

**Request for Proposal  
JFSR04070956  
Pharmacy Drug Dispensing Survey**

RFP NUMBER: JFSR04070956  
DATE ISSUED: February 4, 2004

The Ohio Department of Job and Family Services (ODJFS) has issued this Request for Proposals (RFP) for the purpose of procuring a vendor to conduct a private survey of retail pharmacy operations in the state. The purpose of the survey is to ascertain drug dispensing fee rates.

SIGNIFICANT DATES:

INQUIRY PERIOD BEGINS:	February 4, 2004
PROPOSAL DUE DATE AND TIME:	March 3, 2004 @ 3:00 p.m. EST
AWARD (estimated)	March 17, 2004
WORK BEGINS (estimated)	July 2, 2004

Bob Taft  
Governor

Tom Hayes  
Director



30 East Broad Street • Columbus, Ohio 43215-3414  
[www.state.oh.us/odjfs](http://www.state.oh.us/odjfs)

February 4, 2004

Dear Vendor:

This letter is to announce the release of the Ohio Department of Job and Family Services (ODJFS) Request for Proposals (RFP) R-04-07-0956 for the purpose of procuring a vendor to conduct a private survey of retail pharmacy operations in the state to ascertain drug dispensing fee rates. The expectation is that vendors would have professional experience in creating and analyzing multiple-choice question surveys. Familiarity with profit and loss statements would be beneficial. The vendor should have previous experience in projects of a similar size and scope. The vendor must have the ability to establish the validity of the response rate. The actual effective date for the resulting contract is dependent upon Controlling Board approval and other required funding approvals.

This ODJFS RFP is made available to all interested, qualified vendors through the web site managed by the Ohio Department of Administrative Services (DAS) for State of Ohio procurements. If you are interested in submitting a proposal to ODJFS for this important project, please obtain the RFP through the following Internet process:

- \* **Access the State Procurement web site at <http://www.ohio.gov/procure>;**
- \* **From the Navigation Bar on the left, select “Find it Fast;”**
- \* **Select “Doc/Bid/Schedule #” as the Type;**
- \* **Enter the RFP Number *JFS-R-04-07-0956*; and**
- \* **Click the “Find it Fast’ button.**

If you would prefer that a paper copy be mailed or FAXED to you, please send your request via FAX to:

Office of Contracts and Acquisitions  
Ohio Department of Job and Family Services  
30 East Broad Street, 31<sup>st</sup> Floor  
Columbus, Ohio 43215-3414  
FAX: (614) 995-4876

Responses must be prepared and submitted in strict accordance with the requirements and time frames given in the RFP. Thank you for your attention to this request.

Sincerely,

Thomas J. Hayes  
Director

*An Equal Opportunity Employer*

**REQUEST FOR PROPOSALS**  
*Pharmacy Drug Dispensing Fee Survey*

**RFP # R-04-07-0956**

**Issued By:**  
**The Ohio Department of Job and Family Services**

*Ohio Health Plans*  
*Bureau of Health Plan Policy*  
*30 E. Broad St., 31<sup>st</sup> Floor*  
*Columbus, OH 43215-3414*

**(February 4, 2004)**

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## SECTION I. GENERAL PURPOSE & VENDOR INFORMATION

### 1.1 Purpose

Ohio Revised Code (ORC) 5111.07 requires the Ohio Department of Job & Family Services (ODJFS) to initiate a private survey of retail pharmacy operations in the state once every two years to ascertain drug dispensing fee rates. Specifically, ODJFS is required to conduct a Dispensing Fee Survey beginning in July 2004. The survey shall be completed and its result published no later than the last day of October 2004.

The expectation is that vendors would have experience in creating and analyzing multiple-choice question surveys. Familiarity with profit and loss statements would be beneficial. The vendor should have previous experience in projects of a similar size and scope. The vendor must have the ability to establish the validity of the response rate.

### 1.2 Issuing Office

This RFP is released by and the subsequent contract(s) will be with ODJFS. The Office of Ohio Health Plans (OHP), which will administer the contract, is responsible for state level supervision. Ohio Medicaid's mission as a value purchaser is to assure access to comprehensive quality health care services for targeted populations in order to improve the health status of Ohioans and their communities and to support the self sufficiency and care of covered populations.

The contract expected to result from this RFP process will be an agreement between ODJFS and the selected contractor. The Ohio Department of Administrative Services (DAS) involvement is limited to providing support by publishing this RFP and its related documents on the State of Ohio procurement opportunities web site, which it manages. This consolidated web site is intended to provide vendors of all types with the convenience of a single web site from which to search all procurement opportunities offered by any State of Ohio governmental agency.

DAS is not involved in the development of this RFP, the receipt of vendor responses/proposals, the evaluation of those proposals, contractor selection, or in the development or execution of the contract. If interested vendors have a need to communicate regarding this RFP, they must contact **ODJFS** using one of the mechanisms provided for in **Sections 1.6, Internet Question and Answer Period; RFP Clarification Opportunity, or 1.8, Communications Prohibited**, of this RFP. Vendor proposals must be submitted to ODJFS in strict accordance with proposal submission instructions provided in **Section 4.1, Proposal Submission**. Vendors are cautioned that communication attempts which do not comply with these instructions will not be answered, and that ODJFS will not consider any proposals submitted to any address other than the one provided in Section 4.1 of this RFP.

### 1.3 Background

The purpose of this RFP is to solicit proposals to conduct the Pharmacy Dispensing Fee Survey and to compile, analyze, and report on the findings. The survey shall compute and report dispensing fees on a basis of the usual and customary charges by retail pharmacies to their customers for dispensing drugs. The director of ODJFS will take into account the results of the survey in establishing a dispensing fee. Based on previous experience, approximately 2,600 pharmacies will be involved in the survey.

### 1.4 Objectives of the Project

The selected contractor will perform retail pharmacy dispensing fee survey functions on behalf of ODJFS for compliance with ORC 5111.07. The pharmacy dispensing fee survey must, at minimum:

- A. Be conducted in conformance with the requirements set forth in 42 C.F.R. 447.331 [447.33.1] through 447.333 [447.33.3], as amended or superseded;
- B. Include operational data and direct prescription expenses, professional services and personnel costs, usual and customary overhead expenses, and profit data of the retail pharmacies surveyed; and
- C. Be completed and its results published no later than the last day of October of the year in which the survey is conducted, and the survey shall compute and report dispensing fees on a basis of the usual and customary charges by retail pharmacies to their customers for dispensing drugs.

**1.5 Anticipated Procurement Timetable**

2/04/2004	ODJFS Releases RFP to Potential Vendors on DAS Web Site; Q & A Period Opens - RFP becomes active - Vendors may submit inquiries for RFP clarification
2/17/2004	Vendor Q & A Period Closes, 8 a.m. (for inquiries for RFP Clarification) - No further inquiries for RFP clarification will be accepted
2/23/2004	ODJFS provides Final Vendor Question & Answer Document
<b>3/03/2004</b>	<b>Deadline for Vendors to Submit Proposals to ODJFS (3 p.m.)</b> - This is the proposal opening date, beginning the ODJFS process of proposal review
3/17/2004	ODJFS Issues Contract Award Notification Letter (estimated) - Vendors that submitted proposals in response to this RFP will be sent letters stating whether their proposal was accepted for award of the contract
4/19/2004	Controlling Board Review of Contract (estimated –if applicable). -Contract with the selected vendor requires review and approval
7/02/2004	Implementation (estimated–following notification of all contractual and funding approvals) - ODJFS contracts are not valid and effective until the state Office of Budget Management approves the purchase order.
10/31/2004	All work must be completed and approved by ODJFS Contract Manager

ODJFS reserves the right to revise this schedule in the best interest of the State of Ohio and/or to comply with the State of Ohio procurement procedures and regulations and after providing reasonable notice.

## **1.6 Internet Question & Answer Period; RFP Clarification Opportunity**

Potential vendors may ask clarifying questions regarding this RFP via the Internet during the Question and Answer Period as outlined in Section 1.5, Anticipated Procurement Timetable. To ask a question, potential vendors must use the following Internet process:

- \* Access the ODJFS Web Page at <http://ifs.ohio.gov> ;
- \* Select “About Us” on the front page;
- \* Select “Doing Business with ODJFS;”
- \* Select “Requests for Proposals, Letterhead Solicitations, and Other Invitations;”
- \* RFP Number ***R-04-07-0956***;
- \* Select “Ask a Question about this RFP” function; and
- \* Follow the instructions to send an e-mail question.

Questions to this RFP must reference the relevant part of this RFP and the specific heading for the provision under question. The potential vendor must also include the name of a representative of the potential vendor, the company name and business phone number. ODJFS may, at its option, disregard any questions which do not appropriately reference an RFP provision or location, or which do not include an identification for the originator of the question. ODJFS will not respond to any questions submitted after **8:00 a.m.** on the date that the Question and Answer period closes.

ODJFS responses to all questions asked either via the Internet or fax\* will be posted on the Internet web site dedicated to this RFP, for references by all potential vendors. Potential vendors will not receive personalized or individual e-mail responses. Clarifying questions asked and ODJFS responses to them comprise the “ODJFS Question and Answer Document” for this RFP; when possible, ODJFS may post an interim Q & A Document as well as the final version. Vendor proposals in response to this RFP are to take into account any information communicated by ODJFS in the Final Q & A Document for the RFP. **It is the responsibility of all potential vendors to check this site on a regular basis for responses to questions, as well as for any amendments or other pertinent information regarding any RFP.**

Accessibility to the ODJFS Question and Answer Document will be clearly identified on the web site dedicated to this RFP, **once that document is made available.**

**IMPORTANT:** Requests from potential vendors for copies of previous RFPs, past vendor proposals, score sheets or contracts for this or similar past projects, are Public Information Requests (PIRs), and are not clarification questions regarding the present RFP. PIRs, submitted in accordance with directions provided in Section 1.8, Communications Prohibited, will be honored. The posted time frames for ODJFS responses to Internet or faxed questions for RFP clarification do not apply to PIRs.

Vendors are to base their RFP responses, and the details and costs of their proposed projects, on the requirements and performance expectations established in the RFP for the future contract, NOT on details of a current or past related contract. Requirements under a current project may or may not be required by ODJFS under any future contract, and so may not be useful information for vendors who choose to respond to the RFP. If vendors ask questions about existing or past contracts using the Internet Q&A process, ODJFS will use its discretion in deciding whether to provide answers.

There is an established time period for the Vendor Question & Answer process (see Section 1.5, Anticipated Procurement Timetable, above). ODJFS will only answer those questions submitted within the stated time frame for submission of vendor questions, and which pertain to issues of RFP clarity, and which are not requests for public information. ODJFS is under no obligation to acknowledge questions submitted through the Q&A process if those questions are not in accordance with these instructions.

\* Potential vendors who do not have Internet access may pose questions via fax during the same time period described in Section 1.5, Anticipated Procurement Timetable. Questions may be faxed to **(614) 995-4876**. Any potential vendor making a fax request must include a return fax number so that ODJFS may reply with the Question and Answer document when it becomes available (i.e., when it is simultaneously posted on the Internet web page for the RFP).

## **1.7 Vendor's Library**

ODJFS recognizes that the vendors may not be familiar with some of the documents referenced in this RFP. As background information for the preparation of technical proposals, vendors may formally request a copy of the 2002 survey by submitting a fax request to:

Becky Jackson  
FAX: (614) 466-2908

Vendors requesting a copy of the 2002 survey should clearly identify on the fax request "Pharmacy Dispensing Fee Survey, 2002" and should include a fax number to receive this document. The department will only distribute copies of the 2002 survey via fax. Vendors are expressly prohibited from seeking clarifications or additional information regarding this RFP through this process.

**NOTE:** Vendors are cautioned that during any communications regarding requesting/accessing documents from the ODJFS staff person overseeing the vendor library, they may make no inquiry regarding this RFP, its requirements or process, the ODJFS project in which the eventual contractors will function, or anything else which could assist vendors with their responses to this RFP. All communications regarding this RFP are to take place in the open forum as provided for in Section 1.6 (Internet Question and Answer Period; RFP Clarification Opportunity).

## **1.8 Communications Prohibited**

From the issuance date of this RFP, until an actual contract is awarded to a vendor, there may be no communications concerning the RFP between any vendor which expects to submit a proposal and any employee of ODJFS in the issuing office, or any other ODJFS employee, or any other individual regardless of their employment status, who is in any way involved in the development of the RFP or the selection of the contractor.

The only exceptions to this prohibition are as follows:

1. Communications conducted pursuant to Section 1.6, Internet Question and Answer Period;
2. As necessary in any pre-existing or on-going business relationship between ODJFS and any vendor which could submit a proposal in response to this RFP;
3. As part of an interview necessary for ODJFS to make a final selection;
4. If it becomes necessary to revise any part of this RFP, ODJFS will post the revision on the DAS web

site for this RFP, and will attempt to provide notification\* of such revisions to all vendors on the original RFP announcement mailing list, as well as anyone participating in the clarification process conducted pursuant to Section 1.6 above; and,

5. Any Public Information Request (PIR) made through the ODJFS Office of Legal Services:

Requests from potential vendors or contractors for copies of previous RFPs, past vendor proposals, score sheets or contracts for this or similar past projects, are Public Information Requests (PIRs), and are not clarification questions regarding the present RFP. PIRs, submitted in accordance with directions provided in this Section 1.8, Communications Prohibited, will be honored. The posted time frames for ODJFS responses to Internet or faxed questions for RFP clarification do not apply to PIRs. The PIR must comply with the following guidelines:

1. A PIR may be filed by a potential vendor or contractor and must be submitted in writing via mail or fax and shall contain the following information:
  - a. The name, organization (if applicable), address, telephone and fax number of the requester;
  - b. The specific name and/or number of the past RFP, proposal or contract being requested;
2. All requests must be filed with the ODJFS Office of Legal Services. Requests will be accepted either on paper (at the following address) or at the e-mail address of the Office of Legal Services at [legal@odjfs.state.oh.us](mailto:legal@odjfs.state.oh.us) :

Chief Legal Counsel  
Office of Legal Services  
Ohio Department of Job and Family Services  
30 East Broad Street, 31st Floor  
Columbus, Ohio 43215-3414

\* Important Note: Amendments to the RFP or to any documents related to it will be accessible to interested vendors through the original DAS web page established for the RFP. All interested vendors are strongly encouraged to refer to that web page regularly for amendments or other announcements. Failure on the part of ODJFS to notify any vendors of any possible changes or announcements related to this RFP does not absolve the vendors from their responsibility to look for updated information through this web page.

ODJFS is not responsible for the accuracy of any information regarding this RFP that was obtained or gathered through a source different from the Question and Answer process described in this RFP. Any attempts at prohibited communications by vendors may result in the disqualification of those vendors' proposals.

### **1.9 Time Frames & Funding Available**

ODJFS is seeking to contract with a vendor to conduct a Dispensing Fee Survey from July 2, 2004 to October 31, 2004. The work will be completed in phases, as described:

Phase I (weeks 1-3):	Prepare the survey instrument and receive approval by ODJFS.
Phase II (weeks 4-7):	Mail survey and collect responses.

Phase III (weeks 8-12): Evaluate and report on responses. Preliminary executive summary results to ODJFS for approval by department.

Phase IV (weeks 13-15): Present final results and report to ODJFS.

The Contract Manager will notify selected vendor when work may begin. ODJFS contracts are not valid until all necessary contract and funding approvals have been obtained. Work that is or has been performed by selected vendor before such approvals are obtained shall not be payable by ODJFS.

Potential vendors are to be aware that ODJFS may, at its sole discretion, negotiate with all technically qualifying vendors for a revised cost proposal if the cost proposals of all technically qualifying vendors are in excess of the available funding for this project. Please refer to Section 5.1 C. of this RFP for further information on ODJFS procedures to be implemented if this occurs.

## **SECTION II. SCOPE OF WORK & SPECIFICATIONS OF DELIVERABLES**

### **2.1 Vendor Qualifications**

Vendors' proposals must address all the following minimum qualifications as well as organizational and staff experience and capabilities:

#### **A. Required Vendor Qualifications**

In order to be considered for the contract expected to result from this RFP, ODJFS requires that interested vendors **must** meet, at minimum, **all** the following qualification requirements:

1. ODJFS will **only** consider proposals from vendors which possess at least 5 years of adequate prior experience in performing survey development, analysis and reporting; and
2. The vendor must demonstrate the ability to establish the validity of the response rate by being able to calculate statistical standards such as mean, standard deviation, standard error, median, and confidence level.

#### **B. Organizational Experience and Capabilities**

In order to be considered for the contract expected to result from this RFP, ODJFS requires that interested vendors provide the following:

1. Background information on the company, including subcontractors, if appropriate, indicating sufficient organizational experience and staffing to perform the required contractual functions;
2. Samples of at least two, but no more than four, similar sized projects completed in the past 5 years that demonstrate expertise in performing survey development, analysis and reporting; and
3. Names and contact information for at least three entities for which the vendor has performed similar large scale projects in the past five (5) years.

### **C. Staff Experience and Capabilities**

The vendor must demonstrate significant expertise by assigning staff to key leadership rolls for this project. Key positions will require profiles and curriculum vitae. The vendor must, at minimum:

1. Identify, by position and by name, those staff the vendor considers to be key to the project's success (at minimum, key staff identified must include a Project Manager); and
2. Include resume(s) of key staff expected to work on the project; and
3. Demonstrate how the Project Manager's and key staff's qualifications and experience are adequate to perform the required contractual functions.

### **2.2 Administrative Structures—Proposed Work Plan**

Vendors are to include, at minimum, the following administrative structures and technical approach for the proposed work plan. The vendor shall:

- A. State the key objectives of the proposed project. [NOTE: Vendors are advised to refrain from simply restating the objectives as identified in Section 1.4 of this RFP.];
- B. Provide a technical approach and work plan to be implemented. This shall include a proposed timeline for the project which complies with the work phases as specified in Section 1.9, Time Frames & Funding Available;
- C. Provide a status reporting procedure for reporting work completed, and resolution of unanticipated problems;
- D. Provide a current organizational chart (including any subcontractors) and specify the key management and administrative personnel who will be assigned to this project; and
- E. Provide a timeline for each component of the scope of work and the project overall including the staff hours for personnel involved. Include a Table of Organization (including any subcontractors) and a chart showing the number of hours devoted to the project by vendor or sub-contractor staff. The vendor must provide the percentage of time each key management person will devote to the project.

### **2.3 Specifications of Deliverables**

The contracted services will include, but may not be limited to, the following areas:

#### **A. Survey Development**

In accordance with ORC 5111.07, development of a survey instrument to ascertain the following information: operational data and direct prescription expenses, professional services and personnel costs, usual and customary overhead expenses, and profit data of the retail pharmacies surveyed. Additionally, the department may require survey questions related to drug utilization review being performed by pharmacies.

Any and all surveys must be reviewed and approved by ODJFS prior to mailing.

B. Distribution of Survey

All printing and mailing costs will be borne by the contractor; approximately 2600 surveys will be mailed. ODJFS will determine the mailing list, comprised of all pharmacies in Ohio and the five contiguous states that have submitted a claim for pharmacy services in the twelve (12) months preceding the development of the list. ODJFS will supply mailing labels.

- Vendors must, at minimum, ascertain the appropriate response rate of at least a 95% confidence level. A second mailing (at no expense to ODJFS) will be required if, after the first mailing, the survey responses do not produce a 95% confidence interval.

C. Analysis and Reporting

Compilation of all data received and performance of a statistical analysis that results in a report to the department on the information required in ORC 5111.07, as listed in Section 2.3, A. The report is to be provided to the ODJFS Contract Manager in both hard copy and on computer diskette in a format and version compatible with existing department software.

The final report should include an executive summary, a statistical analysis, and raw data. At a minimum, these reports must include demographics, financial data, and drug utilization review components.

### **SECTION III. OTHER REQUIREMENTS**

#### **3.1 State Contracts**

Proposals must list any current contracts the vendor has with State of Ohio agencies. The list must indicate the purpose of the contract, the amount of the contract, the time period covered by the contract, and the percent of the project completed. Vendors must complete a copy of the Required Vendor Information & Certifications document (provided as **Attachment C**) and include the completed document in the vendor=s proposal as specified in Section 4.2 A., 1. of this RFP.

#### **3.2 Interview**

Firms submitting proposals may be requested to participate in an in-depth interview as part of the evaluation process. The interview, if necessary, may include participants from ODJFS. ODJFS reserves the right to select from responding vendors for interviews and may not interview all vendors submitting proposals. The vendor shall bear all costs of any scheduled interview.

#### **3.3 Start Work Date**

The selected vendor must be able to begin work no later than seven (7) working days after the time funds are encumbered and approved by the Office of Budget & Management. The selected vendor will be notified by the ODJFS project manager when work may begin. **Any work begun by the vendor prior to this notification will NOT be reimbursable by ODJFS.**

### 3.4 Proposal Costs

Costs incurred in the preparation of this proposal are to be borne by the vendor, and ODJFS will not contribute in any way to the costs of the preparation. Any costs associated with interviews will be borne by the vendor and will not be ODJFS's responsibility (see Section 3.3).

### 3.5 Trade Secrets Prohibition; Public Information Disclaimer

**Vendors are prohibited from including any trade secret information** as defined in Ohio Revised Code (ORC) 1333.61 in their proposals in response to any ODJFS RFP, Requests for Letterhead Bids (RLB) or other procurement efforts. ODJFS shall consider all proposals voluntarily submitted in response to any ODJFS RFP to be free of trade secrets and such proposals shall, in their entirety, be made a part of the public record.

All proposals and any other documents submitted to ODJFS in response to any RFP, RLB, etc., shall become the property of ODJFS. After the selection of the vendor, any proposals submitted in response to an RFP are deemed to be public records pursuant to R.C. 149.43. The term "proposal" shall mean both the technical and the cost proposals, if opened, submitted by the vendor, any attachments, addenda, appendices, or sample products.

Any proposals submitted in response to any ODJFS RFP, RLB, etc. which make claims of trade secret information shall be disqualified from consideration immediately upon the discovery of such unallowable claim.

All proposals and any other documents submitted to ODJFS in response to this RFP shall become the property of ODJFS. This RFP and, after the selection of the winning vendor, any proposals submitted in response to the RFP are deemed to be public records pursuant to R.C. 149.43. For purposes of this section, "proposal" shall mean both the technical and the cost proposals submitted by the vendor, any attachments, addenda, appendices, or sample products.

Any proposals submitted in response to this or any ODJFS RFP which make claims of trade secret information shall be disqualified from consideration immediately upon the discovery of such unallowable claim.

### 3.6 Contractual Requirements

- A. Any contract resulting from the issuance of this RFP is subject to the terms and conditions as provided in the model contract, which is included as **Attachment A** of this RFP;
- B. Many of the terms and conditions contained in the model contract (**See Attachment A**) are required by state and federal law; however, the vendor may propose changes to the model contract by annotating the model, and returning it with the vendor's proposal submission. Any changes are subject to ODJFS review and approval;
- C. Payments for any and all services provided pursuant to the contract are contingent upon the availability of state and federal funds;
- D. All aspects of the contract apply equally to work performed by any and all subcontractors;
- E. The contractor, and any subcontractor(s), will not use or disclose any information made available to them for any purpose other than to fulfill the contractual duties specified in the RFP. The contractor, and any subcontractor(s), agrees to be bound by the same standards of confidentiality that apply to

the employees of ODJFS and the State of Ohio. Any violation of confidentiality will result in an immediate termination of the contract, and may result in legal action;

- F. As a condition of receiving a contract from ODJFS, the contractor, and any subcontractor(s), shall certify compliance with any court order for the withholding of child support which is issued pursuant to Section 3113.217 of the ORC. The contractor, and any subcontractor(s), must also agree to cooperate with ODJFS and any Ohio Child Support Enforcement Agency in ensuring that the contractor or employees of the contractor meet child support obligations established under state law; and
- G. By signing a contract with ODJFS, a vendor agrees that all necessary insurance is in effect.

### **3.7 Travel Reimbursement**

Travel should be folded into the overhead, per diem, or the hourly rates which are built into the cost of the deliverables. Travel is not to be listed separately unless otherwise specified in Section 4.2 B. of this RFP.

### **3.8 Minority Business Enterprise**

ODJFS is required by Section 125.081(B) and 123.151 of the ORC to award fifteen percent (15%) of its total procurement to vendors certified as a Minority Business Enterprise (MBE). Ohio certified MBE is defined in ORC Section 122.71. If the proposal is not submitted by a certified MBE, the vendor is strongly encouraged to subcontract a minimum of fifteen percent (15%) of the total contract price to an Ohio certified MBE.

The proposal must clearly indicate the name of the proposed Ohio MBE vendor and the exact nature of the work to be performed under the proposed subcontract. The proposal must include a letter from the proposed MBE, signed by a person authorized to legally bind the subcontractor, indicating the following:

1. The subcontractor's legal status, federal tax ID number, and principle place of business address;
2. The name, phone number, and fax number of a person who is authorized to legally bind the subcontractor to contractual obligations;
3. A complete description of the work the subcontractor will do;
4. A commitment to do the work, if the vendor is selected;
5. A statement that the subcontractor has read the RFP and understands the RFP, the nature of the work, and the requirements of the RFP; and
6. A copy of the Ohio MBE certificate.

**There may be no dollar amounts of any kind included with the MBE information; inclusion of dollar amounts will result in the disqualification of the primary vendor's entire proposal.**

A listing of Ohio certified MBEs can be accessed through the Internet at <http://www.gsa.ohio.gov/gsa/ods/pur/query.html>.

### **3.9 Other Sub-Contractors**

Any vendor proposing to use a sub-contractor for any part of the work described in this RFP must clearly identify the subcontractor(s) in their proposal. The proposal must include a letter from the proposed subcontractor(s), signed by a person authorized to legally bind the subcontractor, indicating the following:

1. The subcontractor's legal status, federal tax ID number, and principle place of business address;
2. The name, phone number, and fax number of a person who is authorized to legally bind the subcontractor to contractual obligations;
3. A complete description of the work the subcontractor will do;
4. A commitment to do the work, if the vendor is selected;
5. A statement that the subcontractor has read the RFP and understands the RFP, the nature of the work, and the requirements of the RFP.

**There may be no dollar amounts of any kind included with sub-contractor information; inclusion of dollar amounts will result in the disqualification of the primary vendor's entire proposal.**

### **3.10 Public Release of Records**

Public release of any evaluation or monitoring reports funded under this agreement will be made only by ODJFS. Prior to public release of such reports, ODJFS must have at least a 30-day period for review and comment.

### **3.11 Confidentiality**

All contracts will require that the contractor maintain the confidentiality of information and records which state and federal laws, rules, and regulations require to be kept confidential.

### **3.12 Key Personnel**

ODJFS may require a clause in the resulting contract regarding key personnel in that any person identified as critical to the success of the project may not be removed without reasonable notice to ODJFS.

### **3.13 Ethical & Conflict of Interest Requirements**

- A. No contractor or individual, company or organization seeking a contract shall promise or give to any ODJFS employee anything of value that is of such character as to manifest a substantial and improper influence upon the employee with respect to his or her duties;
- B. No contractor or individual, company or organization seeking a contract shall solicit any ODJFS employee to violate any of the conduct requirements for employees;
- C. Any contractor acting on behalf of ODJFS shall refrain from activities which could result in violations of ethics and/or conflicts of interest. Any contractor or potential contractor who violates the requirements and prohibitions defined here or of Section 102.04 of the ORC is subject to termination of the contract or refusal by ODJFS to enter into a contract; and
- D. ODJFS employees and contractors who violate Sections 102.03, 102.04 2921.42 or 2921.43 of the ORC may be prosecuted for criminal violations.

### **3.11 Health Insurance Portability & Accessibility Act (HIPAA) Requirements**

As a condition of receiving a contract from ODJFS, the contractor, and any subcontractor(s), will be required to comply with 42 U.S.C. Sections 1320d through 1320d-8, and to implement regulations at 45 C.F.R. Section 164.502 (e) and Sections 164.504 (e) regarding disclosure of protected health information under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Protected Health Information (PHI) is information received

by the contractor from or on behalf of ODJFS that meets the definition of PHI as defined by HIPAA and the regulations promulgated by the United States Department of Health & Human Services, specifically 45 CFR164.501 and any amendments thereto.

HIPAA compliance requires, at minimum, that the contractor:

- § shall not use or disclose PHI except as specifically required under the terms of the contract with ODJFS, or as otherwise required under the HIPAA regulations or other applicable law.
- § shall use appropriate safeguards to protect against use or disclosure not provided for by this Agreement.
- § shall promptly report to ODJFS any knowledge of uses or disclosures of PHI that are not in accordance with the contract or applicable law. In addition, the CONTRACTOR shall mitigate any adverse effects of such a breach to the extent possible.
- § shall ensure that all its agents and subcontractors that receive PHI from or on behalf of the contractor and/or ODJFS agree to the same restrictions and conditions that apply to contractor with respect to the use or disclosure of PHI.
- § shall make available to ODJFS such information as ODJFS may require to fulfill its obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA and related regulations.
- § shall make PHI available to ODJFS in order for ODJFS to fulfill its obligations pursuant to HIPAA to amend the information and shall, as directed by ODJFS, incorporate any amendments into the information held by the contractor and ensure incorporation of any such amendments into information held by its agents or subcontractors.
- § shall make available its internal practices, books and records relating to the use and disclosure of PHI received from ODJFS, or created and received by the contractor on behalf of ODJFS, to ODJFS and to the Secretary of the U.S. Department of Health and Human Services for the purpose of determining ODJFS compliance with HIPAA and the regulations promulgated by the United States Department of Health & Human Services and any amendment thereto.
- § shall, upon termination of this Agreement, at the option of ODJFS, return to ODJFS, or destroy, all PHI in its possession, and keep no copies of the information except as requested by ODJFS or required by law. If the contractor or its agent or subcontractor destroy any PHI, then the contractor will provide ODJFS with documentation evidencing such destruction. Any PHI maintained by the contractor shall continue to be extended the same as required by HIPAA and ODJFS for as long as it is maintained.

In the event of a material breach of contractor obligations under this section, ODJFS may at its option terminate the contract according to provisions within the contract for termination.

## **SECTION IV. PROPOSAL FORMAT & SUBMISSION**

### **4.1 Proposal Submission**

The proposal must be prepared and submitted in accordance with instructions found in this Section. Seven (one signed original and 6 copies) copies of the Technical Proposal, along with three (one signed original and two copies) copies of the Cost Proposal (in a separate sealed envelope) labeled: **“NOTE: DO NOT OPEN. COST PROPOSAL ENCLOSED FOR PHARMACY DRUG DISPENSING FEE SURVEY RFP#: R-04-07-0956 SUBMITTED BY [VENDOR’S NAME HERE]”**, must be received by ODJFS no later than 3:00 p.m. on **Wednesday, March 3, 2004**. Faxes will not be accepted. Proposals must be addressed to:

Office of Contracts & Acquisitions  
Ohio Department of Job and Family Services  
30 East Broad Street, 31<sup>st</sup> Floor  
Columbus, Ohio 43215-3414

For hand delivery on the due date, vendors are to allow sufficient time for downtown parking considerations, as well as for any security checks at the lobby of the Rhodes State Office Tower (address as stated above). All proposals received on the due date will be accepted at the Office of Contracts & Acquisitions, on the 31<sup>st</sup> Floor of the Rhodes Tower. **DAS WILL NOT ACCEPT PROPOSALS FOR THIS RFP PROJECT. ODJFS is not responsible for any proposals delivered to any address other than the address provided above.**

All submissions must be received by mail or hand delivery by the above date and time. Materials received after the submission deadline date will not be added to previous submissions, nor be considered. No confirmations of mailed proposals received will be sent.

Submission of a proposal indicates acceptance by the vendor of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between ODJFS and the vendor selected.

#### **4.2 Format for Submission of the Proposal**

To be accepted and forwarded to the Proposal Review Committee (PRC), a proposal must include seven (one original and six copies) copies of the Technical Proposal and three (one signed original and 2 copies) copies of the Cost Proposal as described in Item A. and B. of this section. The Technical Proposal must contain all the information as specified and requested for each of the components listed below. A sample Technical Proposal Score Sheet is provided as **Attachment B** for vendors to check their proposals for quality and completeness.

The vendor’s Technical Proposal must contain the following components (organized in 5 primary tabs and divided into sub-tabs) as described below. Any other information thought to be relevant, but not applicable to a specific RFP section number/letter must be provided as an appendix to the proposal and so marked as an additional tab. ODJFS reserves the right not to review submitted appendices which includes information/materials that was/were not required in the RFP. All pages shall be sequentially numbered.

Vendors must organize their proposals in the following order:

**Tab 1** Required Vendor Information & Certifications

**Tab 2** Vendor Qualifications

**Sub-Tab 2a.** Required Vendor Qualifications

**Sub-Tab 2b.** Organizational Experience and Capabilities

**Sub-Tab 2c.** Staff Experience and Capabilities

**Tab 3** Administrative Structures—Proposed Work Plan

**Tab 4** Specifications of Deliverables

**Sub-Tab 4a.** Deliverable A

**Sub-Tab 4b.** Deliverable B

**Sub-Tab 4c.** Deliverable C

**Tab 5** Request for Taxpayer Identification, W-9 Form

**NOTE:** Vendors are required to submit **one additional CD-ROM copy** (using TWO CD-ROMs) of their entire proposal package in non-rewriteable CD format. One CD-ROM is to contain the complete Technical Proposal, including any required or voluntary attachments to it, and the other CD-ROM is to contain the Cost Proposal including any required or voluntary attachments to it. The CD-ROM containing the Cost Proposal must only be submitted in the sealed envelope containing the hardcopy Cost Proposal. One document may, at vendor option, be excepted from the electronic technical proposal version: the “Request for Taxpayer Identification, Form W-9” (**Attachment D**), which is to be signed by the vendor and submitted with the paper copies of the technical proposal. The requested CDs will be used by ODJFS for storage/archiving purposes only.

**A.** Technical Proposal

The vendor’s Technical Proposal must contain the following components, at minimum. It is mandatory that vendor proposals be organized in the following order, and that, wherever appropriate, sections/portions of the vendor proposal make reference by section number/letter to those RFP requirements to which they correspond.

**IMPORTANT:** Any vendor Technical Proposals found to contain any cost information shall be disqualified from consideration. Cost information is defined as any dollar amounts which might be deemed to be indicative of the relative cost or economy of the proposed project. Information on the assets, value, or historical business volume of the vendor is NOT considered to be such prohibited cost information, and MAY be included in any vendor’s technical proposal. All prohibited cost information must be submitted with the separate, sealed project budget. The Technical Proposal is defined as any part of the vendor’s proposal (either as required by ODJFS or sent at vendor’s discretion, such as work plan, resumes, letters of recommendation, letters of cooperation from any subcontractors, etc.) which is not specifically identified by ODJFS as a required component of the separate, sealed project budget. Should a vendor determine to include any documents containing such cost information in the technical proposal, the cost information in those documents must be made unreadable by the vendor before submission of the proposal to ODJFS.

**1. Required Vendor Information & Certifications (Tab 1)**

In this section, the vendor is required to provide required information and certifications of eligibility for state contract awards, as described in **Attachment C** to this RFP, entitled “Required Vendor Information & Certifications.” Vendors may, at their discretion, either print **Attachment C**, complete and sign it, and return it as the content of their Proposal Tab 1; or they may provide all the required information and certifications (each fully re-stated from **Attachment C**) on their own letterhead, properly signed, and use that document as the content of their Proposal Tab 1. Vendors who fail to provide all information and certifications as described in **Attachment C** in their Proposal Tab 1 risk disqualification.

**2. Vendor Qualifications (Tab 2)**

a. Required Vendor Qualifications (**Sub-Tab 2 a.**)

In this section, the vendor must, at minimum, demonstrate or provide necessary evidence for the required qualifications as specified in Section 2.1 A., Required Vendor Qualifications.

b. Organizational Experience and Capabilities (**Sub-Tab 2 b.**)

In this section, the vendor must, at minimum, demonstrate or provide necessary evidence for the required organizational experience and capabilities as specified in Section 2.1 B., Organizational Experience and Capabilities. Additionally, this section of the vendor's proposal must also contain copies of any documents required in that section (references, sample products, etc.).

c. Staff Experience and Capabilities (**Sub-Tab 2 c.**)

Under this section the vendor is required to include resumes, education, experience, and list of related published works of the Project Manager and all key personnel for this project (including any subcontractors), and should specifically list their qualifications and experience in the areas described in Section 2.3, Specifications of Deliverables of this RFP.

**3. Administrative Structures—Proposed Work Plan (Tab 3)**

This section should describe in detail (in the order as outlined) the vendor's administrative structures as specified in Section 2.2, Administrative Structures—Proposed Work Plan of this RFP.

**4. Specifications of Deliverables (Tab 4)**

This section should describe in detail how the vendor proposes to address each of the deliverables identified in Section 2.3, Specifications of Deliverables, of this RFP. Vendors should place their responses for each Deliverable identified in Section 2.3 behind separate sub-tabs as described above.

**5. Request for Taxpayer Identification, W-9 Form (Tab 5)**

The vendor must attach this form, which is provided as **Attachment D** to this RFP, completed with an original signature in blue ink.

**B. Cost Proposal**

Three (one signed original and two copies) copies of the Cost Proposal must be submitted in a separate, sealed envelope, and labeled: **“NOTE: DO NOT OPEN. COST PROPOSAL ENCLOSED FOR PHARMACY DRUG DISPENSING FEE SURVEY RFP#: R-04-07-0956 SUBMITTED BY [VENDOR'S NAME HERE]”** and containing the respective Cost Proposal CD-ROM. The above Technical Proposal must not contain costs information, or the entire proposal will be disqualified from further consideration. The Cost Proposal must include a statement that the

prices quoted are firm.

The Cost Proposal must display the total, all-inclusive cost for each of the deliverables, Items A through C. The sum total of the vendor's costs for Deliverables A through C (as specified in Section 2.3, Specifications of Deliverables) will be the maximum total cost for the project. All costs, including staff time and other administrative costs, that the selected vendor will incur must be included in the Cost Proposal, and rolled into the costs of one or more deliverables, as appropriate. Vendor cost proposals shall be structured as follows:

DELIVERABLES	\$ COST AMT.
A. Survey Development	
B. Distribution of Survey	
C. Analysis and Reporting	
████████████████████ TOTAL:	

The selected vendor will invoice ODJFS following satisfactory completion of each of the contract deliverable(s) completed at the conclusion of each project phase as specified in Section 1.9 of this RFP. ODJFS may, at its discretion, negotiate with the selected vendor for a payment schedule which permits reasonable partial payments (e.g., monthly percentages) against the per-deliverable maximum price.

**This sum total of all of the vendor's proposed deliverable costs will be the vendor's cost grand total used in Phase III of the Proposal Evaluation and Selection process, described below in Section V.**

**C. IMPORTANT – VENDOR DISQUALIFIERS FOR PROPOSAL ERRORS:**

- Any vendor's Technical Proposal found to contain any cost information shall be disqualified from consideration. Cost information is defined as any dollar amounts which might be deemed to be indicative of the relative cost or economy of the proposed project. Information on the assets, value, or historical business volume of the vendor is NOT considered to be such prohibited cost information, and MAY be included in any vendor's technical proposal as information on business capacity and stability. All prohibited cost information must be submitted with the separate, sealed Cost Proposal. The Technical Proposal is defined as any part of the vendor's proposal (either as required by ODJFS or sent at vendor's discretion), such as work plan, resumes, letters of recommendation, letters of cooperation from any subcontractors, etc., which is not specifically identified by ODJFS as a required component of the separate, sealed Cost Proposal. Should a vendor determine to include in the technical proposal any documents which contain such cost information, the cost information in those documents must be made unreadable by the vendor before submission of the proposal to ODJFS. Failure to follow these instructions will result in disqualification.
- Any trade secret, proprietary, or confidential information (as defined in Section 3.5 of this RFP) found anywhere in a vendor's proposal shall result in immediate disqualification of that vendor's proposal.

**SECTION V. CRITERIA FOR PROPOSAL EVALUATION & SELECTION**

## 5.1 Scoring of Proposals

ODJFS will contract with a vendor that best demonstrates the ability to meet requirements as specified in this RFP. Vendors submitting a response will be evaluated based on the capacity and experience demonstrated in their Technical and Cost Proposal. All proposals will be reviewed and scored by a Proposal Review Committee (PRC), comprised of staff from ODJFS, Office of Ohio Health Plans. Vendors should not assume that the review members are familiar with their current work activities with ODJFS. Proposals containing assumptions, lack of sufficient detail, poor organization, lack of proofreading and unnecessary use of braggadocio will be evaluated accordingly. PRC members will be required to sign disclosure forms to establish that they have no personal or financial interest in the outcome of the proposal review and contractor selection process. Final selection of the vendor will be based upon the criteria specified in Sections II., III., and IV. of this RFP. The PRC reserves the right to reject any and all proposals, in whole or in part, received in response to this request. The review committee may waive minor defects that are not material when no prejudice will result to the rights of any vendor or to the public. In scoring the proposals, ODJFS will score in three phases:

### A. Phase I. Review—Initial Qualifying Criteria:

In order to be fully reviewed and scored, proposals submitted must pass the following Phase I. Review. **Any “no” for the listed Phase I. criteria will eliminate a proposal from further consideration.**

1. Was the proposal received by the deadline as specified in Sections 1.5 & 4.1 of the RFP?
2. Did the vendor submit seven (7) copies of their Technical Proposal along with their Cost Proposal (in a separate sealed envelope) labeled: **“NOTE: DO NOT OPEN. COST PROPOSAL ENCLOSED FOR PHARMACY DRUG DISPENSING FEE SURVEY RFP#: R-04-07-0956 FROM (VENDOR’S NAME)”**?
3. Does the vendor possess at least 5 years of adequate prior experience in performing survey development, analysis and reporting?
4. Did the vendor demonstrate the ability to establish the validity of the response rate by being able to calculate statistical standards such as mean, standard deviation, standard error, median, and confidence level?

### B. Phase II. Review—Criteria for Scoring the Technical Proposal:

The PRC will then score those qualifying technical proposals, not eliminated in Phase I. Review, by assessing how well the vendor meets the requirements as specified in Sections II, III, IV of this RFP. Using the score sheet for Phase II scoring (see **Attachment B** of this RFP for specific evaluation criteria), the PRC will read, review, discuss and reach consensus on the final technical score for each qualifying technical proposal.

A maximum of **300** points will be awarded for the Technical Proposal. A technical proposal must achieve a total of at least **234** points (indicating a proposal that is adequate or 78% of the maximum allowable points) out of the possible **300** points to qualify for continued consideration. Any proposal which does not meet the minimum required technical proposal points will be disqualified from any further consideration and its cost proposal will neither be opened nor considered.

All Phase II technical proposal evaluation criteria will be scored according to the following scale, based on a proposed plan's ability to meet ODJFS needs. The Technical Proposal Score Sheet (see **Attachment B**) uses the following point values for rating each requirement.

0	6	8	10
Does Not Meet Requirement	Partially Meets	Meets Requirement	Exceeds Requirement

Technical Performance Scoring Definitions:

**“Does Not Meet Requirement”**-a particular RFP requirement was not addressed in the vendor's proposal, **Score: 0**

**“Partially Meets Requirement”**-vendor proposal demonstrates some attempt at meeting a particular RFP requirement, but that attempt falls below acceptable level, **Score: 6**

**“Meets Requirement”**-Vendor proposal fulfills a particular RFP requirement in all material respects, potentially with only minor, non-substantial deviation, **Score: 8**

**“Exceeds Requirement”**-Vendor proposal fulfills a particular RFP requirement in all material respects, and offers some additional level of quality in excess of ODJFS expectations, **Score: 10**

**IMPORTANT:** Before submitting a proposal to ODJFS in response to this RFP, vendors are strongly encouraged to use the Technical Proposal Score Sheet (**Attachment B**) and the above technical performance scoring information to review their proposals for completeness, compliance and quality.

All the remaining qualified Technical Proposals will proceed to the next level of review, which is consideration of the Cost Proposal. Any other proposals will be disqualified from further consideration, and the corresponding Cost Proposals will neither be opened nor will be scored.

**C. Phase III.—Criteria for Considering the Cost Proposal**

The Cost Proposal will be reviewed by ODJFS. The grand total of each vendor's Cost Proposal is divided by that vendor's final Technical Proposal score. This compares the cost with the quality of the Technical Proposal, which will provide an average cost-per-quality point earned on the Technical Proposal.

If the cost proposals of all technically qualifying vendors (as determined by the scoring process described in this section and by the Technical Proposal Score Sheet, **Attachment B** to this RFP) are in excess of the available funding for this project, ODJFS may, at its sole discretion, negotiate with all technically qualifying vendors for a revised cost proposal. Vendors may then submit one last and best offer, or may request that ODJFS view its original cost proposal as its last and best offer, or may formally withdraw from further consideration, and shall formally indicate its choice according to directions provided by ODJFS at that time. Upon receipt of all last and best offers, and assuming that one or more have submitted a cost proposal that is within project budget, ODJFS will then consider those vendors' revised cost proposals which are within the budget according to the cost-point assignment process described in this section, above, and in the Technical Proposal Score Sheet, **Attachment B**, for calculation of the winning score. ODJFS reserves the right to negotiate with vendors for adjustments to their proposals should ODJFS determine, for any reason, to adjust the scope of the project for which this RFP is released.

## 5.2 **Final Selection**

The PRC will recommend to the ODJFS Director for selection the technically qualified vendor which offers the lowest cost-per-quality point.

## 5.3 **Tie Breaker**

In the event that two or more of the proposals have a score which is tied after final calculation of both the technical proposal and the cost proposal, the proposal with the higher score in the technical proposal will prevail.

# SECTION VI. **PROTEST PROCEDURE**

## 6.1 **Protests**

Any potential, or actual, vendor objecting to the 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:

- A. A protest may be filed by a prospective or actual bidder objecting to the award of a contract resulting from this RFP. The protest shall be in writing and shall contain the following information:
  1. The name, address, and telephone number of the protestor;
  2. The name and number of the RFP being protested;
  3. A detailed statement of the legal and factual grounds for the protest, including copies of any relevant documents;
  4. A request for a ruling by ODJFS;
  5. A statement as to the form of relief requested from ODJFS; and
  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.
- B. A timely protest shall be considered by ODJFS, if it is received by ODJFS' Office of Legal Services, within the following periods:
  1. A protest based on 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 3:00 p.m. the closing date for receipt of proposals, *as specified in Section 1.5, Anticipated Procurement Time Table, of this RFP.*
  2. If the protest relates to the announced intent to award a contract, the protest shall be filed no later than 3:00 p.m. of the tenth (10th) business day after the issuance of the Letter of Intent to Award the contract.
- C. An untimely protest may be considered by ODJFS if ODJFS determines that the protest raises issues significant to the department's procurement system. An untimely protest is one received by ODJFS' Office of Legal Services after the time periods set forth in Item B. of this section.

- D. All protests must be filed with the ODJFS Office of Legal Services at the following location:

Chief Legal Counsel  
Office of Legal Services  
Ohio Department of Job and Family Services  
30 East Broad Street, 31st Floor  
Columbus, Ohio 43215-0423

- E. 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 ODJFS determines that a delay will severely disadvantage the Department. The vendor(s) who would have been awarded the contract shall be notified of the receipt of the protest.
- F. ODJFS' Office of Legal Services shall issue written decisions on all timely protests and shall notify any vendor who filed an untimely protest as to whether or not the protest will be considered.

## 6.2 Caveats

**ODJFS is under no obligation to issue a contract as a result of this solicitation if, in the opinion of ODJFS and the proposal review team, none of the proposals are responsive to the objectives and needs of the Department. ODJFS reserve the right to not select any vendor should ODJFS decide not to proceed. Changes in this RFP of a material nature will be provided via the agency website. All vendors are responsible for obtaining any such changes without further notice by ODJFS.**

## SECTION VII. ATTACHMENTS

- A. **ODJFS Model Contract**
- B. **Technical Proposal Score Sheet**
- C. **Required Vendor Information & Certifications**
- D. **Request for Taxpayer Identification Number (W-9)**

Thank you for your interest in this project.

**ATTACHMENT A**  
**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**  
**CONTRACT FOR SERVICES**

**C-04-07-XXXX**

This Contract is entered into by and between the State of Ohio, Department of Job and Family Services (hereinafter "ODJFS") and \_\_\_\_\_ (hereinafter "CONTRACTOR").

**RECITALS:**

- A. ODJFS issued a Request for Proposal (hereinafter "RFP") numbered R-\_\_-07-\_\_\_\_ and dated \_\_\_\_\_, 200\_\_.
- B. The ODJFS evaluation committee recommended for award the Proposal of CONTRACTOR dated \_\_\_\_\_, 200\_\_, (hereinafter "Proposal").

THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED IN THIS CONTRACT, THE PARTIES AGREE AS FOLLOWS:

**ARTICLE I: DELIVERABLES**

- A. CONTRACTOR agrees to provide the following services, products, etc. (hereinafter "Deliverables") to ODJFS and will report to \_\_\_\_\_ who is the ODJFS Contract Manager:
- B. CONTRACTOR agrees to furnish its own support staff and services as necessary for the satisfactory performance of the work described in ARTICLE I, Section A, above.
- C. ODJFS 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 instruction, the CONTRACTOR agrees to comply with such instructions and fulfill such requests to the satisfaction of ODJFS. 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, and are not intended to amend or alter this Contract or any part thereof. All such instructions and requests will be communicated to the CONTRACTOR by the ODJFS Contract Manager. If the CONTRACTOR believes such instructions or requests would materially alter the terms of this Contract or compensation stated hereunder, CONTRACTOR shall notify the ODJFS Contract Manager pursuant to ARTICLE IV.
- D. CONTRACTOR shall consult with the ODJFS Contract Manager as necessary to assure comprehensive understanding of the work and satisfactory completion thereof.
- E. Ownership of Deliverables:
  - 1. Any Deliverable provided by the CONTRACTOR under this ARTICLE I and any item produced under this Contract or with funds hereunder, including any documents, data, photographs and negatives, electronic reports/records, or other media, are the property of ODJFS which has an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. The CONTRACTOR will not obtain copyright, patent, or other proprietary protection for the Deliverables. The CONTRACTOR will not include in any Deliverable any copyrighted matter, unless the copyright owner gives prior written approval for ODJFS and CONTRACTOR to use such copyrighted matter in the manner provided herein. CONTRACTOR agrees that all Deliverables will be made freely available to the general public unless ODJFS determines that, pursuant to state or federal law, such materials are confidential or otherwise exempted from disclosure.
  - 2. The Deliverable(s) and any item(s) provided or produced pursuant to this Contract (collectively "Deliverables") shall be considered "works made for hire" within the meaning of copyright laws of the United States of America and the State of Ohio. ODJFS is and shall be deemed the sole author of the Deliverable(s) and sole owner of all rights therein. If any portion of the Deliverable(s) is/are deemed not to be a "work made for hire," or if there

are any rights in the Deliverable(s) not so conveyed to ODJFS, then CONTRACTOR agrees to and by executing this Contract hereby does assign to ODJFS all worldwide rights, title, and interest in and to the Deliverables. ODJFS acknowledges that its sole ownership of the Deliverable(s) under this Contract does not affect CONTRACTOR's right to use general concepts, algorithms, programming techniques, methodologies, or technology that have been developed by CONTRACTOR prior to or as a result of this Contract or that are generally known and available.

3. If the CONTRACTOR wishes to include any of its own pre-existing, proprietary materials in any of the Deliverables under this Contract, it may do so only after requesting in writing such inclusion and obtaining written approval from ODJFS prior to including such pre-existing materials. ODJFS's approval of the inclusion of pre-existing, proprietary materials is predicated on the CONTRACTOR granting to ODJFS and the State of Ohio a worldwide, non-exclusive, royalty-free license to use, modify, sell, and otherwise distribute all such materials to be so included in the Deliverables under this Contract. Upon request by the CONTRACTOR, ODJFS will incorporate into any future copies of the Deliverables under this Contract any proprietary notice(s) the CONTRACTOR may reasonably require for any pre-existing, proprietary materials included in the Deliverables of this Contract. Any such proprietary notices shall be the minimum required by law so as not to be seen as an endorsement by ODJFS of or advertisement for the CONTRACTOR.
4. If the Deliverables of this Contract require the inclusion of third-party proprietary software or operating systems, such third-party software or operating systems must be commercially available to any person, entity, or State and must be considered "off-the-shelf" products with published (catalog/SKU) prices.
5. For computer software developed under this Contract or for proprietary software incorporated into the Deliverables pursuant to the terms of Paragraph 3 of this Section, copies of any source code, object code, documentation, and any other item necessary for the proper operation of a Deliverable (hereinafter "Operational Materials") under this Contract shall be given to ODJFS in conjunction with or prior to the invoicing for payment of any such Deliverable. CONTRACTOR shall include an affirmative statement with every invoice for payment that all applicable Operational Materials for the Deliverable included in that invoice have been delivered to ODJFS. ODJFS shall have no obligation to pay on an invoice until such time as necessary copies of Operational Materials are delivered and the affirmative written statement of the CONTRACTOR is obtained. All software shall conform to documentation.

## **ARTICLE II: TIME OF PERFORMANCE**

- A. Upon approval by the Director of ODJFS and other appropriate agencies, this Contract is in effect from \_\_\_\_\_, 2004, or upon execution (as defined in ARTICLE II, Section B), whichever is later, through June 30, 2005, unless this Contract is suspended or terminated pursuant to ARTICLE V prior to the termination date. This Contract may be renewed through June 30, 200\_, upon satisfactory completion of Deliverable(s) due hereunder, appropriation by the General Assembly of funds for such, and at the sole discretion of ODJFS. ODJFS shall issue a notice to CONTRACTOR if ODJFS decides to renew this Contract. CONTRACTOR shall not obligate resources in anticipation of a renewal until such notice is provided.
- B. It is expressly understood by both ODJFS and the CONTRACTOR that this Contract shall not be valid and enforceable until the Director of the Office of Budget and Management first certifies, pursuant to section 126.07 of the Ohio Revised Code, that there is a balance in the appropriation not already obligated to pay existing obligations. The CONTRACTOR hereby expressly agrees to neither perform work nor submit an invoice for payment for work performed under this Contract for any time period prior to the ODJFS Contract Manager notifying CONTRACTOR that the requirements of section 126.07 of the Ohio Revised Code have been met. CONTRACTOR further agrees to 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**

- A. CONTRACTOR will render detailed invoices in triplicate for the actual cost of work upon completion of Deliverable(s) according to the terms of ARTICLE I of this Contract and the CONTRACTOR's Proposal to: Ohio Department of Job and Family Services, Bureau of Accounts Payable, 30 East Broad Street, 38<sup>th</sup> Floor, Columbus 43215-3414. All such invoices must contain the following information:
  1. CONTRACTOR's name (as it appears on the Contract and Purchase Order);

2. CONTRACTOR's mailing address and, if applicable, a remit address;
  3. CONTRACTOR's invoice number and the date of the invoice;
  4. Amount and purpose of billing, including such detail as required per the compensation section of this Contract, deliverables completed, description of services rendered, hourly rates and numbers of hours, (if applicable), amount of monthly fee (if applicable), and itemized travel and other expenses if permitted by this Contract;
  5. Contract number and date;
  6. Purchase order number; and
  7. Federal Tax ID Number or Social Security Number.
- B. In consideration of the Deliverables provided pursuant to ARTICLE I of this Contract, ODJFS agrees to pay compensation up to \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_.) for State Fiscal Year ("SFY") 2004, and up to \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_.) for SFY 2005. It is expressly understood by ODJFS and CONTRACTOR that the terms of this Contract do not allow total compensation in excess of \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_.) for the Contract period as set forth in ARTICLE II. CONTRACTOR hereby waives the interest provisions of section 126.30 of the Ohio Revised Code.
- C. It is further understood by CONTRACTOR and ODJFS that the terms of this Contract, when combined with any other payments made to or open encumbrances with CONTRACTOR during the same state fiscal year, cannot establish compensation in excess of \$50,000.00 aggregate, unless prior approval of such contractual terms has been received from the State Controlling Board in accordance with section 127.16 of the Ohio Revised Code.
- D. Subject to the provisions of sections 126.07 and 131.33 of the Ohio Revised Code, which shall at all times govern this Contract, ODJFS represents: (1) that it has adequate funds to meet its obligations under this Contract; (2) that it intends to maintain this Contract 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 (3) that it will use its best effort to obtain the appropriation of any necessary funds during the term of this Contract. However, it is understood by CONTRACTOR that availability of funds is contingent on appropriations made by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding ODJFS for the payments due hereunder, this Contract is terminated as of the date funding expires without further obligation of the State of Ohio.
- E. It is further understood by CONTRACTOR that compensation under this Contract may be based in whole or in part upon funding sources external to the State of Ohio (e.g., federal funding). Should the external source of the funding be terminated or reduced for reasons beyond the control of ODJFS or the State of Ohio, this Contract shall terminate as of the date the funding expires without further obligation of the State of Ohio.
- F. CONTRACTOR expressly understands that ODJFS will not compensate CONTRACTOR for any work performed prior to the ODJFS Contract Manager notifying CONTRACTOR that the requirements of section 126.07 of the Ohio Revised Code have been met as set forth in ARTICLE II, Section B, and that ODJFS will not compensate CONTRACTOR for any work performed after the termination date set forth in ARTICLE II, Section A.
- G. ODJFS does not have the ability to compensate the CONTRACTOR for work performed under the Contract after the State of Ohio purchase order for the Contract has been closed. Therefore, the final invoice for compensation of work performed under this Contract must be received by ODJFS, per Section A of this ARTICLE III, not later than ninety (90) days after the date of termination of this Contract. Failure of the CONTRACTOR to submit the final invoice by this deadline shall be deemed a forfeiture by the CONTRACTOR of all remaining compensation pursuant to the Contract.

#### **ARTICLE IV: NOTICES**

- A. The Parties agree that, pursuant to ARTICLE I, Sections C and D, communication regarding the Deliverable(s), scope of work, invoice or billing questions, and other day-to-day instructions shall be between CONTRACTOR and the identified ODJFS Contract Manager.
- B. Notices to ODJFS sent by CONTRACTOR concerning changes to the CONTRACTOR's principal place of business, billing address, legal name, federal tax identification number, mergers or acquisitions, corporate form, excusable delay, termination, bankruptcy, assignment, any notice pursuant to ARTICLE XI, and/or any other formal notice regarding this

Contract shall be sent to: Deputy Director for Contracts, Ohio Department of Job and Family Services, Office of Contracts and Acquisitions, 30 East Broad Street, 31st Floor, Columbus, OH 43215-3414.

- C. Notices to CONTRACTOR sent by ODJFS concerning termination, suspension, option to renew, breach, default, or other formal notices required by this Contract shall be sent to: \_\_\_\_\_
- D. All notices in accordance with Sections B and C of this ARTICLE shall be in writing and shall be deemed to be given when received. Such notices must be sent using a delivery method that documents actual delivery to the appropriate address herein indicated (e.g., certified mail).

#### **ARTICLE V: SUSPENSION AND TERMINATION; BREACH AND DEFAULT**

- A. Notwithstanding other provisions in this ARTICLE V, either party may terminate this Contract at will by giving ninety (90) days written notice to the other party. Upon thirty (30) days written notice to CONTRACTOR, ODJFS may suspend this Contract at ODJFS's sole discretion.
- B. Notwithstanding ARTICLE V, Sections A or C, ODJFS may suspend or terminate this Contract immediately upon delivery of written notice to CONTRACTOR if ODJFS has discovered any illegal conduct on the part of CONTRACTOR, any violation of ARTICLE XI of the Contract, loss of funding as set forth in ARTICLE III, Sections D or E, or the filing of a petition in bankruptcy (or similar proceeding) by or against the CONTRACTOR.
- C. Except as provided in Sections A and B of this ARTICLE, after written notice from ODJFS of CONTRACTOR's breach of any of its obligations under this Contract, CONTRACTOR will have thirty (30) calendar days within which to cure any such breach, provided the breach is curable. If the CONTRACTOR fails to cure the breach within the thirty (30) calendar days after written notice or if the breach is not curable, ODJFS may then immediately suspend or terminate this Contract. ODJFS may also suspend or terminate this Contract in the case of breaches that are cured within thirty (30) calendar days, but that are persistent. For purposes of this Section, "persistent" means that ODJFS has notified the CONTRACTOR three (3) times in writing of the CONTRACTOR's failure to meet any of its contractual obligations. The three notices do not have to relate to the same obligation or type of failure. After the third notice, ODJFS may suspend or terminate this Contract without a cure period if the CONTRACTOR again fails to meet any contractual obligation. In the sole discretion of ODJFS, certain instances of breach may require a shorter cure period than the thirty (30) calendar days generally applicable in this Section. In such instances, ODJFS will include in its notice of breach the shorter period for cure that it deems appropriate.
- D. CONTRACTOR, upon receipt of notice of suspension or termination, agrees that it will cease work on the suspended or terminated activities under this Contract, suspend or terminate all subcontracts relating to such suspended or terminated activities, take all necessary and/or appropriate steps to limit disbursements and minimize cost, 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 ODJFS may require. Suspension, termination, or expiration of this Contract will not limit the CONTRACTOR's continuing obligations with respect to Deliverables paid for by ODJFS before termination or limit ODJFS's rights in such Deliverables.
- E. In the event of suspension or termination under this ARTICLE V, CONTRACTOR will be entitled to compensation, upon submission of a proper invoice per ARTICLE III, for the work performed prior to CONTRACTOR's receipt of notice of suspension or termination. Compensation will be calculated by ODJFS based on the compensation structure set forth in ARTICLE III, less any funds previously paid by or on behalf of ODJFS, or in the case of services for which the CONTRACTOR charges a flat rate, based on a reasonable percentage of the total services performed as determined by ODJFS, less any funds previously paid by or on behalf of ODJFS.
- F. If ODJFS terminates this Contract for any reason provided in this ARTICLE except for termination at will pursuant to Section A or termination for loss of funding pursuant to Section B, ODJFS will be entitled to continue the project that is the subject of this Contract by utilizing another contractor on such commercially reasonable terms as ODJFS and the covering contractor may agree. In such an instance, CONTRACTOR will be liable to ODJFS for all costs related to covering the project to the extent that such costs, when combined with payments already made to CONTRACTOR prior to termination, exceed the costs that ODJFS would have incurred under this Contract. CONTRACTOR's liability under this Section is in addition to any other remedies available to ODJFS pursuant to this Contract.

- G. Upon breach or default of any of the provisions, obligations, or duties embodied in this Contract, ODJFS may exercise any 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 ODJFS retains the right to exercise all remedies hereinabove mentioned.
- H. If ODJFS or CONTRACTOR fails to perform an obligation or obligations under this Contract and thereafter such failure(s) is (are) waived by the other party, such waiver is limited to the particular failure(s) so waived and shall not be deemed to waive other failures hereunder. Waiver by ODJFS is not effective unless it is in writing signed by the ODJFS Director.

#### **ARTICLE VI: EQUAL EMPLOYMENT OPPORTUNITY**

- A. In carrying out this Contract, the CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. The CONTRACTOR will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, national origin, ancestry, color, gender, sexual orientation, age, disability, or veteran status. Such action includes, but is not limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship. CONTRACTOR certifies current and ongoing compliance with the Executive Order 11246 concerning Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by Department of Labor regulations found at 41 C.F.R. Chapter 60.
- B. The CONTRACTOR agrees to post in conspicuous places, available to all employees and applicants for employment, notices stating that the CONTRACTOR complies with all applicable federal and state non-discrimination laws. The CONTRACTOR will incorporate the foregoing requirements of this Section in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR and in all of its contracts for any of the work prescribed in this Contract. CONTRACTOR will also require all of its subcontractors to incorporate such requirements in all subcontracts for any part of the work under this Contract.
- C. CONTRACTOR, its officers, employees, members, and subcontractors hereby certify current and ongoing compliance with the statutes and regulations pertaining to The American's with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

#### **ARTICLE VII: RECORDS, DOCUMENTS AND INFORMATION**

CONTRACTOR agrees that all records, documents, writings, or other information, whatever their form, produced by CONTRACTOR under this Contract, and all records, documents, writings, or other information used by CONTRACTOR in the performance of this Contract are treated according to the following terms:

- A. All ODJFS information which, under the laws of the State of Ohio or federal law, is classified as public or as private will be treated as such by CONTRACTOR. Where there is a question as to whether information is public or private, ODJFS will make the final determination.
- B. All CONTRACTOR information which is proprietary will be held strictly confidential by ODJFS. Proprietary information is information which, if made public, would put CONTRACTOR at a disadvantage in the marketplace and trade of which CONTRACTOR is a part. CONTRACTOR is responsible for notifying ODJFS of the nature of the information prior to its release to ODJFS. Failure to provide such prior notification is deemed to be a waiver of the proprietary nature of the information, and a waiver of any right of CONTRACTOR to proceed against ODJFS for violation of this Contract or of any proprietary or trade secret laws. Such failure shall also be deemed a waiver of trade secret protection in that the CONTRACTOR will have failed to make efforts that are reasonable under the circumstances to maintain the information's secrecy [see, section 1333.61(D)(2) of the Ohio Revised Code]. ODJFS reserves the right to require reasonable evidence of CONTRACTOR's assertion of the proprietary nature of any information to be provided. ODJFS will make the final determination as to whether any or all of the information identified by the CONTRACTOR is proprietary or is a trade secret.
- C. All records relating to costs, work performed, and supporting documentation for invoices submitted to ODJFS by CONTRACTOR along with copies of all Deliverables submitted to ODJFS pursuant to this Contract will be retained and made available by CONTRACTOR for audit by the State of Ohio (including but not limited to ODJFS, the Auditor of the State of Ohio, the Inspector General of Ohio, or any duly authorized law enforcement officials) and by agencies of the

United States government for a minimum of three (3) years after payment for work performed under this Contract. If an audit, litigation, or other action related to this Contract is initiated during this time period, CONTRACTOR shall retain such records until the action is concluded and all issues have been resolved or the three (3) years end, whichever is later. If appropriate, CONTRACTOR must comply with the requirements of the federal OMB Circular A-87, A-110, A-122, or A-133. CONTRACTOR acknowledges, in accordance with section 149.31 of the Ohio Revised Code, that financial records related to the performance of services under this Contract are presumptively deemed to be public records.

- D. CONTRACTOR agrees that it will not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. CONTRACTOR agrees to be bound by the same standards of confidentiality that apply to the employees of ODJFS and the State of Ohio. The terms of this ARTICLE will be included in any subcontracts executed by the CONTRACTOR for work under this Contract. CONTRACTOR agrees that any data made available to CONTRACTOR by ODJFS shall be returned to ODJFS not later than ninety (90) days following the termination of this Contract, and CONTRACTOR shall certify that it retains no copies of source data. CONTRACTOR hereby agrees to current and ongoing compliance with 42 U.S.C. Sections 1320d through 1320d-8 and the implementing regulations found at 45 C.F.R. 164.502(e) and 164.504(e) regarding disclosure of protected health information under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

### **ARTICLE VIII: INDEPENDENT CONTRACTOR**

CONTRACTOR agrees that 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 Contract. CONTRACTOR also agrees that, as an independent contractor, CONTRACTOR assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder. CONTRACTOR agrees that it is an independent contractor for all purposes including, but not limited to, the application of the Fair Labor Standards Act, the Social Security Act, the Federal Unemployment Tax Act, the Federal Insurance Contribution Act, provisions of the Internal Revenue Code, Ohio tax law, Workers Compensation law, and Unemployment Insurance law.

### **ARTICLE IX: LIMITATION OF LIABILITY; CONTRACTOR DUTIES**

- A. CONTRACTOR agrees to hold ODJFS, any official or employee of ODJFS acting in his or her official capacity, and the State of Ohio harmless from any and all claims for personal injury resulting from activities in furtherance of the work hereunder.
- B. ODJFS's liability, whether in contract or in tort, may not exceed the total amount of compensation payable to CONTRACTOR under ARTICLE III or the amount of direct damages incurred by CONTRACTOR, whichever is less. The CONTRACTOR's sole and exclusive remedy for ODJFS's failure to perform under this Contract is an action in the Ohio Court of Claims, pursuant to Chapter 2743 of the Ohio Revised Code, and subject to the limitations set forth in this ARTICLE IX. IN NO EVENT IS ODJFS LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, EVEN IF ODJFS KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
- C. CONTRACTOR agrees to defend any suit or proceeding brought against ODJFS, any official or employee of ODJFS acting in his or her official capacity, or the State of Ohio due to any alleged infringement of patent or copyright arising out of the performance of this Contract, including all work, services, materials, reports, studies, and computer programs provided by CONTRACTOR. ODJFS will provide: prompt notification in writing of such suit or proceeding; full right, authorization, and opportunity to conduct the defense thereof; and full information along with all reasonable cooperation for the defense of same. ODJFS may participate in the defense of any such action. CONTRACTOR agrees to pay all damages and costs awarded against ODJFS, any official or employee of ODJFS in his or her official capacity, or the State of Ohio as a result of any suit or proceeding referred to in this Section C. If any information and/or assistance is furnished by ODJFS at CONTRACTOR's written request, it is at CONTRACTOR's expense. If any of the materials, reports, or studies provided by CONTRACTOR are found to be infringing items and the use or publication thereof is enjoined, CONTRACTOR agrees to, at its own expense and at its option, either procure the right to publish or continue use of such infringing materials, reports, or studies; replace them with non-infringing items of equivalent value; or modify them so that they are no longer infringing. The obligations of CONTRACTOR under this Section survive the termination of this Contract, without limitation.
- D. CONTRACTOR will not permit any lien or claim to be filed or prosecuted against the State of Ohio or ODJFS on account of any labor, services, or materials furnished to CONTRACTOR by any entity in connection with this Contract.

Should any such claims become due, the proper officer(s) representing ODJFS may, but is/are not obligated to, pay such claims to the entity furnishing the labor or services and charge the amount of the payment against funds due or to become due to CONTRACTOR pursuant to this Contract.

- E. Neither party shall be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delaying party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date as soon as practicable after notice of delay. The delaying party must also describe the cause of the delay and its proposal to remove or mitigate the delay. Notices shall be sent pursuant to ARTICLE IV. In the event of excusable delay, the date of performance or delivery of products may be extended by amendment, if applicable, for a time period equal to that lost by reason of the excusable delay. Reliance on a claim of excusable delay may only be asserted if the delaying party has taken commercially reasonable steps to mitigate or avoid the delay. Items that are controllable by the CONTRACTOR's subcontractor(s) shall be considered controllable by the CONTRACTOR, except for third-party manufacturers supplying commercial items and over whom the CONTRACTOR has no legal control. The final determination of whether an instance of delay is excusable lies with ODJFS in its discretion.

#### **ARTICLE X: AMENDMENT AND ASSIGNMENT**

- A. 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 amendment(s) to laws or regulations cited herein will result in the correlative modification of this Contract, without the necessity for executing written amendments. The impact of any applicable law, statute, or regulation not cited herein and enacted after the date of execution of this Contract will be incorporated into this Contract by written amendment signed by both parties and will be effective as of the date of enactment of the law, statute, or regulation. Any other written amendment to this Contract is prospective in nature.
- B. CONTRACTOR agrees that it will neither assign any obligation or interest (including subcontracts) in this Contract nor transfer any obligation or interest in the same (whether by assignment or novation) without the prior written approval of ODJFS and subject to such conditions and provisions as ODJFS may deem necessary. Any such approval by ODJFS of an assignment will not be deemed in any event or in any manner to provide for the incurrence of any obligation by ODJFS in excess of the total agreed-upon compensation of this Contract.

#### **ARTICLE XI: SPECIAL CERTIFICATION MADE BY CONTRACTOR**

By executing this Contract, CONTRACTOR certifies and affirmatively represents current compliance and agrees to continued compliance with each condition listed in this ARTICLE XI. The CONTRACTOR's certification and affirmation of compliance with each of these conditions are considered to be material representations of fact upon which ODJFS relied in entering into this Contract.

- A. If, at any time, the CONTRACTOR is not in compliance with the conditions certified and affirmed in this ARTICLE XI, Section A, ODJFS will consider the contract *void ab initio* and deliver written notice to the CONTRACTOR. Any funds paid by the State for work performed before the CONTRACTOR was notified that the Contract was considered *void ab initio* shall be immediately repaid to the State, or an action for recovery may be immediately commenced by the State for recovery of said funds.
1. CONTRACTOR certifies that neither CONTRACTOR, nor any principal of CONTRACTOR is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by the United States Department of Labor, the United States Department of Health and Human Services, or any other federal department or agency as set forth in 29 CFR Part 98, 45 CFR Part 76, or other applicable statutes or regulations.
  2. CONTRACTOR certifies that CONTRACTOR is not on the list established by the Ohio Secretary of State, pursuant to Section 121.23 of the Ohio Revised Code that identifies CONTRACTOR as having more than one unfair labor practice contempt of court finding.
  3. CONTRACTOR certifies that CONTRACTOR is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or it has taken the appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section to contract with the State of Ohio.

4. 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 Contractor becomes disqualified from conducting business in Ohio, for whatever reason, CONTRACTOR must immediately notify ODJFS of the disqualification, and CONTRACTOR will immediately cease performance of its obligation hereunder.
- B. If, at any time, the CONTRACTOR is not in compliance with the conditions certified and affirmed in this ARTICLE XI, Section B, ODJFS may immediately suspend or terminate this Contract and deliver written notice to the CONTRACTOR. CONTRACTOR will be subject to all provisions in the Contract pertaining to termination for any reason except for termination at will pursuant to ARTICLE V, Section A or termination for loss of funding pursuant to ARTICLE V, Section B, all such provisions being as stated in ARTICLE V. CONTRACTOR will be entitled to compensation, upon submission of a proper invoice per ARTICLE III, only for work performed during the time the CONTRACTOR was in compliance with the provisions of ARTICLE XI, Section B. Compensation will be calculated by ODJFS utilizing the same methodology as described in ARTICLE V, Section E. Any funds paid by the State for work performed during a period when the CONTRACTOR was not in compliance with ARTICLE XI, Section B shall be immediately repaid to the State, or an action for recovery may be immediately commenced by the State for recovery of said funds.
1. CONTRACTOR, along with the officers, members, and employees of the CONTRACTOR, have no interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree the discharge and fulfillment of its, his, or her functions and responsibilities under this Contract. CONTRACTOR agrees to periodically inquire of its officers, members, and employees concerning such interests. Any person who acquires an incompatible, compromising, or conflicting personal or business interest shall immediately disclose his or her interest to ODJFS in writing. Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless ODJFS shall determine that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest. The written disclosure of such interest shall be made to Chief Legal Counsel, Ohio Department of Job and Family Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414.
  2. CONTRACTOR agrees to refrain from promising or giving to any ODJFS 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. CONTRACTOR also agrees that it will not solicit an ODJFS employee to violate any ODJFS rule or policy relating to the conduct of contracting parties or to violate sections 102.03, 102.04, 2921.42 of the Ohio Revised Code. CONTRACTOR, its officers, members and employees are in compliance with section 102.04 of the Ohio Revised Code and, that if it is required to file a statement pursuant to 102.04(D)(2) of the Ohio Revised Code, CONTRACTOR has filed the statement with the ODJFS Chief Legal Counsel in addition to any other required filings.
  3. By executing this Contract, CONTRACTOR certifies that no party listed or described in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code who was actually in such a position at the time of the contribution, has made, as an individual, within the two previous calendar years, one or more contributions in excess of one thousand dollars (\$1,000.00) to the present Governor or to the governor's campaign committee during any time he/she was a candidate for office. Ohio Revised Code 3517.13 Sections (I) and (J) do not apply to professional associations organized under Chapter 1785 of the Ohio Revised Code.
  4. No federal funds paid to CONTRACTOR through this or any other agreement with ODJFS will be or have been used to lobby Congress or any federal agency in connection with a particular contract, grant, cooperative agreement, or loan. CONTRACTOR further certifies compliance with the lobbying restrictions contained in Section 1352, Title 31 of the U.S. Code, Section 319 of Public Law 101-121, and federal regulations issued pursuant thereto and contained in 29 C.F.R. Part 93, 45 C.F.R. Part 93, and Federal Register, Vol. 55, No. 38, February 26, 1990, pages 6735-6756. If this Contract exceeds One Hundred Thousand and 00/100 Dollars (\$100,000.00), CONTRACTOR has executed the Disclosure of Lobbying Activities, Standard Form LLL, if required by federal regulation.
  5. CONTRACTOR is in compliance with the executive agency lobbying requirements of sections 121.60 to 121.69 of the Ohio Revised Code.
  6. CONTRACTOR agrees to cooperate with ODJFS and any child support enforcement agency in ensuring that the CONTRACTOR and the employees of the CONTRACTOR meet child support obligations established

under state or federal law. Further, by executing this Contract, CONTRACTOR certifies present and future compliance with any court or valid administrative order for the withholding of support which is issued pursuant to the applicable sections in Chapters 3119, 3121, 3123, and 3125 of the Ohio Revised Code.

7. CONTRACTOR is in compliance with section 4141.044 of the Ohio Revised Code which requires CONTRACTOR to provide a listing of all available job vacancies to ODJFS. This requirement does not apply when the CONTRACTOR is filling the vacancy within the organization or pursuant to a customary and traditional employer-union hiring arrangement.
  8. CONTRACTOR agrees not to discriminate against individuals who have or are participating in any work program administered by any county department of job and family services under Chapter 5101 or 5107 of the Ohio Revised Code.
  9. CONTRACTOR, its officers, employees, members, any subcontractors, and/or any independent contractors (including all field staff) associated with this Contract agree to comply with all applicable state and federal laws regarding a drug-free workplace. The CONTRACTOR will make a good faith effort to ensure that all CONTRACTOR officers, employees, members, and subcontractors will not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way while working or while on public property.
- C. If any of the information pertaining to Article XI, Sections A and B changes after the Contract has been signed the CONTRACTOR is required to report such changes immediately to ODJFS in writing to the address listed for notice in Article IV, Section B.

#### **ARTICLE XII: BUSINESS ASSOCIATE REQUIREMENTS UNDER HIPAA**

- A. Definitions. The definitions contained in this Section are derived from federal law. Should there be any conflict between the meanings assigned in this Contract and the meanings defined in applicable federal law (even in the event of future amendments to law that create such conflict), the definitions found in federal law shall prevail.
1. ΔHIPAA@ means the Health Insurance Portability and Accountability Act of 1996.
  2. ΔCovered Entity@ means a health plan, a health care clearinghouse, or health care provider. (45 C.F.R. 160.103)
  3. ΔBusiness Associate@ means a person or entity that, on behalf of the Covered Entity, performs or assists in the performance of a function or activity that involves the use or disclosure of ΔProtected Health Information.@ (45 C.F.R. 160.103)
  4. ΔProtected Health Information@ (hereinafter ΔPHI@) means information received from or on behalf of a Covered Entity that meets the definition of PHI as defined by HIPAA and the regulations promulgated by the United States Department of Health and Human Services, specifically 45 C.F.R. 164.501 and any amendments thereto. (45 C.F.R. 164.501)
- B. CONTRACTOR acknowledges that ODJFS through its Office of Ohio Health Plans is a Covered Entity under HIPAA. CONTRACTOR further acknowledges that CONTRACTOR is a Business Associate of ODJFS, and, in carrying out the work described in this Contract, the CONTRACTOR agrees to comply with all of the following provisions:
1. Permitted Uses and Disclosures. The CONTRACTOR shall not use or disclose PHI except as provided in this Contract or as otherwise required under HIPAA regulations or other applicable law.
  2. Safeguards. CONTRACTOR shall use appropriate safeguards to protect against use or disclosure not provided for by this Contract.
  3. Reporting of Disclosures. The CONTRACTOR shall promptly report to ODJFS any knowledge of uses or disclosures of PHI that are not in accordance with this Contract or applicable law. In addition, the CONTRACTOR shall mitigate any adverse effects of such a breach of confidentiality to the greatest extent possible.

4. Agents and Subcontractors. CONTRACTOR shall ensure that all its agents and subcontractors that receive PHI from or on behalf of the CONTRACTOR and/or ODJFS agree to the same restrictions and conditions that apply to CONTRACTOR with respect to the use or disclosure of PHI.
5. Accessibility of Information. The CONTRACTOR shall make available to ODJFS such information as ODJFS may require to fulfill its obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA and regulations promulgated by the United States Department of Health and Human Services, including, but not limited to, 45 C.F.R. 164.524 and 164.528 and any amendments thereto.
6. Amendment of Information. The CONTRACTOR shall make PHI available to ODJFS so that ODJFS may fulfill its obligations pursuant to HIPAA to amend the information. As directed by ODJFS, CONTRACTOR shall also incorporate any amendments into the information held by the CONTRACTOR and shall ensure incorporation of any such amendments into information held by CONTRACTOR=s agents or subcontractors.
7. Disclosure. The CONTRACTOR shall make available to ODJFS and to the Secretary of the U.S. Department of Health and Human Services any and all internal practices, documentation, books, and records related to the use and disclosure of PHI received from ODJFS, or created or received by the CONTRACTOR on behalf of ODJFS. Such access is for the purpose of determining ODJFS=s compliance with HIPAA, regulations promulgated by the United States Department of Health and Human Services, and any amendment thereto.
8. Material Breach. In the event of material breach of CONTRACTOR obligations under this ARTICLE, ODJFS may immediately terminate this Contract as set forth in ARTICLE V, Section B. Termination of this Contract shall not affect any provision of this Contract which, by its wording or its nature, is intended to remain effective and to continue to operate after termination.
9. Return or Destruction of Information. Upon termination of this Contract and at the request of ODJFS, the CONTRACTOR shall return to ODJFS or destroy all PHI in CONTRACTOR=s possession stemming from this CONTRACT, and shall not keep copies of the PHI except as requested by ODJFS or required by law. If the CONTRACTOR, its agent(s), or subcontractor(s) destroy any PHI, then the CONTRACTOR will provide to ODJFS documentation evidencing such destruction. Any PHI retained by the CONTRACTOR shall continue to be extended the same protections set forth in this Section and HIPAA regulations for as long as it is maintained.

### **ARTICLE XIII: CONSTRUCTION**

This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Contract be unenforceable by operation of statute or by administrative or judicial decision, the operation of the balance of this Contract is not affected thereby; provided, however, the absence of the illegal provision does not render the performance of the remainder of the Contract impossible. Should the removal of such an unenforceable provision render the intended performance under this Contract difficult or nonsensical, but not impossible, the parties shall negotiate in good faith replacement provision(s) in keeping with the objectives of the Contract and the budgetary and statutory constraints of ODJFS.

### **ARTICLE XIV: INCORPORATION BY REFERENCE**

The Request for Proposal document and the Proposal (*i.e.*, the technical and cost proposals) of the CONTRACTOR are hereby incorporated by reference as part of this Contract having the full force and effect as if specifically restated herein. In the event of any inconsistency or ambiguity between the provisions of the RFP, the Proposal or this Contract, the provisions of this Contract shall be determinative of the obligations of the parties. In the event that the Contract is silent with respect to any inconsistency or ambiguity between the RFP and the Proposal, the RFP shall be determinative in the obligations of the parties. In the event that a dispute arises which is not addressed in any of the aforementioned documents, the parties hereby agree to make every reasonable effort to resolve the dispute in keeping with the objectives of the Contract and the budgetary and statutory constraints of ODJFS.

***SIGNATURE PAGE FOLLOWS***

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# ATTACHMENT B

## Technical Proposal Score Sheet

### RFP#: R-04-07-0956

#### PHASE I: Initial Qualifying Criteria

The proposal must meet all of the following PHASE I criteria in order to be considered for further evaluation. Any proposal receiving a “no” response shall be disqualified from further consideration.

ITEM	CRITERIA Any “NO” answer will disqualify the proposal.	RFP SEC. REF.	Y E S	N O
1	Was the proposal received by the deadline as specified in Sections 1.5 & 4.1 of the RFP?	1.5/4.1		
2	Did the vendor submit seven (7) copies of their Technical Proposal along with their Cost Proposal (in a separate sealed envelope) labeled: “NOTE: DO NOT OPEN. COST PROPOSAL ENCLOSED FOR PHARMACY DRUG DISPENSING FEE SURVEY RFP#: R-04-07-0956 FROM (VENDOR’S NAME)”?	4.1 4.2 B.		
3	Does the vendor possess at least 5 years of adequate prior experience in performing survey development, analysis and reporting?	2.1, A., 1.		
4	Did the vendor demonstrate the ability to establish the validity of the response rate by being able to calculate statistical standards such as mean, standard deviation, standard error, median, and confidence level?	2.1 A., 2.		

#### PHASE II: Criteria for Scoring of Technical Proposal

Qualifying technical proposals will be collectively scored by a Proposal Review Committee (PRC) appointed by ODJFS, Office of Ohio Health Plans. For each of the evaluation criteria given in the following score sheet, reviewers will collectively judge whether the technical proposal exceeds, meets, partially meets or does not meet the requirements expressed in the RFP, and assign the appropriate point value, as follows:

0	6	8	10
Does Not Meet Requirement	Partially Meets Requirement	Meets Requirement	Exceeds Requirement

A technical proposal’s total PHASE II score will be the sum of the point value for all the evaluation criteria. The review team will collectively score each individual qualifying proposal. Technical proposals which do not meet or exceed a total score of at least **234** points (a score which represents that it “meets” all the evaluation criteria or 78% of the maximum allowable points) out of a maximum of **300** points, will be disqualified from further consideration, and its cost proposal will neither be opened nor considered. Only those vendors whose Technical Proposals meet or exceed the minimum required technical points will advance to PHASE III of the technical proposal score sheet.

ITEM #	EVALUATION CRITERIA	RFP SEC. REF.	Doesn’t Meet 0	Partially Meets 6	Meets 8	Exceeds 10
<b>REQUIRED VENDOR INFO. &amp; CERTIFICATIONS</b>						
1	The vendor has included, properly completed and signed, the Required Vendor Information & Certifications as specified in the RFP.	4.2 A., 1.				
<b>VENDOR QUALIFICATIONS</b>						
<b>ORGANIZATIONAL EXPERIENCE &amp; CAPABILITIES</b>						
2	The vendor has provided background information on the company, including subcontractors, if appropriate, indicating sufficient organizational experience and staffing to perform the required contractual functions.	2.1 B., 1.				
3	The vendor’s response to the above description regarding their background information on the company, including subcontractors, if appropriate, indicating sufficient organizational experience and staffing to perform the required contractual functions is adequate to meet ODJFS’ needs.					
4	The vendor has provided samples of at least two, but no more than four, similar sized projects completed in the past 5 years that demonstrate expertise in performing survey development,	2.1 B., 2.				

	analysis and reporting.					
5	The vendor's response to the above description regarding samples of at least two, but no more than four, similar sized projects completed in the past five (5) years that demonstrate expertise in performing survey development, analysis and reporting is adequate to meet ODJFS' needs.					
<b>ITEM #</b>	<b>EVALUATION CRITERIA</b>	<b>RFP SEC. REF.</b>	<b>Doesn't Meet</b>	<b>Partially Meets</b>	<b>Meets</b>	<b>Exceeds</b>
			<b>0</b>	<b>6</b>	<b>8</b>	<b>10</b>
6	The vendor has provided names and contact information for at least three entities for which the vendor has performed similar large scale projects in the past five (5) years.	2.1 B., 3.				
7	The vendor's response to the above description regarding names and contact information for at least three entities for which the vendor has performed similar large scale projects in the past five (5) years is adequate to meet ODJFS' needs.					
<b>STAFF EXPERIENCE &amp; CAPABILITIES</b>						
8	The vendor has identified, by position and by name, those staff the vendor considers to be the key to the project's success (at minimum, key staff identified must include a Project Manager).	2.1 C., 1.				
9	The vendor's response to the above description regarding the identification, by position and by name, those staff the vendor considers to be the key to the project's success (at minimum, key staff identified must include a Project Manager) is adequate to meet ODJFS' needs.					
10	The vendor has included resume(s) of key staff expected to work on the project.	2.1 C., 2.				
11	The vendor's response to the above description regarding the resume(s) of key staff expected to work on the project is adequate to meet ODJFS' needs.					
12	The vendor has demonstrated how the Project Manager's and key staff's qualifications and experience are adequate to perform the required contractual functions.	2.1 C., 3.				
13	The vendor's response to the above description regarding their demonstration as to how the Project Manager's and key staff's qualifications and experience are adequate to perform the required contractual functions is adequate to meet ODJFS' needs.					
<b>ADMINISTRATIVE STRUCTURES—PROPOSED WORK PLAN</b>						
14	The vendor has stated the key objectives of the <u>proposed</u> project and has not simply restated the objectives as identified in this RFP.	2.2 A.				
15	The vendor's response to the above description regarding their key objectives of the <u>proposed</u> project is adequate to meet ODJFS' needs.					
16	The vendor has provided a technical approach and work plan to be implemented which includes a proposed timeline for the project which complies with the work phases as specified in Section 1.9, Time Frames & Funding Available.	2.2 B.				
17	The vendor's response to the above description regarding their technical approach and work plan to be implemented which includes a proposed timeline for the project is adequate to meet ODJFS' needs.					
18	The vendor has provided a status reporting procedure for reporting work completed, and resolution of unanticipated problems.	2.2 C.				
19	The vendor's response to the above description regarding their status reporting procedure for reporting work completed, and resolution of unanticipated problems is adequate to meet ODJFS' needs.					
20	The vendor has provided a current organizational chart (including any subcontractors) and specify the key management and administrative personnel who will be assigned to this project.	2.4 D.				
21	The vendor's response to the above description regarding their current organizational chart (including any subcontractors) and specify the key management and administrative personnel who will be assigned to this project is adequate to meet ODJFS' needs.					
22	The vendor has provided a timeline for each component of the scope of work and the project overall including the staff hours for personnel involved; included a Table of Organization (including any subcontractors) and a chart showing the number of hours devoted to the project by vendor or sub-contractor staff and has provided the percentage of time each key management person will devote to the project.	2.2 E.				
23	The vendor's response to the above description regarding their timeline for each component of the scope of work and the project overall including the staff hours for personnel involved; their Table of Organization (including any subcontractors) and their chart showing the number of hours devoted to the project by vendor or sub-contractor staff as well as providing the percentage of time each key management person will devote to the project is adequate to meet ODJFS' needs.					
<b>SPECIFICATIONS OF DELIVERABLES</b>						
<b>SURVEY DEVELOPMENT</b>						
24	The vendor has proposed a technical approach and work plan in regards to survey development as specified in the RFP.	2.3 A.				
25	The vendor's response to the above description regarding their proposed technical approach and work plan in regards to survey development is adequate to meet ODJFS' needs.					
<b>DISTRIBUTION OF SURVEY</b>						
26	The vendor has proposed a technical approach and work plan in regards to the distribution of the survey as well as ascertaining the appropriate response rate of at least a 95% confidence interval.	2.3 B.				
27	The vendor's response to the above description regarding their technical approach and work plan in regards to the distribution of the survey as well as ascertaining the appropriate response rate of at least a 95% confidence interval is adequate to meet ODJFS' needs.					

<b>ANALYSIS AND REPORTING</b>						
28	The vendor has proposed a technical approach and work plan in regards to the analysis and reporting of all data received.	2.3 C.				
<b>ITEM #</b>	<b>EVALUATION CRITERIA</b>	<b>RFP SEC. REF.</b>	<b>Doesn't Meet</b>	<b>Partially Meets</b>	<b>Meets</b>	<b>Exceeds</b>
			<b>0</b>	<b>6</b>	<b>8</b>	<b>10</b>
29	The vendor's response to the above description regarding their technical approach and work plan in regards to the analysis and reporting of all data received is adequate to meet ODJFS' needs.					
<b>PROPOSAL ORGANIZATION</b>						
30	The vendor has submitted a proposal which complies with the required organization of all project components in their respective tabs; complied with the technical proposal and appendices page limitations; submitted a proposal which contains the vendor's entire technical proposal on a CD-ROM in non-rewriteable format; submitted a proposal which includes a completed and signed original (in blue ink) W-9 Form; submitted a proposal which has been thoroughly proofread for spelling and grammatical errors; and submitted a proposal which is free of assumptions and unnecessary braggadocio as specified in the RFP.	4.2 5.1				
<b>Column Subtotal of "Does Not Meet" points</b>			<b>0</b>			
<b>Column Subtotal of "Partially Meets" points</b>						
<b>Column Subtotal of "Meets" points</b>						
<b>Column Subtotal of "Exceeds" points</b>						
<b>GRAND TOTAL SCORE</b>						

**ATTACHMENT C---REQUIRED VENDOR INFORMATION & CERTIFICATIONS**

**Purpose:** The Ohio Department of Job and Family Services (ODJFS) requires the following information on vendors who submit proposals or bids in response to any ODJFS Requests for Proposals (RFPs) or Requests for Letterhead Bids (RLBs) in order to facilitate the development of the contract (or finalization of a purchase) with the selected vendor. ODJFS reserves the right to reject your proposal if you fail to provide this information fully, accurately, and by the deadline set by ODJFS. Further, some of this information (as identified below) **must** be provided in order for ODJFS to accept and consider your proposal\bid. **Failure to provide such required information will result in your proposal’s immediate disqualification.**

**Instructions:** Provide the following information regarding the vendor submitting the proposal or bid. Vendors may either print this attachment, complete and sign it, or may provide the required information and certifications (each fully re-stated from this attachment) on their letterhead as the opening pages of their proposals. It is mandatory that the information provided is certified with an original signature (in blue ink, please) from a person with authority to represent the vendor. Provide your completed and signed information and certifications as the cover pages of the original proposal you submit to ODJFS.

NOTE: If the RFP\RLB specified a maximum page limit for vendor proposals\bids, the attachment of any required certifications or other documents in response to the following information requests will NOT be counted against that page limit.

**Vendors must provide all information**

1. ODJFS RFP #:	2. Proposal Due Date:
3. Vendor Name:  (legal name of the vendor – person or organization – to whom contract\purchase payments would be made)	4. Vendor Federal Tax ID # or Social Security #:  (this number MUST correspond with the name give in Item # 3.)
5. Vendor Corporate Address:	6. Vendor Remittance Address: (or “same” if same as Item # 5)
7. Print or type information on the vendor representative/contact person <u>authorized to answer questions on the proposal\bid</u> :  <b>Vendor Representative:</b> <b>Representative’s Title:</b> <b>Address:</b> <b>Phone #:</b> <b>Fax #:</b> <b>E-Mail (if available):</b>	
8. Print or type the name of the vendor representative <u>authorized to address contractual issues, including the authority to execute a contract on behalf of the vendor, and to whom legal notices regarding contract termination or breach, should be sent (if these are not the same individual, provide the following information on each such representative and specify their function)</u> :  <b>Vendor Representative:</b> <b>Representative’s Title:</b> <b>Address:</b> <b>Phone #:</b> <b>Fax #:</b> <b>E-Mail (if available):</b>	
9. Is this vendor an Ohio certified MBE?    Yes <input type="checkbox"/> No <input type="checkbox"/> <b>If yes, attach a copy of current certification to proposal\bid.</b>  <b>(IF ODJFS has specified the RFP\RLB\purchase document as an opportunity open exclusively to Ohio Certified MBEs, then failure to attach a copy of current certification WILL RESULT IN DISQUALIFICATION. If the RFP\RLB specified a maximum page limit for proposals\bids, the attachment of certification is NOT counted against that page limit.)</b>	
10. <b>Mandatory Vendor Certifications:</b>  ODJFS may not enter into contracts with any vendors who have been found to be ineligible for state contracts under specific federal or Ohio statutes or regulations. All vendors responding to any ODJFS RFP\RLB or other purchase opportunity MUST certify that they are NOT ineligible by signing each of the three statements below. <b>Failure to provide proper affirming signature on any of these statements will result in the disqualification of your proposal\bid.</b>  I _____ (signature of representative shown in Item # 7, above) hereby certify and affirm that _____ (the submitting vendor shown in Item # 3, above), <b>has not been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by the Unites States Department of</b>	

Labor, the United States Department of Health and Human Services, or any other federal department or agency as set forth in 29 CFR Part 98, or 45 CFR Part 76, or other applicable statutes.

AND (continues)

Vendor Information And Required Certifications, Item # 10, continued

I \_\_\_\_\_ (signature of representative shown in Item #7, above) hereby certify and affirm that \_\_\_\_\_ (the submitting vendor shown in Item # 3, above), is not on the list established by the Ohio Secretary of State, pursuant to ORC Section 121.23 which identifies persons and businesses with more than one unfair labor practice contempt of court finding against them.

AND

I \_\_\_\_\_ (signature of representative shown in Item #7, above) hereby certify and affirm that \_\_\_\_\_ (the submitting vendor shown in Item # 3, above), either is not subject to a finding for recovery under ORC Section 9.24, or has taken appropriate remedial steps required under that statute, or otherwise qualifies under that section to enter into contracts with the State of Ohio.

### 11. Supplemental Contract and Equal Employment Opportunity Information on the Vendor

- A. Provide data on vendor employees both nationwide (inclusive of Ohio staff) and the number of Ohio office employees:

	<u>Nationwide:</u>	<u>Ohio Offices:</u>
Total Number of Employees:	_____	_____
% of those who are Women:	_____	_____
% of those who are Minorities:	_____	_____

- B. If you are the selected vendor, will you sub-contract any part of the work?

NO  -or- YES, but for less than 50% of the work  -or- YES, for 50% or more of the work

IF approximately 50% or more of your proposed project would be performed by one or more subcontractors, provide the following information on each subcontractor (additional pages may be added as needed):

Subcontractor Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Work To Be Performed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated Percentage of Total Project: \_\_\_\_\_ (Do NOT show dollar amounts here; show % of WORK sub-contractors will perform\provide)

Subcontractor's employee information:

	<u>Nationwide:</u>	<u>Ohio Offices:</u>
Total Number of Employees:	_____	_____
% of those who are Women:	_____	_____
% of those who are Minorities:	_____	_____

- C. Identify all state contracts which the vendor has had approved by the Controlling Board since the beginning of the last fiscal year (i.e., since July 01, 2002) through this fiscal year to date. Also include contracts approved for ODJFS or institutions of higher education:

Total number of contracts: \_\_\_\_\_

For each contract list the state agency contract, provide the following information:

State Agency/Educational Institution: \_\_\_\_\_  
Contract Dollar Amount: \_\_\_\_\_

State Agency/Educational Institution: \_\_\_\_\_

Contract Dollar Amount: \_\_\_\_\_

State Agency/Educational Institution: \_\_\_\_\_

Contract Dollar Amount: \_\_\_\_\_

*Attach additional pages if needed*

12. I have read the ODJFS Model Contract attached to the RFP, and if awarded a contract, I will not \_\_\_\_\_ ( or) I will \_\_\_\_\_ request changes to the standard language, and have marked the requested changes and returned the model document with this proposal for consideration by ODJFS. **(If so, ODJFS will review those requested changes if you are the selected vendor. All requested changes to model contract language are subject to ODJFS approval.)**

13. I \_\_\_\_\_, (vendor representative in Item # 7) hereby affirm that this proposal accurately represents the capabilities and qualifications of \_\_\_\_\_ (vendor's name), and I hereby affirm that the cost(s) bid to ODJFS for the performance of services and/or provision of goods covered in this proposal in response to the ODJFS RFP\LB\other purchase opportunity is a firm fixed price, inclusive of all incidental as well as primary costs. (Failure to provide the proper affirming signature on this item may result in the disqualification of your proposal\bid.)





# SUPPLEMENTAL INFORMATION HEADER

The following pages contain supplemental information for this competitive document. The supplemental information is contained between this header and a trailer page. If you receive the trailer page, all supplemental information has been received.

If you do not receive the trailer page of this supplement, use the inquiry process described in the document to notify the Procurement Representative.

Note: portions of the supplemental information provided may or may not contain page numbers. The total number of pages indicated on the cover page does not include the pages contained in this supplement.

# **Supplement 1**

**W-9 Form**

# Request for Taxpayer Identification Number and Certification

**Give form to the  
requester. Do NOT  
send to the IRS.**

Please print or type

Name (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. **See instructions on page 2 if your name has changed.**)

Business name (Sole proprietors see instructions on page 2.)

Please check appropriate box:  Individual/Sole proprietor  Corporation  Partnership  Other ▶

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). For sole proprietors, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see **How To Get a TIN** below.

Social security number								
			+			+		

OR

Employer identification number								
			+					

**Note:** If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

List account number(s) here (optional)

## Part II For Payees Exempt From Backup Withholding (See Part II instructions on page 2)

## Part III Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
- I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding.

**Certification Instructions.**—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (Also see **Part III instructions** on page 2.)

**Sign Here**

Signature ▶

Date ▶

*Section references are to the Internal Revenue Code.*

**Purpose of Form.**—A person who is required to file an information return with the IRS must get your correct TIN to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9 to give your correct TIN to the requester (the person requesting your TIN) and, when applicable, (1) to certify the TIN you are giving is correct (or you are waiting for a number to be issued), (2) to certify you are not subject to backup withholding, or (3) to claim exemption from backup withholding if you are an exempt payee. Giving your correct TIN and making the appropriate certifications will prevent certain payments from being subject to backup withholding.

**Note:** If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**What Is Backup Withholding?**—Persons making certain payments to you must withhold and pay to the IRS 31% of such

payments under certain conditions. This is called "backup withholding." Payments that could be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- The IRS tells the requester that you furnished an incorrect TIN, or
- The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable

interest and dividend accounts opened after 1983 only), or

- You do not certify your TIN. See the Part III instructions for exceptions.

Certain payees and payments are exempt from backup withholding and information reporting. See the Part II instructions and the separate **Instructions for the Requester of Form W-9**.

**How To Get a TIN.**—If you do not have a TIN, apply for one immediately. To apply, get **Form SS-5**, Application for a Social Security Number Card (for individuals), from your local office of the Social Security Administration, or **Form SS-4**, Application for Employer Identification Number (for businesses and all other entities), from your local IRS office.

If you do not have a TIN, write "Applied For" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have 60 days to get a TIN and give it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin and continue until you furnish your TIN.

**Note:** Writing "Applied For" on the form means that you have already applied for a TIN **OR** that you intend to apply for one soon.

As soon as you receive your TIN, complete another Form W-9, include your TIN, sign and date the form, and give it to the requester.

**Penalties**

**Failure To Furnish TIN.**—If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil Penalty for False Information With Respect to Withholding.**—If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal Penalty for Falsifying Information.**— Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.**—If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

**Specific Instructions**

**Name.**—If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage, without informing the Social Security Administration of the name change, please enter your first name, the last name shown on your social security card, and your new last name.

**Sole Proprietor.**—You must enter your individual name. (Enter either your SSN or EIN in Part I.) You may also enter your business name or "doing business as" name on the business name line. Enter your name as shown on your social security card and business name as it was used to apply for your EIN on Form SS-4.

**Part I—Taxpayer Identification Number (TIN)**

You must enter your TIN in the appropriate box. If you are a sole proprietor, you may enter your SSN or EIN. Also see the chart on this page for further clarification of name and TIN combinations. If you do not have a TIN, follow the instructions under **How To Get a TIN** on page 1.

**Part II—For Payees Exempt From Backup Withholding**

Individuals (including sole proprietors) are **not** exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. For a complete list of exempt payees, see the separate Instructions for the Requester of Form W-9.

If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding. Enter your correct TIN in Part I, write "Exempt" in Part II, and sign and date the form. If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester a completed **Form W-8**, Certificate of Foreign Status.

**Part III—Certification**

For a joint account, only the person whose TIN is shown in Part I should sign.

**1. Interest, Dividend, and Barter Exchange Accounts Opened Before 1984 and Broker Accounts Considered Active During 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, Dividend, Broker, and Barter Exchange Accounts Opened After 1983 and Broker Accounts Considered Inactive During 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real Estate Transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other Payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified of an incorrect TIN. Other payments include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services, payments to a nonemployee for services (including attorney and accounting fees), and payments to certain fishing boat crew members.

**5. Mortgage Interest Paid by You, Acquisition or Abandonment of Secured Property, Cancellation of Debt, or IRA Contributions.** You must give your correct TIN, but you do not have to sign the certification.

**Privacy Act Notice**

Section 6109 requires you to give your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. You must provide your

TIN whether or not you are required to file a tax return. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Sole proprietorship	The owner <sup>3</sup>
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name, but you may also enter your business or "doing business as" name. You may use either your SSN or EIN.

<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

# SUPPLEMENTAL INFORMATION TRAILER

This page is the last page of supplemental information for this competitive document. If you received this trailer page, all supplemental information has been received.

Note: portions of the supplemental information provided may or may not contain page numbers. The total number of pages indicated on the cover page does not include the pages contained in this supplement.