CONTRACTOR** is a part. The **CONTRACTOR** is responsible for notifying **ODH** of the nature of the information prior to its release to **ODH**. **ODH** reserves the right to require reasonable evidence of the **CONTRACTOR's** assertion of the proprietary nature of any information to be provided.

- C. All records relating to costs, work performed and supporting documentation for invoices submitted to **ODH** by the **CONTRACTOR** shall be retained and made available by the **CONTRACTOR** for audit by the State of Ohio (including, but not limited to, **ODH**, the Auditor of the State of Ohio, the Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three years after payment for work performed under this contract. If an audit, litigation, or other action is initiated during this time period, the **CONTRACTOR** shall retain such records until the action is concluded and all issues resolved or the three years end, whichever is later.

**ARTICLE IX**  
**Rights in Deliverables, Data and Copyrights**

The Deliverables provided by the **CONTRACTOR** under **ARTICLE I** and any item produced under this contract, including any documents, data, photographs and negatives, electronic reports, records, software, source code, or other media, shall become the property of **ODH** which shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. The **CONTRACTOR** shall not obtain copyright, patent, or other proprietary protection for the Deliverables. The **CONTRACTOR** shall not include in any Deliverable any copyrighted matter, unless the copyright owner gives prior written approval to use such copyrighted matter.

**ARTICLE X**  
**Disclosure of Personal Health Information**

- A. **CONTRACTOR** hereby agrees that the information provided or made available by **ODH** shall not be used or disclosed other than as permitted or required by the contract or as required by law. **CONTRACTOR** will establish and maintain appropriate safeguards to prevent any use or disclosure of the information, other than as provided for by this contract [ref. 45 C.F.R. §164.504(e)(2)(ii)(A)(B)]. **CONTRACTOR** shall immediately report to **ODH** any discovery of use or disclosure of information not provided for or allowed by the contract.
- B. **CONTRACTOR** hereby agrees that anytime information is provided or made available to any subcontractor or agent, **CONTRACTOR** must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of information as contained in this contract. **CONTRACTOR** must obtain **ODH** approval prior to entering into such agreements. Further, **CONTRACTOR** agrees to make available and provide right of access to an individual of their protected health information when that protected health information is obtained in the performance of **CONTRACTOR**'s obligations under this contract.

**ARTICLE XI**  
**Suspension and Termination**

- A. **ODH** may suspend or terminate this contract for any reason thirty (30) days after delivery of written notice to the **CONTRACTOR**. **ODH** may suspend or terminate this contract immediately after delivery of written notice to the **CONTRACTOR** if **ODH**:
1. Discovers any illegal conduct on the part of the **CONTRACTOR**;
  2. Discovers a violation of **ARTICLE V** or **ARTICLE XVI**;

3. Is subject to a loss of funding as set forth in **ARTICLE III, Section D**; or
  4. Discovers a petition in bankruptcy or similar proceeding has been filed by or against the **CONTRACTOR**. If at any time during the contractual period a bankruptcy or similar proceeding has been filed by or against the **CONTRACTOR**, the **CONTRACTOR** shall immediately notify **ODH** of the filing.
- B. The **CONTRACTOR**, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this contract, suspend or terminate any subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and 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 accomplished, conclusions resulting therefrom, and such other matters as **ODH** may require.
  - C. In the event of suspension or termination under this Article, the **CONTRACTOR** shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by **ODH** based on the rate set forth in **ARTICLE III**, less any funds previously paid by or on behalf of **ODH**. In the case of services for which the **CONTRACTOR** charges a flat rate, compensation shall be based on a reasonable percentage of the total services performed, as determined by **ODH**, less any funds previously paid by or on behalf of **ODH**. **ODH** shall not be liable for any further claims, and the claims submitted by the **CONTRACTOR** shall not exceed the total amount of compensation allowed by this contract.

#### **ARTICLE XII Breach or Default**

- A. Upon breach or default by the **CONTRACTOR** of any of the provisions, obligations or duties embodied in this contract, **ODH** may exercise all administrative, contractual, equitable or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of subsequent occurrences, and **ODH** retains the right to exercise all remedies hereinabove mentioned.
- B. If **ODH** or the **CONTRACTOR** fails to perform an obligation or obligations under this contract and thereafter such failure is waived by the other party, such waiver shall be limited to the particular failure so waived and shall not be deemed to waive other failures hereunder. Waiver by **ODH** shall not be effective unless it is in writing and signed by the **ODH** contract manager.

#### **ARTICLE XIII Amendments**

This writing constitutes the entire agreement between the parties with respect to all matters herein. This contract may be amended only by a writing signed by both parties. However, it is agreed by the parties that any amendments to laws or regulations cited herein will result in the correlative modification of this contract, without the necessity for executing written amendments. Any written amendments to this contract shall be prospective in nature. When a new or different term or condition is added, additional consideration is not necessary to bind the parties.

#### **ARTICLE XIV Limitation of Liability**

- A. The **CONTRACTOR** holds **ODH** harmless from any and all liability, suits, losses, judgments, damages, or any other demands arising out of the actions or omissions of the **CONTRACTOR** while performing this contract.
- B. **ODH's** liability for damages, whether in contract or in tort, shall not exceed the total amount of compensation payable to the **CONTRACTOR** under **ARTICLE III** or the amount of direct damages incurred by the **CONTRACTOR**, whichever is less. The **CONTRACTOR's** sole and exclusive remedies for **ODH's** failure to perform under the contract shall be as set forth in this article. In no event shall **ODH** be liable for any indirect or consequential damages, including loss of profit, even if **ODH** knew or should have known of the possibility of such damages.
- C. Neither party is responsible to the other party for nonperformance or delay in performance of the terms of the contract due to acts of God, wars, riots, strikes, or other causes beyond the control of the parties.

**ARTICLE XV**  
**Assignment**

The **CONTRACTOR** shall not assign any interest (including subcontracts) in this contract and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of **ODH**. Any such assignments or subcontracts shall be submitted for **ODH's** review 10 days prior to the desired effective date. Approval by **ODH** shall not be deemed to increase in any manner the total compensation provided for in this contract. Claims for compensation due or to become due the **CONTRACTOR** from **ODH** under this contract may be assigned to a bank, trust company, or other financial institution without **ODH's** approval if notice of any such assignment is promptly furnished in writing to **ODH**.

**ARTICLE XVI**  
**Drug Free Workplace**

The **CONTRACTOR** shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug free workplace. The **CONTRACTOR** shall make a good faith effort to ensure that all employees of the **CONTRACTOR** do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county, or municipal property.

**ARTICLE XVII**  
**Good Standing**

- A. **CONTRACTOR** affirmatively represents and warrants to **ODH** that it is not subject to a finding for recovery under section 9.24 of the ORC, or that it has taken the appropriate remedial steps required under section 9.24 of the ORC or otherwise qualifies under that section. **CONTRACTOR** further affirmatively represents and warrants to **ODH** that it is not debarred or suspended from entering into state of Ohio contracts pursuant to section 125.25 of the ORC and is not subject to exclusion, disqualification or ineligibility as defined in 2 Code of Federal Regulations (C.F.R.) §180.110. **CONTRACTOR** agrees that if this representation and warranty is deemed false, the contract will be void *ab initio* as between the parties to this contract, and any funds paid by **ODH** hereunder shall be immediately repaid to **ODH**, or an action for recovery may be immediately commenced by **ODH** for the recovery of said funds.

- B. The **CONTRACTOR** certifies that the **CONTRACTOR** is not federally debarred from participating in government contracts funded by federal money as described in 2 C.F.R. §180.220. If at any time during the contractual period the **CONTRACTOR** is federally debarred from participating in government contracts funded by federal money, for whatever reason, the **CONTRACTOR** shall immediately notify **ODH** of the debarment.
- C. The **CONTRACTOR** certifies that all approvals, licenses or other qualifications necessary to conduct business in Ohio have been obtained and are operative. If at any time during the contractual period the **CONTRACTOR** becomes disqualified from conducting business in Ohio, for whatever reason, the **CONTRACTOR** shall immediately notify **ODH** of the disqualification.

**ARTICLE XVIII**  
**Insurance**

**CONTRACTOR** will provide the following insurance at its own expense:

- A. Workers’ Compensation insurance, as required by Ohio law or the laws of any other state where work under this contract will be done. **CONTRACTOR** will also maintain employer’s liability insurance.
- B. Personal injury, bodily injury, and property damage liability insurance, including automobile coverage, with personal injury and bodily injury coverage.

**ARTICLE XIX**  
**Compliance with ORC § 2909.33 (C)**

**Check One Box:**

The **CONTRACTOR** certifies that the **CONTRACTOR** does not receive funding in the aggregate amount greater than \$100,000.00 annually from the state of Ohio, any instrumentality of the state of Ohio, and any political subdivision of the state of Ohio.

-OR-

The **CONTRACTOR** certifies that the **CONTRACTOR** is currently in compliance with section 2909.33(C) of the ORC in that the **CONTRACTOR** has not and does not provide material assistance to any organization listed on the United States Department of State terrorist exclusion list or any such similar lists referenced in section 2909.33(C) of the ORC. “Material assistance” or “material support or resources” means currency, payment instruments, other financial securities, funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation, or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials. The **CONTRACTOR** further certifies that that the **CONTRACTOR** is not, nor has been, a member of any organization referenced above and that the **CONTRACTOR** shall notify **ODH** in any change of status regarding this certification. **CONTRACTOR** agrees that if this representation and warranty is deemed false, the contract will be void *ab initio* as between the parties to

this contract and any funds paid to the **CONTRACTOR** shall be immediately repaid to **ODH** or an action for recovery may be immediately commenced by **ODH** for the recovery of said funds.

**ARTICLE XX**  
**Construction**

This agreement shall be governed, construed and enforced in accordance with the laws of the State of Ohio. Further, the Ohio courts shall have jurisdiction over the subject matter and the parties hereto in connection with disputes concerning validity and enforcement of this agreement. Should any portion of this contract be found unenforceable by operation of statute or by administrative or judicial decision, the enforceability of the balance of this contract shall not be affected thereby, provided that the absence of the unenforceable provision does not render the performance of the remainder of the contract impossible.

IN WITNESS WHEREOF, the parties, by signing below, indicate their agreement to the above.

\_\_\_\_\_

Date	Name of Authorized Representative, Title
_____	The <b>CONTRACTOR</b> ' s name
	Tax ID #: _____

\_\_\_\_\_

Date	Alvin D. Jackson, M.D., Director Ohio Department of Health
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**PLEASE SEE ATTACHMENT FOR  
SECTIONS B THROUGH G**