

OHIO DEPARTMENT OF HEALTH

Hearing Examiners

Request for Proposals (RFP)

RFP Number: Admin-20969

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

Ohio Department of Health
Office of the General Counsel
246 North High Street, 7th Floor
Columbus, Ohio 43215

Release Date: April 6, 2013

Response Due Date: May 7, 2013

TABLE OF CONTENTS

The Request for Proposal (RFP) consists of the following:

1. Introduction
2. Project Background
3. Contract Award, Negotiations and Duration
4. Qualifications of the Bidders
5. Project Scope of Work and Deliverables
6. Proposal Format
7. Evaluation of Proposals
8. Submission of Proposals
9. Protest Procedure
10. Certifications
11. Other Conditions
12. Attachments
 1. Sample Contract
 2. IRS Form W-9
 3. Vendor Information Form
 4. Executive Order 2011-12K
 5. Standard Affirmation and Disclosure Form

1. Introduction

The Ohio Department of Health (ODH) is seeking proposals from qualified attorneys to serve as hearing examiners and mediators on a contractual, intermittent basis throughout the entire contractual term noted below for mediations and administrative hearings, including hearings held pursuant to Chapter 119 of the Ohio Revised Code (O.R.C.).

2. Project Background

As part of ODH's responsibilities, it is required to conduct administrative hearings, including hearings held pursuant to Chapter 119 of the O.R.C. Some types of hearings to be conducted on behalf of ODH include:

Resident transfer and discharge hearings These hearings are conducted in accordance with R.C. section 3721.161 and O.A.C. 3701-61 and are typically held in nursing homes or residential care facilities around the state. They generally are scheduled for less than a day and constitute a majority of ODH hearings.

Woman, Infant and Children (WIC) vendor hearings These hearings are conducted in accordance with R.C. section 3701.132 and O.A.C. 3701-42-09 and are held in Columbus, Ohio, and are generally scheduled for less than a day.

Bureau of Children with Medical Handicaps hearings These hearings are conducted in accordance with R.C. section 3701.022 and O.A.C. 3701-43-23 and are held in Columbus, Ohio, and are generally scheduled for one day.

Certificate of Need hearings These hearings are conducted pursuant to R.C. section 3702.52 and O.A.C. 3701-12. These hearings take place in Columbus, Ohio, and generally average two to three days.

Denial and revocation of nursing home and residential care facility licenses These hearings are conducted pursuant to R.C. Chapter 3721 and R.C. Chapter 119. These hearings are typically completed within one day.

Smoke-Free Workplace Act hearings These hearings, which concern smoking ban violations, are conducted pursuant to R.C. 3794.07 and O.A.C. 3701-52. These hearings may be held either in Athens, Franklin, Medina, Warren, or Wood counties, and are typically completed within one day.

Handlers of radioactive materials and equipment hearings These hearings are conducted pursuant to R.C. Chapter 3748 and O.A.C. 3701:1-48 and concern licensure, registration, and penalties.

Nurse Aide Abuse, Neglect, and Misappropriation hearings These hearings are conducted pursuant to R.C. section 3721.23 and O.A.C. Chapter 3701-64 and concern the allegation of abuse, neglect, or misappropriation of property of a resident of a long-term care facility.

Asbestos These hearings are conducted pursuant to R.C. section 3710.13 and O.A.C. 3701-34.

Informal Dispute Resolution (IDR) These are reviews conducted in accordance with C.F.R. section 488-311 and O.A.C. 3701-63-02. They are written requests for second reviews of specific deficiencies being disputed at long term care facilities.

3. Contract Award, Negotiations and Duration

Contingent upon the availability of funds and approval by the Director of Health, up to 11 contracts will be awarded. No fewer than three of the selected hearing examiners shall reside or have a place of business in a county designated, for purposes of this contract, in northern Ohio. Northern Ohio Counties for this RFP include: Allen, Ashland, Ashtabula, Columbiana, Crawford, Cuyahoga, Defiance, Erie, Fulton, Geauga, Hancock, Henry, Huron, Lake, Lorain, Lucas, Mahoning, Medina, Ottawa, Paulding, Portage, Putnam, Richland, Sandusky, Seneca, Stark, Summit, Wayne, Williams, Wood, Wyandot, Trumbull, and Van Wert. The resultant contracts shall be in effect from approximately July 1, 2013 until June 30, 2015 and will have two (2) one (1) year options to extend.

At least one of the successful bidders shall reside or have a place of business in a county designated, for purposes of this contract, in southwestern Ohio. Southwestern Ohio Counties for this RFP include: Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Montgomery, Preble, and Warren.

State contracts may not extend beyond a biennium. The term of the resultant contract is anticipated to extend beyond the current biennium, and the contract will terminate on the last day of the current biennium. At that time, ODH may renew the contract or issue a new contract under the same or similar terms. The operating biennium expires June 30th of each odd-numbered calendar year.

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

potential successful bidders. The potential successful bidders shall negotiate in good faith.

4. Qualifications of the Bidders

- 4.1 Qualified bidders are attorneys in good standing licensed to practice in the State of Ohio.
- 4.2 Bidders must have sufficient staffing, training and be readily accessible by phone to administer this project.
- 4.3 Bidders must have technical capacity to administer this project.

5. Project Scope of Work and Deliverables

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

- 5.1 Scope of Work
 - 5.1.1 The successful bidder shall act as the mediator, impartial referee, examiner, or decision maker at formal or informal administrative proceedings that ODH is required by law to conduct. The successful bidder shall record a transcript of the proceedings in the event there is no official reporter assigned to the hearing. The successful bidder shall record digitally a transcript of the proceedings in the event there is no official court reporter assigned to the hearing.
 - 5.1.2 The successful bidder shall conduct mediations in person. During the pendency of a mediation to which the successful bidder is assigned, the successful bidder will have and exercise all authority appropriate to the role of mediator as necessary to assure that all mediations will be conducted in a timely manner and orderly manner.
 - 5.1.3 The successful bidder shall conduct hearings in person or through written submissions and may include analysis of testimony, written stipulations of the parties, motions, oral arguments, written briefs, or any other submissions required by law or reasonably necessary for the successful bidder to arrive at a decision and prepare a written report. During the pendency of a proceeding to which the successful bidder is assigned, the successful bidder will have and

exercise all authority appropriate to the role of referee, examiner, or decision maker as necessary to assure that all proceedings will be conducted in a timely manner and orderly manner. The successful bidder shall prepare a written report that sets forth those matters appropriate for the assigned proceeding in accordance with applicable state statutes, rules or guidance from the ODH Office of General Counsel.

5.1.4 The successful bidder shall conduct all mediations and all formal or informal administrative proceedings in accordance with applicable statutes and rules, including general and procedural guidance provided by the ODH Office of General Counsel.

5.2 Deliverables

5.2.1 The successful bidder will deliver to ODH and those other persons as are appropriate under the law applicable to the proceedings at issue with a written report as soon as practical and within the time deadlines specified by law following each proceeding.

6. Proposal Format

All bidders including current Hearing Officer's under contract shall submit a proposal directly responsive to the terms and conditions of this RFP. Proposals shall be submitted with an original and three copies containing the following sections;

6.1 Proposal Cover Sheet

6.1.1 Bidder name, address, county of residence or business.

6.1.2 Name of Bidder's contact person, address, telephone and fax numbers and e-mail address.

6.1.3 RFP number and project title.

6.2 Technical Proposal/Letter

6.2.1 Resume

6.2.1.1 The technical proposal shall include a description of the bidder's experience and expertise conducting similar proceedings. The description must include how the bidder meets the qualifications in 4 above and must include proof of a valid license to practice law in Ohio. The technical proposal shall include a description of education and experience, including any governmental, administrative, and health law experience.

- 6.2.1.2 The technical proposal shall include a writing sample not to exceed 10 pages and contains legal and factual analysis.
- 6.2.1.3 The bidder will identify any conditions of service in the proposal for serving as a hearing examiner, such as limited availability of days or times to serve as hearing examiner or limited types of cases due to a conflict of interest. If none, please state "None".
- 6.2.1.4 The technical proposal shall include information regarding the bidder's willingness to travel. Please list any restrictions on ability to travel within the state of Ohio. Travel, as the term is used herein, will not be required to the extent that overnight accommodations will be necessary.
- 6.2.1.5 The bidder should also attach a list of two (2) references by previous users of the bidder's services in performing similar projects. Include contact name and appropriate phone number. ODH may, at its sole discretion, contact the references. There is no obligation on the part of ODH to contact any reference.
- 6.2.1.6 Bidders are cautioned that failure to submit at the appropriate level of detail for the information required in the sections detailed herein will result in a determination that the bidder's proposal is non-responsive. Such a determination may result in ineligibility for contract award. If a requirement can be exceeded by the bidder, the proposal should state the degree to which the requirement will be exceeded and how this will be accomplished. If a requirement cannot be fully met, the bidder must state the reasons and must provide alternatives that can accomplish all the requirements specified.
- 6.2.1.7. Proposals should be prepared simply and economically, providing a straightforward, concise, yet complete description of the bidder's capabilities to satisfy the contract. Emphasis should be on completeness and on specificity and clarity of content.
- 6.3 Cost
 - 6.3.1 The ODH compensation rate is \$75.00 per hour, which includes payment for travel time to hearing locations, plus a maximum of \$500.00 per year for reimbursement for miscellaneous hearing expenses such as postage and copying costs.
- 6.4 Other submissions
 - 6.4.1 Bidder shall include a statement that it does not take exception to the terms of the proposed contract. If the bidder does take an exception, any exceptions must be included in the bidder's proposal. Note: Taking exception to the terms

of the contract or RFP may be grounds for eliminating the bidder from consideration for award of a contract.

- 6.4.2 IRS Form W-9 Request for Taxpayer Identification Number and Certification –Enclosed is IRS Form W-9. Please complete all applicable sections of the document including taxpayer type, a valid tax identification number, and your signature. The information you provide must match how you are registered with the IRS. Should you require additional assistance in completing the W-9 form, please contact the IRS at 1-800-829-1040.
- 6.4.3 Vendor Information Form (OBM-3456-(rev. 5/2007) - Please complete the Vendor Information Form in order to assure an accurate, up-to-date record of company information. Please verify all fields are complete. Additionally, verify that information contained on the Form W-9 matches that provided on the Vendor Information Form. Specifically, legal business name, Taxpayer ID Number (TIN), business type/business entity and address.

7. Evaluation of Proposals

- 7.1 All proposals will be evaluated and scored by a selection committee on a 40 point system that considers such criteria as completeness of application; administrative law experience, prior experience conducting or participating in Ohio Department of Health administrative hearings; and the willingness to travel to other regions of the state 100 miles or more away from the bidder's home base. The technical and cost portions of the proposal will be reviewed and scored according to the following criteria; maximum points for each category are listed below:

Total points available:	40
• Writing Sample (clarity, conciseness, analytical skill, proper grammar and free from any typographical errors)	20 points
• Willingness to travel more than 100 miles from home base	2 points
• Experience conducting or participating in administrative hearings	10 points
• Previous relevant administrative law experience	5 points
• Completeness of proposal package	3 points

Based on its evaluation of the proposals, the ODH selection committee will forward a recommendation to the Director of the Ohio Department of Health. The Director will make a selection and his decision is final.

7.2 Clarifications & Corrections.

During the evaluation process, ODH may request clarifications from any potential Contractor under active consideration and may give any Contractor the opportunity to correct defects in its Proposal if ODH believes doing so does not result in an unfair advantage for the Contractor and it is in ODH's best interests. Any clarification response that is broader in scope than what ODH has requested may result in the Contractor's proposal being disqualified.

8. Submission of Proposals

- 8.1 To be considered, an original and three copies of the proposal must be submitted no later than 4:00 p.m. on May 7, 2013. No FAX proposals will be accepted. Proposals may be mailed or delivered to:

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

- 8.2 From the issuance date of this RFP, until a contract is awarded to a bidder, there may be no communications concerning the RFP between any bidder who expects to submit a proposal and any employee of ODH involved in the issuance of the RFP, or other state employee who is in any way involved in the ODH project. The only exceptions to this prohibition are communications provided through the submission of written questions per 8.3 below and if required, communications in a bidder interview.
- 8.3 If a Contractor finds any perceived conflict, error, omission or discrepancy in the RFP documents, the Contractor shall submit a written request for interpretation. Questions can be submitted using the Ohio Department of Administrative Services (DAS) website where the RFP is located. All questions must be submitted by 8:00 am on April 19, 2013. Answers to the questions will be posted to the DAS website: <http://procure.ohio.gov/proc/searchProcOpps.asp> by April 24, 2013. In order to submit and see responses to questions, you need to search for the procurement number for this item, which is DOH-Admin20969. Telephone inquiries will not be accepted.

9. Protest Procedure

- 9.1 Any potential, or actual, bidder objecting to an award of a contract resulting from the issuance of this RFP may file a protest of the award of the contract, or any other matter relating to the process of soliciting the proposals. Such a protest must comply with the following guidelines:
- 9.2 A protest may be filed by a prospective or actual bidder objecting to the award of a contract resulting from this RFP. The protest shall be in writing and shall contain the following information:
 - 9.2.1 The name, address, and telephone number of the protestor.
 - 9.2.2 The name and number of the RFP being protested.
 - 9.2.3 A detailed statement of the legal and factual grounds for the protest, including copies of any relevant documents.
 - 9.2.4 A request for a ruling by ODH.
 - 9.2.5. A statement as to the form of relief requested from ODH.
 - 9.2.6 Any other information the protestor believes to be essential to the determination of the factual and legal questions at issue in the written protest.
- 9.3 A protest shall be considered timely by ODH, if ODH's Office of General Counsel received it, within the following periods:
 - 9.3.1 A protest based upon alleged improprieties in the issuance of the RFP or any other event preceding the closing date for receipt of proposals that are apparent or should be apparent prior to the closing date for receipt of proposals shall be filed no later than 4:00 p.m. the closing date for receipt of proposals, which is May 7, 2013.
 - 9.3.2 If the protest relates to the announced intent to award a contract, the protest shall be filed no later than 3:00 pm of the tenth (10th) business day after the issuance of the award of the contract.
- 9.4 An untimely protest may be considered if ODH determines that the protest raises issues significant to ODH's procurement system. An untimely protest is one received by ODH's Office of General Counsel after the time period set forth in paragraph 2 of this section.
- 9.5 All protests must be filed with the following:

Office of the General Counsel

Ohio Department of Health
246 North High Street, 7th floor
Columbus, Ohio 43215

- 9.6 When a timely protest is filed, a contract award shall not proceed until a decision on the protest is issued or the matter is otherwise resolved, unless the Director of ODH determines that a delay will severely disadvantage ODH. The bidder(s) who would have been awarded the contract shall be notified of the receipt of the protest.
- 9.7. ODH shall issue written decisions on all timely protests and shall notify any bidder who filed an untimely protest as to whether or not the protest will be considered.

10. Certifications

- 10.1 Affirmative Action. Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using:

<http://das.ohio.gov/Divisions/EqualOpportunity/AffirmativeActionProgramVerification/tabid/133/Default.aspx>.

Approved Affirmative Action Plans can be found by going to the Equal Opportunity Department's Web site:

<http://eodreporting.oit.ohio.gov/searchAffirmativeAction.aspx>

Copies of approved Affirmative Action plans shall be supplied by the Offeror as part of its Proposal or inclusion of an attestation to the fact that the Offeror has completed the process and is pending approval by the EOD office.

- 10.2. The successful bidder will be required to certify as terms of the contract that:
- 10.2.1. Neither the bidder nor any officer, member or employee has any interest, personal or otherwise, direct or indirect, that is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under any resultant contract.
- 10.2.2 Neither the bidder nor any officer, member or employee of the bidder shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.

- 10.2.3 The bidder shall not promise or give to any ODH employee anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. The bidder shall not solicit an ODH employee to violate any ODH rule or policy relating to the conduct of contracting parties or to violate sections 102.03, 102.04 or 2921.42 of the O.R.C.
- 10.2.4 The bidder hereby covenants that the bidder and any officer, member or employee of the bidder or bidders are in compliance with section 102.04 of the ORC and that if the bidder or bidders are required to file a statement pursuant to section 102.04(D) (2) of the O.R.C., such statement has been filed with the ODH General Counsel in addition to any other required filings.
- 10.2.5 The bidder hereby certifies compliance with the executive agency lobbying requirements of sections 121.60 to 121.69 of the ORC.
- 10.2.6 The bidder hereby certifies and affirms that, as applicable to the bidder, no party listed in Division (I) or (J) of section 3517.13 of the ORC or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of \$1,000.00 to the Governor or to his campaign committees. If it is determined that the bidder's certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, the bidder or bidders shall return to ODH all monies paid to the offeror or offerors under this contract. The provisions of this section shall survive the expiration or termination of this contract.
- 10.2.7 The bidder affirmatively represents and warrants to ODH that it is not subject to a finding for recovery under section 9.24 of the ORC or that it has taken the appropriate remedial steps required under section 9.24 of the ORC or otherwise qualifies under that section. The bidder further affirmatively represents and warrants to ODH that it is not debarred or suspended from entering into state of Ohio contracts pursuant to section 125.25 of the ORC and is not subject to exclusion, disqualification or ineligibility as defined in 2 C.F.R. 180.110. The bidder agrees that if this representation and warranty is deemed false, the contract will be void *ab initio* as between the parties to this contract, and any funds paid by ODH hereunder shall be immediately repaid to ODH, or an action for recovery may be immediately commenced by ODH for the recovery of said funds.
- 10.2.8 In accordance with the Governor's Executive Order 2011-03K, bidder, by signature on any subsequent contract, certifies: (1) bidder has reviewed and understands the Governor's Executive Order 2011-03K; (2) bidder has reviewed and understands the Ohio ethics and conflict of interest laws; and (3) bidder will take no action inconsistent with those laws and this Executive Order. The bidder understand that failure to comply with Executive Order

2011-03K is, in itself, grounds for termination of any resultant contract and may result in the loss of other contracts or grants with the State of Ohio.

The Governor's Executive Orders may be found by accessing the following website: <http://governor.ohio.gov>.

- 10.2.9 The Contractor shall affirm as a condition of award of a contract that it has read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of the resultant contract, and shall perform no services required under that contract outside of the United States.

The Contractor also as a condition of award of a contract affirm, understand, and agree to immediately notify the ODH of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under the resultant contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

11. Other Conditions

- 11.1 ODH is under no obligation to pay any costs incurred in the preparation of proposal submissions.
- 11.2 ODH reserves the right to reject any and all proposals where the bidder fails to meet the terms and conditions of the RFP including, but not limited to, standards, specifications, and requirements.
- 11.3 ODH may cancel and/or re-issue the RFP, in whole or in part, when the services offered are not in compliance with the requirements, specifications, and terms and conditions set forth in the RFP, or pricing offered is considered to be excessive in comparison with existing market conditions or exceeds the available funds of ODH, or it is determined that award of a contract would not be in the best interests of ODH and/or the state.
- 11.4 ODH reserves the right to waive minor defects and to provide bidders with the opportunity to correct material defects when no prejudice to the rights of other bidders or the public will result. Bidders shall be afforded fair and equal treatment regarding any clarification and/or correction.
- 11.5 ODH reserves the right to amend or withdraw the RFP any time prior to the award of a contract. The bidder may withdraw a response to the RFP any time prior to the award of a contract.
- 11.6 All products which result from the proposed contractual agreement will be the sole property of ODH.

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

12 – Attachments

**PERSONAL SERVICE CONTRACT
BY AND BETWEEN
THE OHIO DEPARTMENT OF HEALTH
AND
VENDOR NAME**

PREAMBLE

The Ohio Department of Health (hereinafter referred to as "ODH"), whose address is 246 North High Street, Columbus, Ohio 43215, and the vendor name (hereinafter referred to as the "CONTRACTOR"), whose address is , hereby enter into this contract. For the purposes of this contract, the term "party" means ODH and the CONTRACTOR respectively and "parties" means ODH and CONTRACTOR collectively.

This contract is funded either in whole or in part by a grant awarded by . This contract requires the CONTRACTOR to provide products and/or services that are funded in whole or in part under said grant.

ODH and the CONTRACTOR, in consideration of the mutual promises expressed below and intending to be legally bound, agree to the following provisions.

ARTICLE I

Scope of Work and Deliverables

A. The CONTRACTOR shall provide the services and perform the work as specified in the following:

1. As necessary, report to ODH's contract manager
2. Provide , as follows:

Deliverables:

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

ARTICLE II

Time of Performance

- A. Upon approval by the Director of ODH and, if required, the Controlling Board, this contract shall be in effect from DATE, or upon execution by both parties, whichever is later, through Date, unless this contract is suspended or terminated pursuant to ARTICLE XI prior to the termination date.

- B. It is expressly understood by both ODH and the CONTRACTOR that this contract shall not be valid and enforceable until the Director of the Office of Budget and Management certifies, pursuant to section 126.07 of the Ohio Revised Code (O.R.C.), that there is a balance in the appropriation not already encumbered to pay obligations resulting from this contract.
- C. The CONTRACTOR shall neither perform work nor submit an invoice for payment for work performed under this contract for any time period prior to receipt of written notification from the ODH contract manager that the requirements of section 126.07 and, if applicable, section 127.16 of the O.R.C. have been met.
- D. The CONTRACTOR shall neither perform work nor submit an invoice for payment for work performed under this contract for any time period after the termination date set forth in ARTICLE II, Section A, above.

ARTICLE III
Compensation for Services

- A. In consideration of the services provided pursuant to ARTICLE I of this contract, ODH agrees to pay compensation at the following rates:

1.

It is expressly understood by ODH and the CONTRACTOR that the terms of this contract limit the total compensation for services, travel and miscellaneous expenses to a maximum of \$dollar amount for the contract period set forth in ARTICLE II. The CONTRACTOR shall monitor the work under this contract and shall not accept an assignment under the contract if it will cause or is reasonably likely to cause the total amount paid under the contract for the contract period specified in ARTICLE II to exceed the maximum allowable compensation for services. The CONTRACTOR hereby waives the interest provisions of section 126.30 of the O.R.C.

- B. The CONTRACTOR understands and the parties agree that the ODH shall not separately reimburse CONTRACTOR for expenses related to travel.
- C. The CONTRACTOR shall invoice ODH for services the CONTRACTOR provides. An itemized statement listing the services provided, the dates services were provided, and the amount of payment due shall accompany the invoice. Invoices shall be sent to ODH, ATTN: Accounts Payable, P.O. Box 118, Columbus, Ohio 43216-0118. ODH will reimburse the CONTRACTOR within forty-five (45) days of receipt of a valid invoice for the amount of payment due. ODH shall return any invalid or incomplete invoice to the CONTRACTOR within fifteen (15) days after ODH receives the invoice. An explanation will accompany the invoice that states the reason for return and any information needed to correct the invoice. Final invoices for services provided under this contract shall be submitted by the CONTRACTOR no later than thirty (30) days following the termination of the contract.
- D. Subject to the provisions of sections 126.07 and 131.33 of the O.R.C., which shall at all times govern this contract, ODH represents that:
 - 1. It intends to maintain this agreement for the full period set forth herein and has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period; and
 - 2. It will use its best effort to obtain the appropriation of any necessary funds during the term of this agreement.

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

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

ARTICLE IV
Independent Contractor

- A. No agency, employment, joint venture or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this agreement. Inasmuch as ODH is interested in the CONTRACTOR's end product, ODH does not control the manner in which the CONTRACTOR performs this contract. ODH is not liable for the workers' compensation or unemployment compensation payments required by Chapters 4123. and 4141. of the O.R.C., respectively. In addition, the CONTRACTOR assumes responsibility for tax liabilities that result from compensation paid to the CONTRACTOR by ODH. ODH will report any payment made under this contract to the Internal Revenue Service on Form 1099.
- B. No provision contained in this contract shall be construed as entitling the CONTRACTOR to participate in hospital plans, medical plans, sick leave benefits, vacation, and other benefits available to employees of ODH or to become a member of the Public Employees Retirement System (Chapter 145. of the O.R.C.).

ARTICLE V
Conflict of Interest and Ethics Laws

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

ARTICLE VI
Equal Employment Opportunity

- A. In carrying out this agreement, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, disability, national origin, ancestry, veteran status, or any other factor specified in section 125.111 of the O.R.C., in the Civil Rights Act of 1964, as amended, or in section 504 of the Rehabilitation Act of 1973, as amended, and in any subsequent legislation pertaining to civil rights.
- B. The CONTRACTOR shall incorporate the foregoing requirements of ARTICLE VI, Section A in all of its contracts for performance of any of the work prescribed herein, and shall require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
- C. The CONTRACTOR hereby certifies that the CONTRACTOR has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and shall file a description of the affirmative action program and a progress report on its implementation with the Equal Employment Opportunity Office of the Ohio Department of Administrative Services.

ARTICLE VII
“Sweatshop Free” Certification

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

ARTICLE VIII
Records, Documents and Information

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

- A. All ODH information which, under the laws of the State of Ohio, is classified as public or private will be treated as such by CONTRACTOR. Where there is a question as to whether information is public or private, ODH shall make the final determination. The CONTRACTOR shall not use any information, systems, or records made available to it for any purpose other than to fulfill the contractual duties specified herein. The CONTRACTOR agrees to be bound by the same standards of confidentiality that apply to the employees of ODH and the State of Ohio. The terms of this section shall be included in any subcontracts executed by the CONTRACTOR for work under this contract.
- B. All proprietary information of the CONTRACTOR shall be held to be strictly confidential by ODH. Proprietary information is information which, if made public, would put the CONTRACTOR at a disadvantage in the market place and trade of which the CONTRACTOR is a part. The CONTRACTOR is responsible for notifying ODH of the nature of the information prior to its release to ODH. ODH reserves the right to require reasonable evidence of the CONTRACTOR's assertion of the proprietary nature of any information to be provided.
- C. All records relating to costs, work performed and supporting documentation for invoices submitted to ODH by the CONTRACTOR shall be retained and made available by the CONTRACTOR for audit by the State of Ohio (including, but not limited to, ODH, the Auditor of the State of Ohio, the Inspector General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three years after payment for work performed under this contract. If an audit, litigation, or other action is initiated during this time period, the CONTRACTOR shall retain such records until the action is concluded and all issues resolved or the three years end, whichever is later.

ARTICLE IX
Rights in Deliverables, Data and Copyrights

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

ARTICLE X
Disclosure of Personal Health Information

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

ARTICLE XI
Suspension and Termination

- A. ODH may suspend or terminate this contract for any reason thirty (30) days after delivery of written notice to the CONTRACTOR. ODH may suspend or terminate this contract immediately after delivery of written notice to the CONTRACTOR if ODH:
1. Discovers any illegal conduct on the part of the CONTRACTOR;
 2. Discovers a violation of ARTICLE V or ARTICLE XVIII;
 3. Is subject to a loss of funding as set forth in ARTICLE III, Section D;
 4. Discovers a petition in bankruptcy or similar proceeding has been filed by or against the CONTRACTOR. If at any time during the contractual period a bankruptcy or similar proceeding has been filed by or against the CONTRACTOR, the CONTRACTOR shall immediately notify ODH of the filing; or
 5. Discovers that CONTRACTOR or any of its subcontractors has performed any services under this contract outside the United States and is not in compliance with ARTICLE XV of this contract.
- B. The CONTRACTOR, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this contract, suspend or terminate any subcontracts relating to such suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report, as of the date of receipt of notice of suspension or termination describing the status of all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODH may require.

- C. In the event of suspension or termination under this Article, the CONTRACTOR shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by ODH based on the rate set forth in ARTICLE III, less any funds previously paid by or on behalf of ODH. In the case of services for which the CONTRACTOR charges a flat rate, compensation shall be based on a reasonable percentage of the total services performed, as determined by ODH, less any funds previously paid by or on behalf of ODH. ODH shall not be liable for any further claims, and the claims submitted by the CONTRACTOR shall not exceed the total amount of compensation allowed by this contract.

ARTICLE XII Breach or Default

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

ARTICLE XIII Amendments

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

ARTICLE XIV Limitation of Liability

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

ARTICLE XV Governing the Expenditure of Public Funds on Offshore Services

A. The CONTRACTOR affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

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

B. Termination, Sanction, Damages

1 If CONTRACTOR or any of its subcontractors perform services under this contract outside of the United States, the performance of such services shall be treated as a material breach of the contract. The State (ODH) is not obligated to pay and shall not pay for such services. If CONTRACTOR or any of its subcontractors perform any such services, CONTRACTOR shall immediately return to the State (ODH) all funds paid for those services. The State (ODH) may also recover from the CONTRACTOR all costs associated with any corrective action the State (ODH) may undertake, including but not limited to an audit or a risk analysis, as a result of the CONTRACTOR performing services outside the United States.

2 The State (ODH) may, at any time after the breach, terminate the contract, upon written notice to the CONTRACTOR. The State (ODH) may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the contract and costs associated with the acquisition of substitute services from a third party.

3 If the State (ODH) determines that actual and direct damages are uncertain or difficult to ascertain, the State (ODH) in its sole discretion may recover a payment of liquidated damages in the amount of 1% of the value of the contract.

4 The State (ODH), in its sole discretion, may provide written notice to CONTRACTOR of a breach and permit the CONTRACTOR to cure the breach. Such cure period shall be no longer than 14 calendar days. During the cure period, the State (ODH) may buy substitute services from a third party and recover from the CONTRACTOR any costs associated with acquiring those substitute services.

5 Notwithstanding the State (ODH) permitting a period of time to cure the breach or the CONTRACTOR's cure of the breach, the State (ODH) does not waive any of its rights and remedies provided the State (ODH) in this contract, including but not limited to recovery of funds paid for services the CONTRACTOR performed outside of the United States, costs associated with corrective action, or liquidated damages.

ARTICLE XVI
Assignment

The CONTRACTOR will not assign any of its rights nor delegate any of its duties and responsibilities under this contract without prior written consent of the State (ODH). Any assignment or delegation not consented to may be deemed void by the State (ODH).

ARTICLE XVII
Drug Free Workplace

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

ARTICLE XVIII
Good Standing

- A. CONTRACTOR affirmatively represents and warrants to ODH that it is not subject to a finding for recovery under section 9.24 of the O.R.C. or that it has taken the appropriate remedial steps required under section 9.24 of the O.R.C. or otherwise qualifies under that section. CONTRACTOR further affirmatively represents and warrants to ODH that it is not debarred or suspended from entering into state of Ohio contracts pursuant to section 125.25 of the O.R.C. and is not subject to exclusion, disqualification or ineligibility as defined in 2 Code of Federal Regulations (C.F.R.) §180.110. CONTRACTOR agrees that if this representation and warranty is deemed false, the contract will be void *ab initio* as between the parties to this contract, and any funds paid by ODH hereunder shall be immediately repaid to ODH, or an action for recovery may be immediately commenced by ODH for the recovery of said funds.
- B. The CONTRACTOR certifies that the CONTRACTOR is not federally debarred from participating in government contracts funded by federal money as described in 2 C.F.R. §180.220. If at any time during the contractual period the CONTRACTOR is federally debarred from participating in government contracts funded by federal money, for whatever reason, the CONTRACTOR shall immediately notify ODH of the debarment.
- C. The CONTRACTOR certifies that all approvals, licenses or other qualifications necessary to conduct business in Ohio have been obtained and are operative. If at any time during the contractual period the CONTRACTOR becomes disqualified from conducting business in Ohio, for whatever reason, the CONTRACTOR shall immediately notify ODH of the disqualification.

ARTICLE XIX
Insurance

Each Party will provide the following insurance at its own expense:

- A. Workers' Compensation insurance, as required by Ohio law or the laws of any other state where work under this contract will be done.
- B. Employer's liability insurance, personal injury, bodily injury, and property damage liability insurance, including automobile coverage, with personal injury and bodily injury coverage, or alternatively, CONTRACTOR certifies that it has an established plan of self-funded insurance with sufficient assets to cover these potential liabilities arising out of this Agreement.

ARTICLE XX
Construction

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

ARTICLE XXI
Taxes

ODH as a Department of the State of Ohio is exempt from any sales, use, excise or property tax. To the extent sales, use, excise or other similar tax is imposed on the CONTRACTOR in connection with the performance of this contract, the CONTRACTOR will pay such taxes.

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

Date

CONTRACTOR's Authorized Representative, Title

Date

Theodore E. Wymyslo, M.D., Director of Health
Ohio Department of Health

Request for Taxpayer Identification Number and Certification

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

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
	List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. 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
2. 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 (IRS) 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, and
3. I am a U.S. citizen or other U.S. person (defined below).

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 you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, 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. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

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

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt 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.

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

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. 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

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

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 income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name” line.

Limited liability company (LLC). Check the “Limited liability company” box only and enter the appropriate code for the tax classification (“D” for disregarded entity, “C” for corporation, “P” for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner’s name on the “Name” line. Enter the LLC’s name on the “Business name” line.

For an LLC classified as a partnership or a corporation, enter the LLC’s name on the “Name” line and any business, trade, or DBA name on the “Business name” line.

Other entities. Enter your business name as shown on required federal tax documents on the “Name” line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the “Business name” line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the “Exempt payee” box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,
7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

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 that you have previously given 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 (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

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 ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	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

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the 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.) Also see *Special rules for partnerships* on page 1.

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.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide 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, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% 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.



VENDOR INFORMATION FORM

All parts of the form must be completed by the vendor. Incomplete forms will be returned. The information must be legible. Ensure this is the latest version of the form at www.ohiosharedservices.ohio.gov.

SECTION 1 – PLEASE SPECIFY TYPE OF ACTION

- NEW (**W-9 OR W-8ECI FORM ATTACHED**)
 CHANGE OF CONTACT PERSON/INFORMATON
- ADDITIONAL ADDRESS – (**A COPY OF AN INVOICE OR A LETTER INCLUDING THE ADDRESS IS REQUIRED**)
- CHANGE OF ADDRESS – (**PLEASE PROVIDE OLD ADDRESS BELOW OR ATTACH LETTER**)
- ADDRESS TO BE REPLACED:
- CHANGE OF TIN (**W-9 & LETTER OF CLARIFICATION OF CHANGE, WHICH INCLUDES NEW & OLD TIN IS REQUIRED**)
- CHANGE OF NAME (**W-9 & LETTER OF CLARIFICATION OF CHANGE, MUST INCLUDES NEW & OLD NAME IS REQUIRED**)
- CHANGE OF PAY TERMS
 CHANGE OF PO DISPATCH METHOD
 OTHER _____

SECTION 2 – PLEASE PROVIDE VENDOR INFORMATION

LEGAL BUSINESS OR INDIVIDUAL NAME: (MUST MATCH W-9 OR W-8ECI FORM)

BUSINESS NAME, TRADE NAME, DOING BUSINESS AS: (IF DIFFERENT THAN ABOVE)

FEDERAL EMPLOYER ID (EIN) OR SOCIAL SECURITY NUMBER (SSN):

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SECTION 3 – PLEASE PROVIDE COMPLETE ADDRESS

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

SECTION 4 – ADDITIONAL ADDRESS (IF MORE THAN 2 ADDRESSES, PLEASE INCLUDE A SEPARATE SHEET)

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

SECTION 5 – CONTACT INFORMATION & PERSON TO RECEIVE PURCHASE ORDER		
NAME:		
WEBSITE:		
PHONE:	FAX:	EMAIL:
PREFERRED METHOD OF BEING CONTACTED: (CHECK ONE) <input type="checkbox"/> PHONE <input type="checkbox"/> EMAIL		
SECTION 6 – INDIVIDUAL TO RECEIVE EMAIL NOTICE OF BID EVENTS - A USER ID & PASSWORD WILL BE SENT TO THE EMAIL ADDRESS BELOW		
NAME:		
EMAIL:		PHONE:
TO ADD AN ADDITIONAL OR REPLACE A STRATEGIC SOURCING CONTACT PERSON		
<input type="checkbox"/> ADDITIONAL CONTACT PERSON <input type="checkbox"/> REPLACE CONTACT PERSON (WILL BE MARKED INACTIVE)		
NAME:		
EMAIL:		PHONE:
SECTION 7 – PAYMENT TERMS (PLEASE CHECK ONE – IF NONE IS SELECTED THEN NET 30 WILL APPLY)		
<input type="checkbox"/> 2/10 NET 30 <input type="checkbox"/> NET 30 <input type="checkbox"/> NET 45 <input type="checkbox"/> NET 60 <input type="checkbox"/> NET 90		
SECTION 8 – PURCHASE ORDER DISTRIBUTION – OTHER THAN USPS MAIL		
EMAIL <u>OR</u> FAX:		
SECTION 9 – PLEASE SIGN & DATE		
PRINT NAME:		
SIGNATURE: (DIGITAL SIGNATURES NOT ACCEPTED AT THIS TIME)		DATE:
SECTION 10 – STATE OF OHIO AGENCY CONTACT PERSON (AGENCY RECEIVING PAYMENTS FROM)		
AGENCY CONTACT NAME/EMAIL/PHONE:		

COMMENTS:

Note: This document contains sensitive information. Sending via non-secure channels, including e-mail and fax can be a potential security risk.

<p>SUBMIT FORM TO:</p> <p>Mail: Ohio Shared Services Attn: Vendor Maintenance P.O. Box 182880 Cols., OH 43218-2880</p> <p>Email: vendor@ohio.gov</p> <p>Fax: 1 (614) 485-1052</p>	<p>QUESTIONS? PLEASE CONTACT:</p> <p>Phone: 1 (877) OHIO - SS1 (1-877-644-6771) 1 (614) 338-4781</p> <p>Website: www.ohiosharedservices.ohio.gov/</p> <p>Email: vendor@ohio.gov</p>
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STANDARD AFFIRMATION AND DISCLOSURE FORM
EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

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

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

(Address) (City, State, Zip)

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

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

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

2. Location where services will be performed by Contractor:

(Address) (City, State, Zip)

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

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

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

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

(Address)

(Address, City, State, Zip)

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

(Name)

(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: _____
Contractor

Print Name: _____

Title: _____

Date: _____

STANDARD TERMS AND CONDITIONS

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.