



REQUEST FOR PROPOSALS

Third Party Data Matching and Recovery Services

RFP# 20090327

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Due Dates:

Questions & Letter of Intent
FAX or MAIL or HAND DELIVERY
5:00 PM Central Standard Time, Friday, April 10, 2009

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Sealed Proposals
MAIL or HAND DELIVERY ONLY
5:00 PM Central Standard Time, Friday, April 24, 2009

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1 OVERVIEW

1.1 PURPOSE

This Request for Proposals, hereafter referred to as the RFP, is requesting offers from responsible vendors to assist with various Third Party Recovery activities. The State of Mississippi, Office of the Governor, Division of Medicaid (DOM) requests proposals from experienced, responsible and financially sound organizations (herein after referred to as Offeror) that have the capability and are prepared to provide the following:

1. Data matches with commercial and governmental insurers, credit bureaus, and all other alternative databases that the contractor may propose. The contractor will be permitted to data match with Medicare and the Mississippi Workers Compensation Commission to the extent that these data matches are not duplicative of the work being performed by the Department of Finance & Administration (DFA) or the Mississippi Department of Human Services (MDHS) – Office of Child Support Enforcement.
2. Pharmacy data matches to be transmitted to pharmacy point of sale in real time.
3. Recovery activities on behalf of DOM with the exception of Tort/Casualty identification and associated recoveries; and Estate recoveries.
4. Medicare Retroactive Recovery, which identifies Medicare as the primary payor subsequent to Medicaid payment.
5. Medicare Buy-In for low-income individuals in specific categories of eligibility for which Medicaid pays their Medicare Part B premium.
6. Medicaid Support Enforcement identified for children with third party coverage and through child support orders.

1.2 AUTHORITY

Medicaid, by law, is the payor of last resort and all other health care coverage must be exhausted before Medicaid is billed. Identification and recovery of third party resources reduces the financial burden to the tax payers for Medicaid recipient's health care. In addition, Section 1902(a)(25) of the Social Security Act requires that States take all reasonable measures to ascertain the legal liability of third parties to pay for medical services furnished to a Medicaid recipient. The goal is to ensure that Medicaid fees are paid by appropriate liable third parties as well as to recover on paid Medicaid claims when third party sources are not shown at the time of payment. 42 CFR §433.135 defines a third party as an individual, entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State plan.

This RFP is issued under the authority of Title XIX of the Social Security Act as amended, implementing regulations issued under the authority thereof and under the provisions of the Mississippi Code of 1972 as amended. All prospective contractors are charged with presumptive knowledge of all requirements of the cited authorities. The submission of a valid executed proposal by any prospective contractor shall constitute admission of such knowledge on the part of each prospective contractor. Any proposal submitted by any prospective contractor which fails to meet any published requirement of the cited authorities may, at the option of DOM, be rejected without further consideration.

Medicaid is a program of medical assistance for the needy administered by the states using state appropriated funds and federal matching funds within the provisions of Title XIX and Title XXI of the Social Security Act as amended.

In Mississippi, the Medicaid program began on January 1, 1970. The program is administered in Mississippi by the Division of Medicaid, Office of the Governor, by authority of Section 43-13-101 et seq. of the Mississippi Code of 1972. Services are provided through a fee-for-service arrangement with a variety of medical providers.

1.3 ORGANIZATIONS ELIGIBLE TO SUBMIT PROPOSALS

To be eligible to submit a proposal, an Offeror must provide documentation for each requirement as specified below:

1. The Offeror has not been sanctioned by a state or federal government within the last 10 years.
2. The Offeror must have experience in contractual services providing the type of services described in this RFP.
3. The Offeror must be able to provide each required component and deliverable as detailed in the Scope of Work.

1.4 PROCUREMENT APPROACH

The major steps of the procurement approach are described in detail in Section 4 of this RFP. Proposals must be submitted in two parts: Technical Proposal and Business Proposal. The format and content are each specified in Sections 5 and 6 of this RFP.

1.5 ACCURACY OF STATISTICAL DATA

All statistical information provided by DOM in relation to this RFP represents the best and most accurate information available to DOM from DOM records at the time of the RFP preparation. DOM, however, disclaims any responsibility for the inaccuracy of such data and should any element of such data later be discovered to be inaccurate, such inaccuracy shall not constitute a basis for Contract rejection by any Offeror. Neither shall such inaccuracy constitute a basis for renegotiation of any payment rate after Contract award. Statistical information is available on the DOM web site.

1.6 ELECTRONIC AVAILABILITY

The materials listed below are on the Internet for informational purposes only. This electronic access is a supplement to the procurement process and is not an alternative to official requirements outlined in this RFP. The DOM web site is www.medicaid.ms.gov.

1. This RFP and RFP Questions and Answers (following official written release of responses)
2. Division of Medicaid Annual Reports
3. Provider Manuals and Bulletins
4. Division of Medicaid Organization and Function

1.7 ADDITIONAL INFORMATION

Public financial information is available at <http://merlin.state.ms.us> under the Public Access query section.

DOM's website is <http://www.medicaid.ms.gov>

State of Mississippi portal is <http://www.mississippi.gov>

State Personnel Board/Personal Services Contract Review Board Regulations can be found at <http://www.spb.state.ms.us>

No other information will be made available to potential Offerors.

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2 MISSISSIPPI MEDICAID PROGRAM INTRODUCTION

2.1 SUMMARY OF THE ADMINISTRATION

Medicaid is a program of medical assistance for the needy administered by the states using state appropriated funds and federal matching funds within the provisions of Title XIX and Title XXI of the Social Security Act as amended. In Mississippi, the Medicaid program began on January 1, 1970. The program is administered in Mississippi by the Division of Medicaid, Office of the Governor by authority of Section 43-13-101 et seq. of the Mississippi Code of 1972. As of July 1, 1981, the Mississippi Legislature mandated that Medicaid eligibility determinations for the aged, blind and disabled categories be changed to Supplemental Security Income (SSI) determination under Section 1634 of the Social Security Act.

2.2 TPL PROCESSES IN MISSISSIPPI

Currently the Mississippi Division of Medicaid relies on Medicaid Eligibility and Provider staff to obtain and report third party insurance information available to Title XIX beneficiaries. During the intake/interview process the certifying agency staff obtains limited health insurance information on behalf of the Title XIX client. Likewise, Medicaid Providers are required to report any health insurance information that is reported to them by the client. Many clients fail to share health insurance information believing that Medicaid eligibility will be affected; or are not aware that insurance is available through the non-custodial parent's employer.

2.3 SERVICES OF THE MISSISSIPPI PROGRAM

The services listed below are covered by Mississippi Medicaid unless otherwise noted. There are currently no managed care programs; all eligible beneficiaries are covered through fee-for-service.

2.3.1 Mandatory Services:

- EPSDT and Expanded EPSDT Services
- Family Planning Services
- Federally Qualified Health Centers Services
- Home Health Services
- Inpatient Hospital Services
- Laboratory and X-Ray Services
- Nurse Midwife Services
- Nurse Practitioner Services (Pediatric and Family)
- Nursing Facility Services
- Outpatient Hospital Services
- Physicians Services
- Rural Health Clinic Services
- Transportation Services

2.3.2 Optional Services:

- Ambulatory Surgical Center Services
- Chiropractic Services
- Christian Science Sanatoria Services
- Dental Services
- Disease Management Services
- Durable Medical Equipment
- Eyeglasses
- Freestanding Dialysis Center Services

- Hospice Services
- Intermediate Care Facilities for the Mentally Retarded (ICF/MR) Services
- Inpatient Psychiatric Services
- Mental Health Services
- Pediatric Skilled Nursing Services
- Podiatrist Services
- Prescription Drugs
- Psychiatric Residential Treatment Facilities Services
- State Department of Health Clinic Services
- Targeted Case Management Services for Children with Special Needs

2.3.3 Waiver Services:

- Home and Community Based Services (HCBS) for the Elderly and Disabled
- HCBS for the Intellectual Disabilities/Developmental Disabilities
- HCBS for the Independent Living
- HCBS for Assisted Living
- HCBS for TBI/Spinal Cord Injury
- Healthier Mississippi 1115 Waiver
- Family Planning 1115 Waiver
- Community Alternatives to PRTF aka Youth Programs Around the Clock (MYPAC)

2.4 COVERED GROUPS OF THE MISSISSIPPI PROGRAM

The groups listed below are covered by Mississippi Medicaid unless otherwise noted.

- Current SSI Recipients
- Certain former SSI Recipients
- Children up to age 19
- Low-income adults with children under age 18
- Pregnant women
- Disabled children living at home
- Qualified Medicare Beneficiaries
- Working and Disabled
- Healthier MS Waiver
- Long Term Care in a Hospital
- Long Term Care in a Nursing Facility
- Long Term Care in a Swingbed
- Long Term Care Alternatives Program (Home and Community Based Services Waivers)

2.5 DOM Annual Report

The DOM Annual Report Summary provides information on beneficiary enrollment, program funding and expenditures broken down by types of services covered in the Mississippi Medicaid program for the respective fiscal years. The Annual Reports are available on the DOM web site www.medicaid.ms.gov

3 TERMS AND CONDITIONS

3.1 GENERAL

The contract between the State of Mississippi and the Contractor shall consist of 1) the contract and any amendments thereto; 2) this request for proposals (RFP) and any amendments thereto; 3) the Contractor's proposal submitted in response to the RFP by reference and as an integral part of this contract; 4) written questions and answers. In the event of a conflict in language among the four documents referenced above, the provisions and requirements set forth and/or referenced in the contract and its amendments shall govern. In the event that an issue is addressed in one document that is not addressed in another document, no conflict in language shall be deemed to occur.

However, DOM reserves the right to clarify any contractual relationship in writing, and such written clarification shall govern in case of conflict or ambiguity with the applicable requirements stated in the RFP or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the RFP and its amendments shall govern.

The contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, Mississippi, for inspection or on the web at www.spb.state.ms.us.

No modification or change of any provision in the contract shall be made, or construed to have been made, unless such modification or change is mutually agreed upon in writing by the Contractor and DOM. The agreed upon modification or change will be incorporated as a written contract amendment and processed through DOM for approval prior to the effective date of such modification or change. In some instances, the contract amendment must be approved by CMS before the change becomes effective.

All rates set by the contractor for delivery of services must be actuarially sound and certified prior to submission of the terms.

The only representatives authorized to modify this contract on behalf of DOM and the Contractor are shown below:

Contractor: Person(s) designated by the Contractor

Division of Medicaid: Executive Director

3.2 PERFORMANCE STANDARDS, ACTUAL DAMAGES, LIQUIDATED DAMAGES, AND RETAINAGE

DOM reserves the right to assess actual or liquidated damages, upon the Contractor's failure to provide timely services required pursuant to this contract. Actual or liquidated damages for failure to meet specific performance standards as set forth in the scope of work may be assessed as specifically set forth in each performance standard. The Contractor shall be given 15 days notice to respond before DOM makes the assessment. The assessments will be offset against the subsequent monthly payments to the Contractor. Assessment of any actual or liquidated damages does not waive any other remedies available to DOM pursuant to this contract or state or federal law. If liquidated damages are known to be insufficient then DOM has the right to pursue actual damages.

If the Contractor's failure to perform satisfactorily exposes DOM to the likelihood of contracting with another person or entity to perform services required of the Contractor under this contract, upon notice setting forth the services and retainage, DOM may withhold from the Contractor payments in an amount commensurate with the costs anticipated to be incurred. If costs are incurred, DOM shall account to the Contractor and return any excess to the Contractor. If the retainage is not sufficient,

the Contractor shall immediately reimburse DOM the difference or DOM may offset from any payments due the Contractor. The Contractor will cooperate fully with the retained Contractor and provide any assistance it needs to implement the terms of its agreement for services for retainage.

3.3 TERM OF CONTRACT

DOM will award a Contract based on proposals. The Contract period begins the day the contract is executed by both parties. The contract shall expire ninety (90) days after the contract is executed.

3.3.1 Stop Work Order

1. Order to Stop Work - The DOM Contract Administrator may, by written order to the Contractor at any time and without notice to any surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to the Contractor, unless the parties agree to an extension. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allowable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within an extension to which the parties shall have agreed, the Contract Administrator shall either
 - a. Cancel the stop work order; or
 - b. Terminate the work covered by such order as provided in the "Termination for Default Clause" or the "Termination for Convenience Clause" of this contract.
2. Cancellation or Expiration of the Order - If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, only if
 - a. The stop work order or extension results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - b. The Contractor asserts a claim for such an adjustment within 30 days after the end of the stop work order or extension.
3. Termination of Work - If a stop work order or extension is not canceled and the work covered by such stop work order or extension is terminated for default or convenience, adjustment to the contract price will be negotiated between DOM and the Contractor.

3.3.2 Termination of Contract

The Contract resulting from this RFP may be terminated by DOM as follows:

1. For default by the Contractor
2. For convenience
3. For the Contractor's bankruptcy, insolvency, receivership, liquidation
4. For non-availability of funds

At DOM's option, termination for any reason listed herein may also be considered termination for convenience.

3.3.2.1 Termination for Default by the Contractor

DOM may immediately terminate this contract in whole or in part whenever DOM determines that the Contractor has failed to satisfactorily perform its contractual duties and responsibilities and is unable to resolve such failure within a period of time specified by DOM, after considering the gravity and nature of the default. Such termination shall be referred to herein as "Termination for Default."

Upon determination by DOM of any such failure to satisfactorily perform its contractual duties and responsibilities, DOM may notify the Contractor of the failure and establish a reasonable time period in which to resolve such failure. If the Contractor does not resolve the failure within the specified time period, DOM will notify the Contractor that the contract in full or in part has been terminated for default. Such notices shall be in writing and delivered to the Contractor by certified mail, return receipt requested, or in person.

If, after Notice of Termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control and without error or negligence on the part of the Contractor or any subcontractor, the Notice of Termination shall be deemed to have been issued as a termination for the convenience of DOM, and the rights and obligations of the parties shall be governed accordingly.

In the event of Termination for Default, in full or in part as provided by this clause, DOM may procure, upon such terms and in such manner as DOM may deem appropriate, supplies or services similar to those terminated, and the Contractor shall be liable to DOM for any excess costs for such similar supplies or services for the remainder of the contract period. In addition, the Contractor shall be liable to DOM for administrative costs incurred by DOM in procuring such similar supplies or services.

In the event of a termination for default, the Contractor shall be paid for those deliverables which the Contractor has delivered to DOM. Payments for completed deliverables delivered to and accepted by DOM shall be at the contract price.

The rights and remedies of DOM provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

3.3.2.2 Termination for Convenience

DOM may terminate performance of work under the contract in whole or in part whenever for any reason DOM shall determine that such termination is in the best interest of DOM.

In the event that DOM elects to terminate the contract pursuant to this provision, it shall notify the Contractor by certified mail, return receipt requested, or delivered in person. Termination shall be effective as of the close of business on the date specified in the notice, which shall be at least 30 days from the date of receipt of the notice by the Contractor.

Upon receipt of Notice of Termination for convenience, the Contractor shall be paid the following:

- The contract price(s) for completed deliverables delivered to and accepted by DOM;
- A price commensurate with the actual cost of performance for partially completed deliverables.

3.3.2.3 Termination for the Contractor Bankruptcy

In the event that the Contractor shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or its assets, or shall avail itself of, or become subject to, any proceeding

under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of the rights of creditors, DOM may, at its option, terminate this contract in whole or in part.

In the event DOM elects to terminate the contract under this provision, it shall do so by sending Notice of Termination to the Contractor by certified mail, return receipt requested, or delivered in person. The date of termination shall be the close of business on the date specified in such notice to the Contractor. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the Contractor shall immediately so advise DOM.

The Contractor shall ensure and shall satisfactorily demonstrate to DOM that all tasks related to the subcontract are performed in accordance with the terms of this contract

3.3.2.4 Availability of Funds

It is expressly understood and agreed that the obligation of the DOM to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide or the State of Mississippi to appropriate funds, or the discontinuance, or material alteration of the program under which the funds were provided or if funds are not otherwise available to the State, the State shall have the right upon 10 working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost, or expense to the State of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

3.3.3 Procedure on Termination

3.3.3.1 Contractor Responsibilities

Upon delivery by certified mail, return receipt requested, or in person to the Contractor a Notice of Termination specifying the nature of the termination, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

1. Stop work under the contract on the date and to the extent specified in the Notice of Termination;
2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work in progress under the contract until the effective date of termination;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
4. Deliver to DOM within the time frame as specified by DOM in the Notice of Termination, copies of all data and documentation in the appropriate media and make available all records required to assure continued delivery of services to beneficiaries and providers at no cost to DOM;
5. Complete the performance of the work not terminated by the Notice of Termination;
6. Take such action as may be necessary, or as DOM may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which DOM has or may acquire an interest;
7. Fully train DOM staff or other individuals at the direction of DOM in the operation and maintenance of the process;
8. Promptly transfer all information necessary for the reimbursement of any outstanding claims; and

9. Complete each portion of the Turnover Phase after receipt of the Notice of Termination. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any allowable delay in determining or adjusting the amount of any item of reimbursable price under this clause.

The Contractor has an absolute duty to cooperate and help with the orderly transition of the duties to DOM or its designated contractor following termination of the contract for any reason.

3.3.3.2 DOM Responsibilities

Except for Termination for Contractor Default, DOM will make payment to the Contractor on termination and at contract price for completed deliverables delivered to and accepted by DOM. The Contractor shall be reimbursed for partially completed deliverables at a price commensurate with actual cost of performance.

In the event of the failure of the Contractor and DOM to agree in whole or in part as to the amounts to be paid to the Contractor in connection with any termination described in this RFP, DOM shall determine on the basis of information available the amount, if any, due to the Contractor by reason of termination and shall pay to the Contractor the amount so determined.

The Contractor shall have the right of appeal, as stated under Disputes (Paragraph 3.9.6) from any such determination made by DOM.

3.3.4 Assignment of the Contract

The Contractor shall not sell, transfer, assign, or otherwise dispose of the contract or any portion thereof or of any right, title, or interest therein without written consent of DOM. Any such purported assignment or transfer shall be void. If approved, any assignee shall be subject to all terms and conditions of this contract. No approval by DOM of any assignment may be deemed to obligate DOM beyond the provisions of this contract. This provision includes reassignment of the contract due to change in ownership of the Contractor. DOM shall at all times be entitled to assign or transfer its rights, duties, and/or obligations under this contract to another governmental agency in the State of Mississippi upon giving prior written notice to the Contractor.

3.3.5 Excusable Delays

The Contractor and DOM shall be excused from performance under this contract for any period that they are prevented from performing any services under this Contract as a result of an act of God, war, civil disturbance, epidemic, court order, government act or omission, or other cause beyond their reasonable control.

3.3.6 Applicable Law

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflict of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State of Mississippi. The Contractor shall comply with applicable federal, state and local laws and regulations.

3.4 NOTICES

Whenever, under this RFP, one party is required to give notice to the other, except for purposes of Notice of Termination under Paragraph 3.3, such notice shall be deemed given upon delivery, if delivered by hand, or upon the date of receipt or refusal, if sent by registered or certified mail, return receipt requested or by other carriers that require signature upon receipt. Notice may be delivered by facsimile transmission, with original to follow by certified mail, return receipt requested, or by other

carriers that require signature upon receipt, and shall be deemed given upon transmission and facsimile confirmation that it has been received. Notices shall be addressed as follows:

In case of notice to the Contractor:

Project Manager
Contractor
Street Address
City, State Zip Code

In case of notice to DOM:

Executive Director
Division of Medicaid
550 High St., Suite 1000
Jackson, Mississippi 39201

Copy to Contract Administrator, DOM

3.5 COST OR PRICING DATA

If DOM determines that any price, including profit or fee, negotiated in connection with this RFP was increased because the Contractor furnished incomplete or inaccurate cost or pricing data not current as certified in the Contractor's certification of current cost or pricing data, then such price or cost shall be reduced accordingly and this RFP shall be modified in writing and acknowledged by the Contractor to reflect such reduction.

3.6 SUBCONTRACTING

The Contractor is solely responsible for fulfillment of the Contract terms with DOM. DOM will make Contract payments only to the Contractor.

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of DOM. The Contractor shall notify DOM not less than thirty (30) days in advance of its desire to subcontract and include a copy of the proposed subcontract with the proposed subcontractor.

Approval of any subcontract shall neither obligate DOM nor the State of Mississippi as a party to that subcontract nor create any right, claim, or interest for the subcontractor against the State of Mississippi or DOM, their agents, their employees, their representatives, or successors.

Any subcontract shall be in writing and shall contain provisions such that it is consistent with the Contractor's obligations pursuant to this Contract.

The Contractor shall be solely responsible for the performance of any subcontractor under such subcontract approved by DOM.

The Contractor shall give DOM immediate written notice by certified mail, facsimile, or any other carrier that requires signature upon receipt of any action or suit filed and prompt notice of any claim made against the Contractor or Contractor which in the opinion of the Contractor may result in litigation related in any way to the Contract with DOM.

3.7 PROPRIETARY RIGHTS

3.7.1 Ownership of Documents

Where activities supported by this contract produce original writing, sound recordings, pictorial reproductions, drawings, or other graphic representation and works of any similar nature, DOM shall have the right to use, duplicate, and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others do so. If the material is qualified for copyright, the Contractor may copyright such material, with approval of DOM, but DOM shall reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such materials, in whole or in part, and to authorize others to do so.

3.7.2 Ownership of Information and Data

DOM, The Department of Health and Human Services (DHHS), The Centers for Medicare and Medicaid Services (CMS), the State of Mississippi, and/or their agents shall have unlimited rights to use, disclose, or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Contractor under any contract resulting from this RFP.

The Contractor agrees to grant in its own behalf and on behalf of its agents, employees, representatives, assignees, and contractors to DOM, DHHS, CMS and the State of Mississippi and to their officers, agents, and employees acting in their official capacities a royalty-free, non-exclusive, and irrevocable license throughout the world to publish, reproduce, translate, deliver, and dispose of all such information now covered by copyright of the proposed Contractor.

Excluded from the foregoing provisions in this Section 3.7.2, however, are any pre-existing, proprietary tools owned, developed, or otherwise obtained by Contractor independently of this Contract. Contractor is and shall remain the owner of all rights, title and interest in and to the Proprietary Tools, including all copyright, patent, trademark, trade secret and all other proprietary rights thereto arising under federal and state law, and no license or other right to the Proprietary Tools is granted or otherwise implied. Any right that the DOM may have with respect to the Proprietary Tools shall arise only pursuant to a separate written agreement between the parties.

3.7.3 Public Information

Offerors must bind separately those provisions of the proposal which contain trade secrets or other proprietary data which they believe may remain confidential in accordance with Sections 25-61-9 and 79-23-1, et seq. of the Mississippi Code Annotated of 1972, as amended.

3.7.4 Right of Inspection

DOM, the Mississippi Department of Audit, The Department of Health and Human Services (DHHS), The Centers for Medicare and Medicaid Services (CMS), the Office of Inspector General (OIG), the General Accounting Office (GAO), or any other auditing agency prior-approved by DOM, or their authorized representative shall, at all reasonable times, have the right to enter onto the Contractor's premises, or such other places where duties under this contract are being performed, to inspect, monitor, or otherwise evaluate (including periodic systems testing) the work being performed. The Contractor must provide access to all facilities and assistance for DOM and Mississippi Audit Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. Refusal by the Contractor to allow access to all documents, papers, letters or other materials, shall constitute a breach of contract. All audits performed by persons other than DOM staff will be coordinated through DOM and its staff.

3.7.5 Licenses, Patents and Royalties

DOM does not tolerate the possession or use of unlicensed copies of proprietary software. The Contractor shall be responsible for any penalties or fines imposed as a result of unlicensed or otherwise defectively titled software.

The Contractor, without exception, shall indemnify, save, and hold harmless DOM and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or non-patented invention, process, or article manufactured by the Contractor. The Contractor has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by the Contractor or is based solely and exclusively upon DOM's alteration of the article. DOM will provide prompt written notification of a claim of copyright or patent infringement.

Further, if such a claim is made or is pending, the Contractor may, at its option and expense, procure for DOM the right to continue use of, replace or modify the article to render it non-infringing. If none of the alternatives is reasonably available, the Contractor agrees to take back the article and refund the total amount DOM has paid the Contractor under this contract for use of the article.

If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

3.7.6 Records Retention Requirements

The Contractor shall maintain detailed records evidencing all expenses incurred pursuant to the Contract, the provision of services under the Contract, and complaints, for the purpose of audit and evaluation by the Agency and other federal or State personnel. All records, including training records, pertaining to the Contract must be readily retrievable within three (3) workdays for review at the request of the Agency and its authorized representatives. All records shall be maintained and available for review by authorized federal and State personnel during the entire term of the Contract and for a period of five (5) years thereafter, unless an audit is in progress. When an audit is in progress or audit findings are unresolved, records shall be kept for a period of five (5) years or until all issues are finally resolved, whichever is later.

3.8 REPRESENTATION REGARDING CONTINGENT FEES

The Contractor represents by executing this contract that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

3.9 INTERPRETATIONS/CHANGES/DISPUTES

The RFP in its entirety is a part of the Contract. In the event of a dispute or conflict the Contract shall be the first controlling. After the Contract, the order of priority is: the Bidder Questions and Answers, the Business/ Cost Proposal, the Technical Proposal, the RFP. All the documents shall be read and construed as far as possible to be one harmonious whole; however, in the event of a conflict or dispute, the above list is the list of priority.

DOM reserves the right to clarify any contractual relationship in writing and such clarification will govern in case of conflict with the requirements of the RFP. Any ambiguity in the RFP shall be construed in favor of DOM.

The contract represents the entire agreement between the Contractor and DOM and it supersedes all prior negotiations, representations, or agreements, either written or oral between the parties hereto relating to the subject matter hereof.

3.9.1 Conformance with Federal and State Regulations

The Contractor shall be required to conform to all federal and state laws, regulations, and policies as they exist or as amended.

In the event that the Contractor requests that the Executive Director of DOM or his/her designee issue policy determinations or operating guidelines required for proper performance of the contract, DOM shall do so in a timely manner. The Contractor shall be entitled to rely upon and act in accordance with such policy determinations and operating guidelines unless the Contractor acts negligently, maliciously, fraudulently, or in bad faith.

3.9.2 Waiver

No covenant, condition, duty, obligation, or undertaking contained in or made a part of this contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the other party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

3.9.3 Contract Variations

If any provision of the contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both DOM and the Contractor shall be relieved of all obligations arising under such provision; if the remainder of the contract is capable of performance, it shall not be affected by such declaration or funding and shall be fully performed.

3.9.4 Headings

The headings used throughout the contract are for convenience only and shall not be resorted to for interpretation of the contract.

3.9.5 Change Orders and/or Amendments

The Executive Director of DOM or designated representative may, at any time, by written order delivered to the Contractor at least thirty (30) days prior to the commencement date of such change, make administrative changes within the general scope of the contract. If any such change causes an increase or decrease in the cost of the performance of any part of the work under the contract an adjustment commensurate with the costs of performance under this contract shall be made in the contract price or delivery schedule or both. Any claim by the Contractor for equitable adjustment under this clause must be asserted in writing to DOM within thirty (30) days from the date of receipt by the Contractor of the notification of change. Failure to agree to any adjustment shall be a dispute within the meaning of the Dispute Clause of this Contract. Nothing in this case, however, shall in any manner excuse the Contractor from proceeding diligently with the contract as changed.

If the parties are unable to reach an agreement within thirty (30) days of DOM receipt of the Contractor's cost estimate, the Executive Director of DOM shall make a determination of the revised price, and the Contractor shall proceed with the work according to a schedule approved by DOM subject to the Contractor's right to appeal the Executive Director's determination of the price pursuant

to the Disputes Section. Nothing in this clause shall in any manner excuse the Contractor from proceeding diligently with the contract as changed.

The rate of payment for changes or amendments completed per contract year shall be at the rates specified by the Contractor's proposal.

At any time during the term of this contract, DOM may increase the quantity of goods or services purchased under this contract by sending the Contractor a written amendment or modification to that effect which references this contract and is signed by the Executive Director of DOM. The purchase price shall be the lower of the unit cost identified in the Contractor's proposal or the Contractor's then-current, published price. The foregoing shall not apply to services provided to DOM at no charge. The delivery schedule for any items added by exercise of this option shall be set by mutual agreement.

3.9.6 Disputes

Any dispute concerning the contract which is not disposed of by agreement shall be decided by the Executive Director of DOM who shall reduce such decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Executive Director shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Attorney General a written request to render an interpretation addressed to the Office of the Attorney General, Gartin Justice Building, Jackson, Mississippi 39205. The interpretation of the Attorney General or his duly authorized representative shall be final and conclusive. The Contractor and DOM shall be afforded an opportunity to be heard and to offer evidence in support of their interpretations. Nothing in this paragraph shall be construed to relieve the Contractor of full and diligent performance of the contract.

3.9.7 Cost of Litigation

In the event that DOM deems it necessary to take legal action to enforce any provision of the contract, the Contractor shall bear the cost of such litigation, as assessed by the court, in which DOM prevails. Neither the State of Mississippi nor DOM shall bear any of the Contractor's cost of litigation for any legal actions initiated by the Contractor against DOM regarding the provisions of the contract. Legal action shall include administrative proceedings.

3.9.8 Attorney Fees

The Contractor agrees to pay reasonable attorney fees incurred by the State and DOM in enforcing this agreement or otherwise reasonably related thereto.

3.10 INDEMNIFICATION

The Contractor agrees to indemnify, defend, save, and hold harmless DOM, the State of Mississippi, their officers, agents, employees, representatives, assignees, and contractors from any and all claims and losses accruing or resulting to any and all the Contractor employees, agents, subcontractors, laborers, and any other person, association, partnership, entity, or corporation furnishing or supplying work, services, materials, or supplies in connection with performance of this contract, and from any and all claims and losses accruing or resulting to any such person, association, partnership, entity, or corporation who may be injured, damaged, or suffer any loss by the Contractor in the performance of the contract.

The Contractor agrees to indemnify, defend, save, and hold harmless DOM, the State of Mississippi, their officers, agents, employees, representatives, assignees, and contractors against any and all liability, loss, damage, costs or expenses which DOM may sustain, incur or be required to pay: 1.) by reason of any person suffering personal injury, death or property loss or damage of any kind either while participating with or receiving services from the Contractor under this contract, or while on

premises owned, leased, or operated by the Contractor or while being transported to or from said premises in any vehicle owned, operated, leased, chartered, or otherwise contracted for or in the control of the Contractor or any officer, agent, or employee thereof; or 2.) by reason of the Contractor or its employee, agent, or person within its scope of authority of this contract causing injury to, or damage to the person or property of a person including but not limited to DOM or the Contractor, their employees or agents, during any time when the Contractor or any officer, agent, employee thereof has undertaken or is furnishing the services called for under this contract.

The Contractor agrees to indemnify, defend, save, and hold harmless DOM, the State of Mississippi, their officers, agents, employees, representatives, assignees, and contractors against any and all liability, loss, damages, costs or expenses which DOM or the State may incur, sustain or be required to pay by reason of the Contractor, its employees, agents or assigns: 1.) failing to honor copyright, patent or licensing rights to software, programs or technology of any kind in providing services to DOM, or 2.) breaching in any manner the confidentiality required pursuant to federal and state law and regulations.

The Contractor agrees to indemnify, defend, save, and hold harmless DOM, the State of Mississippi, their officers, agents, employees, representatives, assignees, and contractors from all claims, demands, liabilities, and suits of any nature whatsoever arising out of the contract because of any breach of the contract by the Contractor, its agents or employees, including but not limited to any occurrence of omission or commission or negligence of the Contractor, its agents or employees.

If in the reasonable judgment of DOM a default by the Contractor is not so substantial as to require termination and reasonable efforts to induce the Contractor to cure the default are unsuccessful and the default is capable of being cured by DOM or by another resource without unduly interfering with the continued performance of the Contractor, DOM may provide or procure such services as are reasonably necessary to correct the default. In such event, the Contractor shall reimburse DOM for the reasonable cost of those services. DOM may deduct the cost of those services from the Contractor's monthly administrative invoices. The Contractor shall cooperate with DOM or those procured resources in allowing access to facilities, equipment, data or any other Contractor resources to which access is required to correct the default. The Contractor shall remain liable for ensuring that all operational performance standards remain satisfied.

3.10.1 No Limitation of Liability

Nothing in this contract shall be interpreted as excluding or limiting any liability of the Contractor for harm caused by the intentional or reckless conduct of the Contractor, or for damages incurred in the negligent performance of duties by the Contractor, or for the delivery by the Contractor of products that are defective, or for breach of contract or any other duty by the Contractor. Nothing in the contract shall be interpreted as waiving the liability of the Contractor for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense related to the Contractor's conduct or performance under this contract.

3.11 STATUS OF THE CONTRACTOR

3.11.1 Independent Contractor

It is expressly agreed that the Contractor is an independent Contractor performing professional services for DOM and is not an officer or employee of the State of Mississippi or DOM. It is further expressly agreed that the contract shall not be construed as a partnership or joint venture between the Contractor and DOM.

The Contractor shall be solely responsible for all applicable taxes, insurance, licensing and other costs of doing business. Should the Contractor default on these or other responsibilities jeopardizing the

Contractor's ability to perform services effectively, DOM, in its sole discretion, may terminate this contract.

The Contractor shall not purport to bind DOM, its officers or employees nor the State of Mississippi to any obligation not expressly authorized herein unless DOM has expressly given the Contractor the authority to do so in writing.

The Contractor shall give DOM immediate notice in writing of any action or suit filed, or of any claim made by any party which might reasonably be expected to result in litigation related in any manner to this contract or which may impact the Contractor's ability to perform.

No other agreements of any kind may be made by the Contractor with any other party for furnishing any information or data accumulated by the Contractor under this contract or used in the operation of this program without the written approval of DOM. Specifically, DOM reserves the right to review any data released from reports, histories, or data files created pursuant to this Contract.

In no way shall the Contractor represent itself directly or by inference as a representative of the State of Mississippi or the Division of Medicaid except within the confines of its role as a contractor for the Division of Medicaid. DOM's approval must be received in all instances in which the Contractor distributes publications, presents seminars, presents workshops, or performs any other outreach.

The Contractor shall not use DOM's name or refer to the contract directly or indirectly in any advertisement, news release, professional trade or business presentation without prior written approval from DOM.

3.11.2 Employment of DOM Employees

The Contractor shall not knowingly engage on a full-time, part-time, or other basis during the period of the contract, any professional or technical personnel who are or have been at any time during the period of the contract in the employ of DOM, without the written consent of DOM. Further, the Contractor shall not knowingly engage in this project, on a full-time, part-time, or other basis during the period of the contract, any former employee of DOM who has not been separated from the agency for at least one year, without the written consent of DOM.

The Contractor shall give priority consideration to hiring interested and qualified adversely affected State employees at such times as requested by DOM to the extent permitted by this contract or state law.

3.11.3 Conflict of Interest

No official or employee of DOM and no other public official of the State of Mississippi or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. A violation of this provision shall constitute grounds for termination of this contract. In addition, such violation will be reported to the State Ethics Commission, Attorney General, and appropriate federal law enforcement officers for review.

The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of the contract no person having any such known interests shall be employed including subsidiaries or entities that could be misconstrued as having a joint relationship, and to employment by the Contractor of immediate family members of Medicaid providers.

3.11.4 Personnel Practices

All employees of the Contractor involved in the Medicaid function will be paid as any other employee of the Contractor who works in another area of their organization in a similar position. The Contractor shall develop any and all methods to encourage longevity in Contractor's staff assigned to this contract.

Employees of the Contractor shall receive all benefits afforded to other similarly situated employees of the Contractor.

The Contractor must agree to sign the Drug Free Workplace Certificate (Exhibit 1).

3.11.5 No Property Rights

No property rights inure to the Contractor except for compensation for work that has already been performed.

3.12 EMPLOYMENT PRACTICES

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age, marital status, political affiliations, or disability. The Contractor must act affirmatively to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age, marital status, political affiliation, or disability.

Such action shall include, but is not limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices setting forth the provisions of this clause.

The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, marital status, political affiliation, or disability, except where it relates to a bona fide occupational qualification or requirement.

The Contractor shall comply with the non-discrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60. The Contractor shall comply with related state laws and regulations, if any.

The Contractor shall comply with the Civil Rights Act of 1964, and any amendments thereto, and the rules and regulations thereunder, and Section 504 of Title V of the Rehabilitation Act of 1973, as amended, and the Mississippi Human Rights Act of 1977.

If DOM finds that the Contractor is not in compliance with any of these requirements at any time during the term of this contract, DOM reserves the right to terminate this contract or take such other steps as it deems appropriate, in its sole discretion, considering the interests and welfare of the State.

3.13 RISK MANAGEMENT

The Contractor may insure any portion of the risk under the provision of the contract based upon the Contractor's ability (size and financial reserves included) to survive a series of adverse experiences, including withholding of payment by DOM, or imposition of penalties by DOM.

On or before beginning performance under this Contract, the Contractor shall obtain from an insurance company, duly authorized to do business and doing business in Mississippi, insurance as follows:

3.13.1 Workers' Compensation

The Contractor shall take out and maintain, during the life of this contract, workers' compensation insurance for all employees employed at the project in Mississippi. Such insurance shall fully comply with the Mississippi Workers' Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide adequate insurance satisfactory for protection of his or her employees not otherwise protected.

3.13.2 Liability

The Contractor shall ensure that professional staff and other decision making staff shall be required to carry professional liability insurance in an amount commensurate with the professional responsibilities and liabilities under the terms of this RFP.

The Contractor shall obtain, pay for and keep in force during the contract period general liability insurance against bodily injury or death in an amount commensurate with the responsibilities and liabilities under the terms of this RFP; and insurance against property damage and fire insurance including contents coverage for all records maintained pursuant to this contract in an amount commensurate with the responsibilities and liabilities under the terms of this RFP. The Contractor shall furnish to DOM certificates evidencing such insurance is in effect on the first working day following contract signing.

3.14 CONFIDENTIALITY OF INFORMATION

3.14.1 Confidentiality of Beneficiary Information

All information as to personal facts and circumstances concerning Medicaid beneficiaries obtained by the Contractor shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of DOM and the written consent of the enrolled beneficiary, his attorney, or his responsible parent or guardian, except as may be required by DOM.

The use or disclosure of information concerning beneficiaries shall be limited to purposes directly connected with the administration of the contract.

All of the Contractor officers and employees performing any work for or on the contract shall be instructed in writing of this confidentiality requirement and required to sign such a document upon employment and annually thereafter.

The Contractor shall notify DOM promptly of any unauthorized possession, use, knowledge or attempt thereof, of DOM's data files or other confidential information. The Contractor shall promptly furnish DOM full details of the attempted unauthorized possession, use or knowledge, and assist in investigating or preventing the recurrence thereof.

3.14.2 Confidentiality of Proposals and Contract Terms

After award of the contract, all Offeror's proposals, including those terms bid in the Business Proposal, are subject to disclosure under the State's Access to Public Records Act and the Federal Freedom of Information Act. Information specified by an Offeror as proprietary information shall be available for disclosure as provided by State statute.

In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information, that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by State law. This provision shall survive termination or completion of this agreement. The parties agree that this provision is subject to and superseded by Miss. Code Ann. Section 25-61-1, et seq. regarding Public Access to Public Records.

3.15 THE CONTRACTOR COMPLIANCE ISSUES

The Contractor agrees that all work performed as part of this contract will comply fully with administrative and other requirements established by federal and state laws, regulations and guidelines, and assumes responsibility for full compliance with all such laws, regulations and guidelines, and agrees to fully reimburse DOM for any loss of funds, resources, overpayments, duplicate payments or incorrect payments resulting from noncompliance by the Contractor, its staff, or agents, as revealed in any audit.

3.15.1 Federal, State, and Local Taxes

Unless otherwise provided herein, the contract price shall include all applicable federal, state, and local taxes.

The Contractor shall pay all taxes lawfully imposed upon it with respect to this contract or any product delivered in accordance herewith. DOM makes no representation whatsoever as to exemption from liability to any tax imposed by any governmental entity on the Contractor.

3.15.2 License Requirements

The Contractor shall have, or obtain, any license/permits that are required prior to and during the performance of work under this contract.

3.15.3 HIPAA Compliance

The Contractor must ensure that all work supports the HIPAA Security Rules and sign a HIPAA Business Associate Agreement (Exhibit 3).

3.15.4 Site Rules and Regulations

The Contractor shall use its best efforts to ensure that its employees and agents, while on DOM premises, shall comply with site rules and regulations.

3.15.5 Environmental Protection

The Contractor shall be in compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (45 USC 1857 [h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulation (40 CFR Part 15) which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. The Contractor shall report violations to the applicable grantor federal agency and the U. S. EPA Assistant Administrator for Enforcement.

3.15.6 Lobbying

The Contractor certifies, to the best of its knowledge and belief, that no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee

of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance is placed when entering into this contract. Submission of this certification is a prerequisite for making or entering into this contract imposed under Title 31, Section 1352, U.S. Code. Failure to file the required certification shall be subject to civil penalties for such failure.

The Contractor shall abide by lobbying laws of the State of Mississippi.

3.15.7 Bribes, Gratuities and Kickbacks Prohibited

The receipt or solicitation of bribes, gratuities and kickbacks is strictly prohibited.

No elected or appointed officer or other employee of the Federal Government or of the State of Mississippi shall benefit financially or materially from this contract. No individual employed by the State of Mississippi shall be permitted any share or part of this contract or any benefit that might arise there from.

The Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibitions against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

3.15.8 Small and Minority Businesses

DOM encourages the employment of small business and minority business enterprises. Therefore, the Contractor shall report, separately, the involvement in this contract of small businesses and businesses owned by minorities and women. Such information shall be reported on an invoice annually on the contract anniversary and shall specify the actual dollars contracted to-date with such businesses, actual dollars expended to date with such businesses, and the total dollars planned to be contracted for with such businesses on this contract.

3.15.9 Suspension and Debarment

The Contractor certifies that it is not suspended or debarred under federal law and regulations or any other state's laws and regulations.

3.15.10 Compliance with the Mississippi Employment Protection Act

The Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon

request of the State, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) Termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public, or (b) The loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) Both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

The Contractor certifies that it is not suspended or debarred under federal law and regulations or any other state's laws and regulations.

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4 PROCUREMENT

4.1 APPROACH

The procurement process provides for the evaluation of proposals and selection of the winning proposal in accordance with federal law and regulations and state law and regulations, specifically, by appropriate provisions of the State Personal Service Contract Review Board Regulations which is available for inspection at 301 N. Lamar St., Jackson, Mississippi or on the web at www.spb.state.ms.us.

Separate technical and business proposals must be submitted simultaneously but will be opened at different stages of the evaluation process. Technical Proposals will be thoroughly evaluated in order to determine point scores for each evaluation factor. The evaluation and selection process is described in more detail in Section 7 of this RFP.

Submission of a proposal constitutes acceptance of the conditions governing the procurement, including the evaluation factors contained in Section 7 of this RFP, and constitutes acknowledgment of the detailed descriptions of the Mississippi Medicaid Program.

No public disclosure or news release pertaining to this procurement shall be made without prior written approval of DOM. FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN THE OFFEROR BEING DISQUALIFIED.

4.2 QUALIFICATION OF OFFERORS

Each corporation shall report its corporate charter number in its transmittal letter or, if appropriate, have attached to its transmittal letter a signed statement to the effect that said corporation is exempt from the above described, and set forth the particular reason(s) for exemption. All corporations shall be in full compliance with all Mississippi laws regarding incorporation or formation and doing business in Mississippi and shall be in compliance with the laws of the state in which they are incorporated, formed, or organized.

DOM may make such investigations as necessary to determine the ability and commitment of the Offeror to adhere to the requirements specified within this RFP and its proposal, and the Offeror shall furnish to DOM all such information and data for this purpose as may be requested. DOM reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capability to fulfill the requirements of the contract. DOM reserves the absolute right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fail to satisfy DOM that such Offeror is properly qualified to carry out the obligations of the contract and to complete the work or furnish the items contemplated.

The State reserves the right to reject any and all proposals, to request and evaluate "best and final offers" from some or all of the respondents, to negotiate with the best proposed offer to address issues other than those described in the proposal, to award a contract to other than the low Offeror, or not to make any award if it is determined to be in the best interest of the State.

Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award. Proposals may also be accepted without such discussions.

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4.3 TIMETABLE

The following timetable is the estimated and anticipated timetable for the RFP and procurement process.

March 27, 2009	Release RFP for Bids
April 10, 2009 (5:00 p.m. CST)	Deadline for Letter of Intent and Written Questions
April 17, 2009 (5:00 p.m. CST)	Response to Questions Posted
April 24, 2009 (5:00 p.m. CST)	Proposal Deadline
April 27 – 29, 2009	Evaluation of Technical Proposal
April 30 – May 6, 2009	Oral Presentations (if desired by DOM)
May 7, 2009	Adjustments to Evaluation if necessary
May 7 - 8, 2009	Evaluation of Business Proposal
May 11 – 20, 2009	Executive Review and Approval
May 21, 2009	Submit to PSCRB
June 11, 2009	PSCRB Meeting (proposed)
June 12 – 19, 2009	Contracts signed and notarized
July 1 – September 30, 2009	Implementation
October 1, 2009	Operations Start Date

DOM reserves the right to amend the timetable in the best interest of DOM. Potential Offerors who have submitted letters of intent will be notified of any changes to this timetable.

4.3.1 Mandatory Letter of Intent

The Offerors are required to submit a Letter of Intent to bid. This letter will be due by 5:00 p.m. CST, April 10, 2009, and should be sent to:

Melanie Wakeland
Procurement Officer
Division of Medicaid
550 High St., Suite 1000
Jackson, Mississippi 39201

Fax: (601) 359-6048

Email: exmpw@medicaid.state.ms.us

This letter shall be on the official business letterhead of the Offeror and must be signed by an individual authorized to commit the company to the work proposed. Submission of the Letter of Intent

shall not be binding on the prospective Offeror to submit a proposal. However, firms that do not submit a Letter of Intent by 5:00 p.m. CST, April 10, 2009, will not thereafter be eligible for the procurement.

Prior to April 10, 2009, all RFP amendments will be sent to all organizations that request an RFP. After April 10, 2009, RFP amendments and the answers to questions will only be distributed to those firms submitting a Letter of Intent.

4.3.2 Procedure for Submitting Questions

Multiple questions may be submitted per submission. Please use the "Question & Answer Template" found on the procurement webpage. Written questions are due by 5:00 p.m. CST, April 10, 2009. Answers will be available not later than 5:00 PM CST, Friday, April 17, 2009, via DOM website at <http://www.medicaid.ms.gov>. Questions and answers will become a part of the RFP as an attachment. Written responses provided for the questions will be binding.

Questions should be sent to:

Melanie Wakeland
Procurement Officer
Division of Medicaid
REF: **TPL Services**
RFP# 20090327

FAX: (601) 359-6048

US MAIL OR HAND DELIVERED:
Sillers Building
550 High St., Suite 1000
Jackson, Mississippi 39201

OR EMAIL: exmpw@medicaid.state.ms.us

4.3.3 Proposal Submission Requirements

Proposals must be submitted in two parts: Technical Proposal and Business Proposal. The format and content of each are specified in Sections 5 and 6 of this RFP.

Proposals for this RFP must be submitted in 3-ring binders with components of the RFP clearly tabbed. An original and five (5) copies of the technical proposal under sealed cover and an original and five (5) copies of the business proposal under separate sealed cover must be received by DOM no later than 5:00 p.m. CST, on Friday, April 24, 2009. Any proposal received after this date and time will be rejected and returned unopened to the Offeror.

Proposals should be delivered to:

Melanie Wakeland
Procurement Officer
Division of Medicaid
Sillers Building
550 High St., Suite 1000
Jackson, Mississippi 39201

The outside cover of the package containing the Technical Proposals shall be marked:

REF: **TPL Services – Technical Component**
RFP# 20090327
(Name of Offeror)

Each technical proposal must include a transmittal letter as specified in Section 5.2.

The outside cover of the package containing the business proposals shall be marked:

REF: **TPL Services – Business Component**
RFP# 20090327
(Name of Offeror)

As the proposals are received, the sealed proposals will be date-stamped and recorded by DOM. The parties submitting proposals are responsible for ensuring that the sealed competitive proposal is delivered by the required time and to the required location and the parties assume all risks of delivery. No facsimile proposals will be accepted. The proposal must be signed in blue ink by an authorized official to bind the Offeror to the proposal provisions.

Proposals and modifications thereof received by DOM after the time set for receipt or at any location other than that set forth above will be considered late and will not be considered for award.

4.4 ORAL PRESENTATION

The oral presentation is part of the technical proposal evaluation. If desired by DOM, all Offerors will be given the opportunity to make an oral presentation. The purpose of the oral presentation is to provide an opportunity for the Offeror to present its proposal and credentials of proposed staff, and to respond to any questions from DOM. The original proposal cannot be supplemented, changed or corrected either in writing or orally.

The presentation will occur at a State office location in Jackson, MS. The determination of participants, location, order, and schedule for the presentations is at the sole discretion of the DOM and will be provided during the Evaluation process. The presentation will include slides, graphics and other media selected by the bidder to illustrate the Offeror's Proposal.

The presentations are tentatively scheduled for May 4 – May 8, 2009. The Offeror's presentation team shall include, at a minimum, the proposed Project Manager and other key management staff necessary to implement the contract requirements. However, DOM reserves the right to limit the number of participants in the Offeror's presentation. Questions and answers will be recorded and transcribed. DOM reserves the right to limit the time period for the presentation.

4.5 RULES OF PROCUREMENT

To facilitate the DOM procurement, various rules have been established and are described in the following paragraphs.

4.5.1 Representation Regarding Contingent Fees

The Offeror represents by submission of its proposal that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

4.5.2 Representation Regarding Gratuities

The Offeror represents by submission of its proposal that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Services Contract Procurement Regulations.

4.5.3 Restrictions on Communications with DOM Staff

From the issue date of this RFP until a Contractor is selected and the contract is signed, Offerors and/or their representatives are not allowed to communicate with any DOM staff regarding this procurement except the RFP Issuing Officer, Melanie Wakeland.

For violation of this provision, DOM shall reserve the right to reject any proposal.

4.5.4 Amendments

DOM reserves the right to amend the RFP at any time prior to the date for proposal submission. All amendments will be posted to the DOM website at <http://www.medicaid.ms.gov>. After April 10, 2009, Offerors submitting proposals will be notified when amendments are released.

4.5.5 Cost of Preparing Proposal

Costs of developing the proposals are solely the responsibility of the Offerors. DOM will provide no reimbursement for such costs. Any costs associated with any oral presentations to DOM will be the responsibility of the Offeror and will in no way be billable to DOM. If site visits are made, DOM's cost for such visits will be the responsibility of DOM and the Offeror's cost will be the responsibility of the Offeror and will in no way be billable to DOM.

4.5.6 Certification of Independent Price Determination

The Offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without any consultation, communication, or agreement with any other bidder or competitor.

4.5.7 Acceptance of Proposals

After receipt of the proposals, DOM reserves the right to award the contract based on the terms, conditions, and premises of the RFP and the proposal of the selected Contractor without negotiation.

All proposals properly submitted will be accepted by DOM. However, DOM reserves the right to request necessary amendments from all Offerors, reject any or all proposals received, or cancel this RFP, according to the best interest of DOM.

DOM also reserves the right to waive minor irregularities in bids providing such action is in the best interest of DOM.

Where DOM may waive minor irregularities as determined by DOM, such waiver shall in no way modify the RFP requirements or excuse the Offeror from full compliance with the RFP specifications and other contract requirements if the Offeror is awarded the contract.

DOM reserves the right to exclude any and all non-responsive proposals from any consideration for contract award. DOM will award the contract to the Offeror whose offer is responsive to the solicitation and is most advantageous to DOM in price, quality, and other factors considered. DOM reserves the right to make the award to an Offeror other than the Offeror bidding the lowest price when it can be demonstrated to the satisfaction of DOM, the Governor, the State Personal Service Contract Review

Board, and to CMS, if necessary, that award to the low Offeror would not be in the best interest of DOM and the State of Mississippi.

4.5.8 Rejection of Proposals

A proposal may be rejected for failure to conform to the rules or the requirements contained in this RFP. Proposals must be responsive to all requirements of the RFP in order to be considered for contract award. DOM reserves the right at any time to cancel the RFP, or after the proposals are received to reject any of the submitted proposals determined to be non-responsive. DOM further reserves the right to reject any and all proposals received by reason of this request. Reasons for rejecting a proposal include, but are not limited to

1. The proposal contains unauthorized amendments to the requirements of the RFP.
2. The proposal is conditional.
3. The proposal is incomplete or contains irregularities that make the proposal indefinite or ambiguous.
4. An authorized representative of the party does not sign the proposal.
5. The proposal contains false or misleading statements or references.
6. The Offeror is determined to be non-responsible as specified in Section 3-401 of the Personal Services Contract Review Board Regulations.
7. The proposal ultimately fails to meet the announced requirements of the State in some material aspect.
8. The proposal price is clearly unreasonable.
9. The proposal is not responsive, i.e., does not conform in all material respects to the RFP.
10. The supply or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the RFP.
11. The Offeror does not comply with the Procedures for Delivery of Proposal as set forth in the RFP.
12. The Offeror currently owes the State money.

4.5.9 Alternate Proposals

Each Offeror, its subsidiaries, affiliates or related entities shall be limited to one proposal which is responsive to the requirements of this RFP. Failure to submit a responsive proposal will result in the rejection of the Offeror's proposal. Submission of more than one proposal by an Offeror will result in the summary rejection of all proposals submitted. An Offeror's proposal shall not include variable or multiple pricing options.

4.5.10 Proposal Amendments and Withdrawal

Prior to the proposal due date, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to DOM, signed by the Offeror.

An Offeror may submit an amended proposal before the due date for receipt of proposals. Such amended proposal must be a complete replacement for a previously submitted proposal and must be clearly identified as such in the Transmittal Letter. DOM will not merge, collate, or assemble proposal materials.

Unless requested by DOM, no other amendments, revisions, or alterations to proposals will be accepted after the proposal due date.

Any submitted proposal shall remain a valid proposal for 180 days from the proposal due date.

4.5.11 Disposition of Proposals

The proposal submitted by the successful Offeror shall be incorporated into and become part of the resulting contract. All proposals received by DOM shall upon receipt become and remain the property of DOM. DOM will have the right to use all concepts contained in any proposal and this right will not affect the solicitation or rejection of the proposal.

4.5.12 Responsible Contractor

DOM shall contract only with a responsible contractor who possesses the ability to perform successfully under the terms and conditions of the proposed procurement and implementation. In letting the contract, consideration shall be given to such matters as Contractor's integrity, performance history, financial and technical resources, and accessibility to other necessary resources.

4.5.13 Best and Final Offers

The Executive Director of DOM may make a written determination that it is in the State's best interest to conduct additional discussions or change the State's requirements and require submission of best and final offers. The Procurement Officer shall establish a date and time for the submission of best and final offers. Otherwise, no discussion of or changes in the bids shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

4.6 STATE APPROVAL

Approval from the State Personal Services Contract Review Board must be received before contract signing. Every effort will be made by DOM to facilitate rapid approval and an early start date.

4.7 AWARD NOTICE

The notice of intended contract award shall be sent by carriers that require signature upon receipt, by fax with voice confirmation, or by email with reply confirmation to the winning Offeror.

Consistent with existing state law, no Offeror shall infer or be construed to have any rights or interest to a contract with DOM until final approval is received from all necessary entities and until both the Offeror and DOM have executed a valid contract.

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5 TECHNICAL PROPOSAL

5.1 INTRODUCTION

All proposals must be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) with tabs delineating each section. One copy of the proposal must be submitted on diskette or CD in Microsoft Word or Adobe Acrobat (.PDF) format.

The Technical Proposal must include the following sections:

1. Transmittal Letter
2. Executive Summary
3. Corporate Background and Experience
4. Project Organization and Staffing
5. Methodology
6. Project Management and Control
7. Work Plan and Schedule

Items to be included under each of these headings are identified in the paragraphs below. Each section within the Technical Proposal should include all items listed in the paragraphs below. The evaluation of proposals will be done on a section-by-section basis. A format that easily follows the requirements and order of the RFP should be used.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

5.2 TRANSMITTAL LETTER

The Transmittal Letter shall be in the form of a standard business letter on letterhead of the proposing company and shall be signed by an individual authorized to legally bind the Offeror. It shall be included in each Technical Proposal. The letter should identify all material and enclosures being submitted in response to the RFP. The transmittal letter shall include

1. A statement indicating that the Offeror is a corporation or other legal entity;
2. A statement confirming that the Contractor is registered to do business in Mississippi and providing their corporate charter number to work in Mississippi, if applicable;
3. A statement that the Contractor agrees that any lost or reduced federal matching money resulting from unacceptable performance of a contractor task or responsibility, as defined in this RFP, shall be accompanied by reductions in state payments to the Contractor;
4. A statement identifying the Offeror's Federal tax identification number;
5. A statement that no attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit a proposal;
6. A statement of Affirmative Action, that the Offeror does not discriminate in its employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or disability;
7. A statement that no cost or pricing information has been included in this letter or any other part of the technical proposal;

8. A statement identifying all amendments to this RFP issued by DOM which have been received by the Offeror. If no amendments have been received, a statement to that effect should be included;
9. A statement that the Offeror has read, understands and agrees to all provisions of this RFP without reservation;
10. Certification that the Offeror's offer will be firm and binding for 180 days from the proposal due date;
11. A statement naming any outside firms responsible for writing the proposal;
12. A statement agreeing that the Contractor and all subcontractors will sign the Drug Free Workplace Certificate (Exhibit 1);
13. A statement that the Offeror has included the signed DHHS Certification Regarding Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions (Exhibit 2) with the Transmittal letter;
14. All proposals submitted by corporations must contain certifications by the secretary or other appropriate corporate official other than the corporate official signing the corporate proposal that the corporate official signing the corporate proposal has the full authority to obligate and bind the corporation to the terms, conditions, and provisions of the proposal; and,
15. All proposals submitted must include a statement that the bidder presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services under this contract, and it shall not employ, in the performance of this contract, any person having such interest.
16. If the proposal deviates from the detailed specifications and requirements of the RFP, the transmittal letter must identify and explain these deviations. DOM reserves the right to reject any proposal containing such deviations or to require modifications before acceptance.

5.3 EXECUTIVE SUMMARY

The Executive Summary shall condense and highlight the contents of the Technical Proposal in such a way as to provide a broad understanding of the entire proposal. The Executive Summary shall include a summary of the proposed technical approach, the staffing structure, and the task schedule, including a brief overview of

1. Proposed work plan
2. Staff organizational structure
3. Key personnel
4. A brief discussion of the Offeror's understanding of the Mississippi environment and the Medicaid program requirements.

Also, Offerors may designate those provisions of the proposal which contain trade secrets or other proprietary data which they believe may remain confidential in accordance with Section 25-61-9 and 79-23-1 of the Mississippi Code.

The Executive Summary should be no more than five single-spaced typed pages in length.

5.4 CORPORATE BACKGROUND AND EXPERIENCE

The Corporate Background and Experience Section shall include for the Offeror details of the background of the company, its size and resources, details of corporate experience relevant to the

proposed contract, financial statements, and a list of all current or recent Medicaid or related projects. The time frame to be covered should begin, at a minimum, in January 2005 through present date.

5.4.1 Corporate Background

The details of the background of the corporation, its size, and resources, shall cover

1. date established
2. location of the principal place of business
3. location of the place of performance of the proposed contract
4. ownership (e.g.: public company, partnership, subsidiary)
5. total number of employees
6. number of personnel currently engaged in project operations
7. computer resources
8. performance history and reputation
9. current products and services
10. professional accreditations pertinent to the services provided by this RFP

5.4.2 Financial Statements

Financial statements for the contracting entity shall be provided for each of the last five (5) years, including at a minimum

1. statement of income
2. balance sheet
3. statement of changes in financial position during the last five (5) years
4. statement of cash flow
5. auditors' reports
6. notes to financial statements
7. summary of significant accounting policies

The State reserves the right to request any additional information to assure itself of an Offeror's financial status.

5.4.3 Corporate Experience

The corporate experience section must present the details of the Offeror's experience with the type of service to be provided by this RFP and Medicaid experience. A minimum of one corporate reference is required for each type of experience. DOM will check references at its option. Each reference must include the client's name and address and the current telephone number of the client's responsible project administrator or of a senior official of the client who is familiar with the Offeror's performance and who may be contacted by DOM during the evaluation process. DOM reserves the right to contact officials of the client other than those indicated by the Offeror. Overlapping responsibilities on the same client's contract should be depicted so that they are easily recognized.

The Offeror must provide for each experience:

1. customer name;
2. customer references (including phone numbers);
3. description of the work performed;
4. time period of contract;
5. staff months expended;
6. personnel requirements;
7. publicly funded contract cost; and
8. any contractual termination within the past five (5) years.

5.5 PROJECT ORGANIZATION AND STAFFING

The Project Organization and Staffing section shall include project team organization, charts of proposed personnel and positions, estimates of the staff-hours by major task(s) to be provided by proposed positions, and if known, résumés of all management and key professional personnel as required in this RFP.

5.5.1 Organization

The organization charts shall show

1. Organization and staffing during each phase as described in the RFP; and
2. Full-time, part-time and temporary status of all employees.

5.5.2 Key Staff References

Offerors must submit three references for each proposed key staff member. Each reference must include the name of the contact person, current address, telephone number and date and description of the service provided. Current DOM staff shall not be submitted for any reference for the above requirements.

5.5.3 Résumés

Offerors must submit résumés of all proposed key staff persons. Experience narratives shall be attached to the résumés describing specific experience with the type service to be provided by this RFP, a Medicaid program, and professional credentials, including any degrees, licenses and recent and relevant continuing education.

The résumés of proposed personnel shall include:

1. experience with Offeror;
2. experience in working with Medicaid program;
3. experience in the type of services to be provided by this RFP;
4. relevant education and training, including college degrees, dates of completion, and institution name and address; and
5. names, positions, and phone numbers of a minimum of three persons who can give information on the individual's experience and competence.

The résumés of proposed managers shall include:

1. experience in managing large-scale contractual services projects;
2. other management experience; and
3. supervisory experience including details and number of people supervised.

If project management responsibilities will be assigned to more than one individual during the project (i.e., management may be changed following implementation), résumés must be provided for all persons concerned.

Each project referenced in a résumé should include the customer name, the time period of the project, and the time period the person performed, as well as a brief description of the project and the person's responsibilities.

5.5.4 Responsibilities

This section should discuss the anticipated roles of personnel during all phases of the contract. All proposed key technical team leaders, including definitions of their responsibilities during each phase of the contract, should be included.

5.5.5 Backup Personnel Plan

If additional staff is required to perform the functions of the contract, the Contractor should outline specifically its plans and resources for adapting to these situations. The Contractor should also address plans to ensure the longevity of staff in order to allow for effective DOM support.

5.6 METHODOLOGY

The Methodology Section should describe the Offeror's approach to providing the services described in the scope of work, Section 8, of the RFP. This section should contain a comprehensive description of the proposed program and specify how it will improve clinical quality, promote beneficiary and provider satisfaction and achieve savings for the state. The narrative descriptions within this section must include

1. The description shall encompass the requirements of this RFP as outlined in Scope of Work.
2. The proposal must describe the methodology to be followed in sufficient detail to demonstrate the Offeror's direction and understanding of this RFP.
3. The proposal must include a high-level project plan for the project. This project plan must be at the level of major tasks and milestones and be submitted in Microsoft Project or comparable tool.
4. The proposal must summarize how State of Mississippi agency staff will be used as resources in this project. It is the State's desire that agency staff be advised of all aspects of the engagement.
5. The proposal should include information about past performance results and a plan for evaluating the proposed project.

5.7 PROJECT MANAGEMENT AND CONTROL

The Project Management and Control Section shall include details of the methodology to be used in management and control of the project, project activities, and progress reports. This section will also supervise correction of problems. Specific explanation must be provided if solutions vary from one phase to another. This section covers:

1. Project management approach;
2. Project control approach;

3. Manpower and time estimating methods;
4. Sign-off procedures for completion of all deliverables and major activities;
5. Management of performance standards, milestones and/or deliverables;
6. Assessment of project risks and approach to managing them;
7. Anticipated problem areas and the approach to management of these areas, including loss of key personnel, loss of technical personnel;
8. Internal quality control monitoring;
9. Approach to problem identification and resolution;
10. Project status reporting, including examples of types of reports; and
11. Approach to DOM's interaction with contract management staff.

5.8 WORK PLAN AND SCHEDULE

The Work Plan and Schedule must include a detailed work plan broken down by tasks and subtasks and a schedule for the performance of each task included in each phase of the contract. The schedule should allow ten working days for DOM approval of each submission or re-submission of each deliverable. The work plan to be proposed should include all responsibilities, milestones, and deliverables outlined previously in this RFP. This section shall cover:

1. Any assumptions or constraints identified by the Offeror, both in developing the work plan and in completing the work plan.
2. Person-weeks of effort for each task or subtask, showing Contractor personnel and DOM personnel efforts separately.
3. A network diagram, showing the planned start and end dates for all tasks and subtasks, indicating the interrelationships of all tasks and subtasks, and identifying the critical path.
4. A Gantt chart, showing the planned start and end dates of all tasks and subtasks.
5. A discussion of how the work plan provides for handling of potential and actual problems.
6. A schedule for all deliverables providing a minimum of ten (10) days review time by DOM.

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6 BUSINESS/COST PROPOSAL

6.1 GENERAL

All Offerors must certify in the transmittal letter that their offer shall be binding upon the Offeror for a period of 180 days following the proposal due date. Pricing will be considered as a separate criteria of the overall bid package.

Offerors must propose a firm fixed price for each of the requirements contained on the pricing schedule (Appendix A).

6.2 BID MODIFICATION IN THE EVENT OF A FEDERAL AND/OR STATE LAW, REGULATION OR POLICY

In the event any change occurs in federal law, federal regulations, state law, state regulations, state policies, or state Medicaid plan coverage, and DOM determines that these changes impact materially on proposal pricing, DOM reserves the right to require the Offerors to amend their proposals. The failure of an Offeror to negotiate these required changes will exclude such Offeror from further consideration for contract award. All proposals shall be based upon the provisions of federal and state laws and regulations and DOM's approved Medicaid State Plan coverage in effect on the issuance date of this RFP, unless this RFP is amended in writing to include changes prior to the closing date for receipt of proposals.

6.3 PROPOSAL CONTENT

The Business Proposal shall include the following:

1. A detailed worksheet by line item of all costs as it pertains to the Contractor Responsibilities and Deliverables as found in Section 8.0 of the RFP.
2. Each pricing schedule must be signed and dated by an authorized corporate official.
3. All proposals submitted by corporations must contain certification by the secretary or other appropriate corporate official, other than the signer of the corporate proposal, that the corporate official signing the corporate proposal has the authority to obligate and bind the corporation to the terms, conditions and provisions of the proposal.

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7 PROPOSAL EVALUATION

7.1 GENERAL

An Evaluation Committee comprised of DOM staff will be established to judge the merits of eligible proposals. The committee will be appointed by the Executive Director of the Division of Medicaid and will include members who have extensive experience in the Medicaid program. The committee will be responsible for the evaluation of the technical and business proposals.

7.2 EVALUATION OF PROPOSALS

A standard evaluation form will be utilized by the evaluation committee to ensure consistency in evaluation criteria.

A maximum of 1,000 points will be available for each proposal which shall be comprised of a technical and a business proposal. The points awarded per phase by the evaluation committee will be totaled to determine the points awarded per proposal.

Evaluation of eligible proposals will be conducted in five phases. The Procurement Officer will complete Phase One, the technical proposal evaluation committee will complete Phase Two, and the business proposal evaluation committee will complete Phase Three. In Phase Four, the Procurement Officer will compile the results of the technical and business evaluations and make a recommendation to the Executive Director of Medicaid based on the results of the evaluation. The fifth phase is the award decision of the Executive Director.

7.2.1 Phase 1 - Evaluation of Bidders' Response to RFP

In this phase, the Procurement Officer reviews each proposal to determine if each proposal is sufficiently responsive. Each proposal will be evaluated to determine if it is complete and whether it complies with the instructions to bidders in the RFP. Each proposal that is incomplete will be declared non-responsive and may be rejected with no further evaluation.

The Procurement Officer will determine if an incomplete proposal is sufficiently responsive to continue to Phase Two.

7.2.2 Phase 2 - Evaluation of Technical Proposal

Only those proposals which meet the requirements in Phase One will be considered in Phase Two.

Any technical proposal that is incomplete or in which there are significant inconsistencies or inaccuracies may be rejected by the Division of Medicaid. The Division of Medicaid reserves the right to waive minor variances or reject any or all proposals. In addition, the Division of Medicaid reserves the right to request clarifications or enter into discussions with all Offerors.

The evaluation committee will review the bidder's response to each requirement in order to determine if the bidder sufficiently addresses all of the requirements and that the bidder has developed a specific approach to meeting each requirement.

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Maximum number of points that may be awarded for the technical evaluation:

Maximum Points per Section

1. Corporate Background and Experience	100
2. Project Organization and Staffing	50
3. Methodology	200
4. Project Management and Control	75
5. Work plan and Schedule	<u>75</u>
Total Points	500

Proposals must score a minimum of 60% (300 points) of the total score in order to proceed to the Business/Cost phase of the evaluation. Proposals receiving less than 60% will not be considered for the Business/Cost evaluation or contract award.

Technical proposal evaluations may be adjusted based on information gathered during the oral presentations.

7.2.2.1 Executive Summary

The Evaluation Committee will review the Executive Summary to determine if it provides all information required in Section 5.3 of this RFP and is five pages or less in length.

7.2.2.2 Corporate Background and Experience

The Evaluation Committee will evaluate the experience, performance on similar contracts, resources, and qualifications of the Offeror to provide the services required by the RFP. The evaluation criteria will address:

1. Experience of Offeror in providing the requested services.
2. Corporate experience providing similar services.
3. Amount and level of resources proposed by the Offeror.
4. Specific qualifications that evidence the Offeror's ability to provide the services requested.
5. Current financial position and cash flow of the Offeror and evidence that the Offeror has a history of financial solvency.
6. Any contract terminations or non-renewals within the past five years.

7.2.2.3 Methodology

The Evaluation Committee will evaluate the approach and process offered to provide services as required by this RFP. In addition to the information required in Section 8.0 of this RFP, the evaluation criteria will address at a minimum the following (if applicable):

1. Processes and requirements for completion of the project.
2. Data management plan, including hardware, software, communications links, and data needs and proposed coordination plan.
3. Processes for maintaining confidentiality of protected health information.
4. Processes for development and submission of required deliverables.

5. Scope of services provided through partnerships or subcontractors.
6. Relevant experience that indicates your organizational qualifications for the performance of the potential contract.
7. Quality Assurance processes.

7.2.2.4 Organization and Staffing

The Evaluation Committee will review this section of the Offeror's proposal to determine if the proposed organizational structure and staffing level are sufficient to accomplish the requirements of the RFP. The committee will review the organizational chart(s), time lines, the job descriptions including job qualifications, the resumes of staff and their qualifications for the positions they will hold, and the relationship of their past experience to their proposed responsibilities under this contract. The committee will evaluate the explanation of the Offeror regarding the relationship between the Offeror and the Project Manager to determine if they will have sufficient autonomy to make management decisions to improve the Offeror's delivery of services to DOM.

7.2.2.5 Project Management and Control

The evaluation committee will evaluate the Offeror's proposal to determine if all of the elements required by Section 5.7 of the RFP are addressed. Specifically, the committee will evaluate

1. the Offeror's approach to the management of the project and ability to keep the project on target and to ensure that the requested services are provided;
2. the Offeror's control of the project to ensure that all requests are being met and that the Offeror is able to identify and resolve problems which occur;
3. the Offeror's methods for estimating and documenting personnel hours spent by staff on project activities to be sure they are sound and fair;
4. the Offeror's plans to comply with the reporting requirements of the contract, including the provision of status reports to DOM, and whether the reports are appropriate and sufficient to keep DOM informed of all aspects of the implementation and operation of the project; and
5. the Offeror's understand of the importance of interacting with DOM management staff and presenting a plan to do so appropriately.

7.2.2.6 Work Plan and Schedule

The committee will review and evaluate the work plan and schedule to determine if all tasks are included and if, for each task, a timeline and an identification of staff responsible for the task's accomplishment are indicated. The work plan must provide a logical sequence of tasks and a sufficient amount of time for their accomplishment.

7.2.3 Phase 3 - Evaluation of Business/Cost Proposal

Only those proposals that satisfactorily completed Phase 2 will be considered for Phase 3. DOM reserves the right to waive minor variances or reject any or all proposals.

Any bid price determined by DOM to be unrealistically or unreasonably low may not be considered acceptable, as such a proposal has a high probability of not being accomplished for the cost proposed. The Offeror may be required to produce additional documentation to authenticate the proposal price.

The maximum 500 points will be assigned to the lowest and best acceptable proposal. All other proposals will be assigned points based on the following formula:

Payments for Data Matches

$$\frac{X}{Y} * 250 = Z$$

X = lowest bid price
Y = Offeror's bid price
Z = assigned points

Payments of Recovery Activities

$$\frac{X}{Y} * 250 = Z$$

X = lowest bid price
Y = Offeror's bid price
Z = assigned points

The scores earned for each part of the cost proposal will be combined to determine the total points awarded for the business/cost evaluation

7.3 SELECTION

After the evaluation committee has completed the evaluation of the proposals, a summary report including all evaluations will be submitted to the Executive Director of DOM. The Executive Director will make the final decision regarding the winning proposal.

7.4 AWARD NOTICE

The notice of intended contract award shall be sent by mail, email or fax to all Offerors.

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8.0 SCOPE OF WORK

This RFP includes a variety of both automated and manual Third Party Liability activities. All activities should augment current DOM processes and must not duplicate DOM work effort. The components and services required for this proposal are as follows:

1. Automated data matches with commercial and governmental insurers
2. Pharmacy data matches to be transmitted real time to pharmacies
3. Recovery and cost avoidance activities
4. Medicare Retroactive Recovery
5. Medicare Buy-In
6. Medical Support Enforcement

Offerors are encouraged to propose innovative solutions to meet or exceed the requirements of this RFP. All proposals must be consistent with current Mississippi Medicaid policies and limitations for covered services, provider types, state plan benefits, and federal and state law.

8.1 IMPLEMENTATION - PHASE 1

The Contractor shall be responsible for the preparation and execution of a final implementation plan. This plan shall be based upon the requirements of this RFP and coordinated with DOM to ensure readiness to complete required tasks by specified dates. The Contractor will develop an implementation plan to be approved by DOM that outlines in detail all steps necessary to begin program operations. It is anticipated that Phase I will begin July 1, 2009 and end September 30, 2009.

During the Implementation phase a written report of program progress shall be submitted to DOM every week. The progress report must specify accomplishments during the report period in a task-by-task format, including personnel hours expended, whether the planning tasks are being performed on schedule and any administrative problems encountered.

8.2 OPERATIONS - PHASE 2

During Phase 2, the Contractor must perform the responsibilities described in this RFP. It is expected that Phase 2 will begin October 1, 2009 and terminate September 30, 2011. DOM may exercise two optional one year extensions, October 1, 2011 – September 30, 2012; and October 1, 2012 – September 30, 2013.

The Contractor will be required to adhere to the performance requirements of the contract as well as the requirements of any revisions in federal and state legislation or regulations which may be enacted or implemented during the period of performance of this contract that are directly applicable to the performance requirements of this contract. Such requirements will become a part of this contract effort through execution of a written contract amendment.

8.3 TURNOVER – PHASE 3

During this phase the contractor will prepare DOM or other applicable parties to take over the operations of those initiatives implemented under this contract. The Contractor must put procedures in place and provide training so that DOM sustains the ability to continue each initiative even after the project is completed and after expiration of the contract. The contractor shall provide detailed written

documentation of all new procedures implemented and any system changes made during the Operations Phase. Failure to properly prepare the state and provide written documentation will be cause for continued withholding of payment(s).

Upon receipt of notification of DOM's intent to transfer the contract functions, the Contractor must provide a Turnover Plan to DOM within the time frame specified by DOM. Time lines for turnover activities will be specified by DOM. The Turnover Plan must include, but is not limited to, the following:

1. Proposed approach to turnover
2. Tasks and subtasks for turnover
3. Schedule for turnover
4. Detailed chart depicting the Contractor's total operation
5. Transfer of Medicaid documents to DOM or its designated agent

Deliverables must be produced in an organized manner according to reasonable and customary business standards. Deliverables must be turned over to DOM in a form and condition that is satisfactory to DOM and in the time frames specified by DOM. Deliverables include the following:

1. Turnover Plan
2. Detailed organizational chart
3. All Medicaid documents
4. Turnover Results Report

Upon termination of the contract, the contractor shall have 120 days to complete recoveries initiated before the termination date. The Contractor may initiate no new collection claims during the 120 day period. After 120 days the contractor shall not be paid for further collection of outstanding claims and the full amount of subsequent recoveries shall revert to DOM.

8.4 DATA MATCHING

8.4.1 Work Plans

The Contractor shall identify new third party coverage for Mississippi's recipient population with qualifying Medicaid coverage through data matches and other file searches with commercial and governmental carriers and other databases as approved by DOM. The Contractor should include the largest commercial insurance carriers operating in the State of Mississippi including Blue Cross and Blue Shield of Mississippi. Offerors are encouraged to present evidence of the carrier's willingness to participate.

Data matching activities will be conducted based on Data Match Work Plans which will be submitted for DOM approval for each calendar quarter during the contract period. Work plans should be submitted no later than fifteen (15) work days prior to the beginning of each quarter.

DOM reserves the right to modify the work plan to exclude specific carriers, types of coverage, and/or recipients as well as to modify time frames and match criteria for each match, in order to ensure non-duplication of effort and to maximize cost effectiveness. DOM will return the approved or modified work plan within ten (10) days of receipt from the Contractor.

Work plans must include the following information:

1. Names of all commercial carriers, governmental and other databases with which the Contractor intends to perform data matches and the rationale for the selections

2. Types of coverage provided by each carrier
3. Recipient population to be included for each carrier including uniquely identified demographic elements, such as name, date of birth, gender, address, zip code
4. Time frames for each match
5. Proposed process of identifying and verifying coverage for each carrier
6. Criteria used to determine exact, suspect and other data match results
7. Time frames for reporting information to the Agency, description of reports, file formats, and data elements
8. Contractor's method of billing and proposed method of payment

8.4.2 Data Match Criteria

To ensure non-duplication of effort, Contractor shall not include in their data matches/file searches any individuals who have had less than five (5) months of qualifying Medicaid eligibility during the nine (9) months immediately prior to the data match.

Data match criteria must include recipient's full name, date of birth, sex, social security number, and period of coverage of recipient and family members for the identification of valid matches and present full criteria to DOM for approval prior to initiating any data matches.

8.4.3 Tracking System

The Contractor shall maintain a tracking system that provides live update information on all cases. The Contractor should allow system access via the Internet to DOM staff or any designated agents working on its behalf for audit purposes. The system should track at the minimum the following information:

- Data match dates and results
- Employer surveys and Medical Support Notices sent and received
- Individual insurance verification results

The Contractor must develop electronic and manual procedures for verifying the accuracy of its matches, the individuals matched, and their complete coverage. When the data match is completed, the Contractor shall present, for DOM approval, full results of the verified data matches conducted, prior to initiating any recoveries or data transfer to the MMIS.

8.4.4 Updates to Existing TPL Policy File

The Contractor is responsible for automated updates to the MMIS file with the new TPL information. TPL Policy File updates shall be provided in a separate file extract in a format approved by DOM and within a time frame specified by the Code of Federal Regulations. The new TPL information must be verified and validated prior to transmission.

The Contractor must also provide a method for correcting information in the event previously transmitted information is found to be erroneous.

8.5 REAL TIME UPDATES OF PHARMACY COVERAGE RESULTS

Data matching results on pharmacy policies must occur and be transmitted in real time to the DOM Pharmacy Point of Sale (POS) System. Pharmacy coverage must be available to the pharmacy at the

time of sale. The Offeror's proposal must demonstrate the ability to interface with the Pharmacy POS and future E-prescribing system.

8.6 RECOVERY ACTIVITIES

The Contractor shall provide a work plan to conduct post payment recoveries for mandatory "pay and chase" claims and for claims identified by retrospective identification of primary insurance and Medicare. The Contractor shall perform the following recovery activities after successfully updating the MMIS with verified TPL information and receiving individual paid claims history data:

1. Recover amounts equal to or exceeding the projections in the Contractor's proposal for the term of the contract.
2. Amounts recovered must be deposited to a depository account controlled by DOM upon receipt.
3. Establish, maintain, and update an accounts receivable file for claims which the Contractor identifies and bills to other insurance carriers. The accounts receivable file must be sufficient to provide an audit trail for State and Federal documentation requirements and shall be transferred to DOM at its request or at the termination of the contract resulting from this RFP. This accounts receivable file must be compatible with and capable of updating the TPL accounts receivable file on the MMIS.
4. Post recoveries to the accounts receivable files for receipt by DOM within seven (7) calendar days after recovery to allow for independent reconciliation by DOM of deposits to recoveries recorded.
5. Send recovery and accounts receivable files to DOM within 150 days following the effective date of the contract and subsequent receipts of recoveries at least every 30 days thereafter.
6. Transmit to DOM records of previously unidentified Third Party recoveries in a format acceptable to DOM within 90 days after the effective date of the contract and at least every 30 days thereafter. The data will be transmitted within 30 days following discovery of the resource.
7. Close out all claims for which no response was received after 180 days following the initial billing. An additional 120 days beyond the 180-day period may be obtained if the Contractor shows it has re-billed the claim to the insurer between the 120th day and the 180th day of the initial period. Following the second period, the Contractor shall issue a zero payment transaction to the MMIS, canceling the Contractor's rights to the recovery.
8. Investigate reasons for nonpayment by other insurers and resubmit claims when appropriate. Specific reasons for nonpayment will be included in the accounts receivable file.
9. Report to DOM all instances in which an insurance carrier has already paid an insured individual, a provider, or DOM for subsequent follow-up by DOM or the MMIS contractor.
10. Deduct from its billings any refunds of previous recoveries made to DOM in instances where incorrect or disallowed payments are made by third party resources. The total amount to be refunded should be shown on the Contractor's monthly billing statements as the amount to be deducted from the current month's bill. Each claim that results in incorrect or disallowed payments made by Third Party Resources must be identified by billing cycle/month, State Claim ICN, recipient name, Medicaid number, date of service, provider number, amount billed to Medicaid, amount paid by Medicaid, amount paid by Third Party Resource, and amount to be refunded for the claim.

11. Identify all refunds owed to Third Party Resources to correct recoveries or other overpayments with appropriate documentation. Upon receipt of this information, DOM will verify its accuracy and request one single warrant to reimburse the Contractor for the total amount of all refunds. The Contractor will provide disbursement to the appropriate insurance carriers affected.

8.7 MEDICARE RETROACTIVE RECOVERY

The Contractor shall provide a work plan to conduct post payment recoveries for claims identified by retrospective identification of Medicare. The Contractor shall perform the following recovery activities after successfully updating the MMIS with verified TPL information and receiving individual paid claims history data:

1. Develop a master data base compiled from the various federal data matches (SDX, SVES, EBD, BENDEX and PARIS). This will provide an active mining tool to increase Medicare cost avoidance.
2. Require providers to submit claims to Medicare and reimburse DOM either directly or by provider payment adjustment, for newly identified Medicare beneficiaries whose eligibility with Medicaid overlaps
3. Submit a proposed void/adjustment listing prior to preparing Medicaid claims and notifying providers of the impending void/adjustment process. DOM reserves the right to return for correction any claims presented which do not meet the appropriate coverage and/or void/adjustment criteria.
4. Prepare correspondence to providers advising them of the amount of Medicare Parts A, B, C, and D ancillary Medicaid payments to be voided/adjusted. The correspondence must be approved by DOM and mailed to the providers no later than sixty 60 days prior to the end of the year or within 5 days of the receipt of the data from the fiscal intermediary in order to allow timely claim submittal by the Provider to the Parts A, B, and D carrier.
5. Within the first quarter of the state fiscal year, the Contractor shall prepare and submit data to DOM for manual audit recoupment of the claims which failed to void or adjust electronically. The Contractor will be responsible for resolving and responding to provider inquiries and deleting the claims to be voided/adjusted if so indicated.

8.8 MEDICARE BUY-IN

The Offeror shall propose a plan to automate the DOM Medicare Buy-in process by data matching with appropriate Federal databases. Also the Contractor shall provide technical support for maintenance of the State-owned Buy-In Access Database System which resides on its own server to ensure continuation of current accretion/deletion/change transactions. When necessary and at the Agency's request, provide on-site support for the Medicare Buy-In database system.

1. Develop listing from master data base from federal matches of Medicare beneficiaries in the Medicare program in categories QMB (Qualified Medicare Beneficiaries); SLMB (Specified Low Income Medicare Beneficiary); and QI-1 (Qualified Individuals 1) for which Medicaid will pay Medicare Part B premiums.
2. Update existing beneficiary Recipient Medicare files in the MMIS system, which are also identified in the master data base.

8.9 MEDICAL SUPPORT ENFORCEMENT

The Contractor shall provide a work plan to conduct data matches with absent parents of Medicaid recipients who have been court ordered to provide medical coverage. This will require coordination with the Mississippi Department of Human Service (MDHS) Office of Child Support Enforcement to identify cases where medical support is ordered.

1. Identify unfulfilled medical support orders.
2. Determine whether non-custodial parents unable to provide dependent insurance are required to provide financial assistance for dependent medical care provided by DOM.
3. Reimburse DOM for the use of services, either by a minimum monthly contribution per child established by the IV D agency or Medicaid per member/per month cost.
4. Recover Medicaid payments made to recipients with unfulfilled medical support orders upon termination of eligibility
5. Tabulate Medicaid expenditures and provide annual updates to the non-custodial parent.
6. Utilize cost avoidance procedures on those members with known third party provided by a non-custodial parent.

8.10 CONTRACTOR RESPONSIBILITIES

1. Secure any necessary approvals and clearances required to conduct the tasks required by this RFP. These may include Data Match Agreements, CMS Waivers for timely filings, State Insurance Commission Approvals, etc.
2. Select and establish a site(s) at which all Contractor functions will be performed, permanently, and temporarily, if necessary. The Contractor's permanent location must be within 10 miles of DOM's High Street location. The contractor must obtain DOM acceptance of site selection in writing.
3. Provide a system for effective communication with a variety of entities including but not limited to employers, providers, recipients and insurance carriers. This communication should include a toll-free number to answer inquiries. The toll-free line must be operable and manned on business days from 8:00 a.m. - 5:00 p.m. CST.
4. The Contractor's project manager must be available and prepared to meet with DOM staff and other individuals as considered necessary for the discussion of the RFP and contract requirements. The project manager must also be prepared to answer pertinent inquiries regarding the program, its implementation, and operation. Meetings between the representatives of the Contractor and DOM shall be on an as-needed basis throughout the implementation phase and on a monthly basis, or as otherwise required by DOM during the operations phase.
5. Provide adequate cash control procedures in the Contractor's processes of deposit of funds and disposition of recoveries to the accounts receivable files. These procedures must include separation of staff deposit and disposition functions, security of receipts during working and non-working hours, and balancing deposits to the accounts receivable files with 7 days of receipt of recoveries. Any unresolved variances must be reported to DOM with seven days of receipt.

6. Submit monthly invoices to DOM based on finalized recoveries (those that the provider does not challenge or that have completed administrative appeals process and that include the number of newly verified insurance policies added to MMSI by the Contractors.
7. The Contractor will be required to assist in the eventuality of an audit.

8.11 REPORTING REQUIREMENTS

1. Monthly Data Match Progress Reports. Narrative reports by Carrier specifying benchmarks, problems, and proposed solutions.
2. Monthly Report of Pharmacy cost avoided claims and savings.
3. Monthly Report of Medical cost avoided claims and savings.
4. Monthly Report of Medicare retroactive recovery claims
5. Detailed Report of Actual Recoveries, including date of check receipt, client name, Medicaid ID number, carrier, and date of deposit. This information should balance to the deposits made to the bank account for each date. If any unidentified payments remain as of a given date, they shall be included on the report. This report is due to DOM within ten (10) calendar days of check receipt. (NOTE: See Section 8.6, Item 4 which requires disposition within seven (7) calendar days of receipt, thus allowing three (3) days for delivery of the report.)
6. Annual Report of Collections. This report must include the total amount billed and recovered, percentage of recovery, and number of claims involved. These totals should not be duplicative.
7. Monthly Accounts Receivable Summaries. Report by carrier, detailed claims billed and re-billed, detailed claims and dollars paid, detailed claims and dollars outstanding, percentage of claims paid for initial and re-billings, with appropriate totals.
8. Monthly Report of Carrier Payments to Other entities. Detailed listings specifically identifying payee, recipient, and paid claims affected on a weekly basis. Additionally, DOM will require summary reporting which indicates by carrier, number and percentages of claims billed and dollar amounts requested and payments made. Outstanding claims should be reported in 30, 60, 90, 120 and over 120 day intervals.
9. Newly Identified Resources by Carrier. Verified data match results by carrier indicating number of recipients with newly identified coverage by type of coverage, due within thirty (30) days of match completion.
10. Comprehensive Recovery Report by Carrier. This will be a detailed report produced after all significant recoveries have been effected which will specify recoveries billed and paid, claims by procedure code, diagnosis and place of service.
11. Monthly Report of Recoveries. This report must include the total amount billed and recovered, and the number of unduplicated claims.
12. Monthly status report that includes the number of newly identified and verified health insurance segments.
13. Monthly Report of Medicare Buy-In updates, that includes the number of newly identified and verified health insurance segments.

14. Monthly Report of Medicare Retroactive Recoveries that includes the number of newly identified and verified health insurance segments.
15. Monthly Report of Medical Support Enforcements that includes the number of newly identified and verified health insurance segments.
16. Quarterly and Year-to-Date Reports of above reports by calendar year and by fiscal year.
17. Ad Hoc reports for Mississippi Legislative Sessions and Budget Reports and other required meetings.

8.12 INFORMATION TECHNOLOGY AND SYSTEMS REQUIREMENTS

The Contractor shall assure seamless coordination between other systems including, but not limited to the state's fiscal agent, ERISA health plans, pharmacy benefit manager, and decision support system.

The Contractor shall have the capacity (hardware, software and personnel) sufficient to fully manage and report on the project described in this RFP. The Contractor's information system must ensure system linkage throughout all Contractor departments and include a scalable database repository that supports large data sets and exponential growth in total database size over the life of the contract. The Contractor shall comply with the Health Insurance Portability and Accountability Act (HIPAA).

The Contractor shall provide to DOM their carrier-specific electronic data match formats used to identify other coverage for Mississippi Medicaid recipients. These file formats may be used by DOM in future data matches.

DOM will coordinate with the Contractor concerning which of DOM's data files will be shared and the frequency with which they will be made available to perform data matches and recover against previously unidentified Third Party Resources. DOM has the first right to pursue.

8.13 ORGANIZATIONAL BACKGROUND AND EXPERIENCE

The Contractor must demonstrate that it has the capacity to design, implement, monitor and evaluate a TPL program. The Contractor must demonstrate its experience in designing and implementing projects similar to the one described in this RFP, must have experience working with a Medicaid population, and must meet all requirements for doing business in the State of Mississippi.

The Contractor must demonstrate capability to identify areas in which to enhance cost avoidance and recovery activities.

8.14 ADMINISTRATION AND MANAGEMENT

The Contractor shall have a governing body that sets policy and assumes overall responsibility for the organization. The Contractor shall be responsible for the administration and management of all aspects of the contract resulting from this RFP. Any delegation of authority to subcontractors does not relieve the Contractor of responsibility. This includes all subcontracts, employees, agents and anyone acting for or on behalf of the Contractor.

The relationship between management personnel and the governing body shall be set forth in writing, including each person's authority, responsibilities, function, and position descriptions for key personnel.

If the Contractor delegates any function of the administration or management of the contract, the Contractor shall

1. Ensure that the entity receiving such delegation adheres to all requirements set forth in state and federal requirements, in relation to the delegated entity and any further subcontractors;
2. Notify DOM within 10 working days before such functions are delegated (full or partial delegation), specify what functions are delegated, identify the Contractor staff responsible for monitoring the delegated functions, and define how the Contractor will accomplish that monitoring;
3. Provide to DOM the names, addresses, phone numbers and roles of all subcontractors for this account and notify DOM within two working days of any changes. Delegation to subcontractors is subject to Agency approval.

8.15 STAFFING

The Contractor must designate key staff persons that will be responsible for implementation and program operations. Key staff persons are defined as core staff experienced in systems, operations, and policies necessary for overall project management, systems management, and contract implementation and operations.

Key personnel must be 100% allocated to this Contract. Key staff persons assigned to this Contract are not permitted to manage, oversee, or participate in any other projects, contracts, or programs.

The Contractor must provide a detailed Staffing Plan that includes the name, title, and duties of each key staff person. In the event that a key staff person is found unacceptable by DOM based on performance of duties and deliverables, the Contractor will be expected to replace that staff person with a different individual who meets the required qualifications and is able to perform the required duties and comply with all contract requirements and deliverables. Replacement of any key staff person should be accomplished within thirty (30) days of the position vacancy, regardless of the reason for the vacancy, unless a longer period is approved by DOM.

The Contractor may not make any permanent or temporary changes in key personnel assigned to this Contract without DOM's prior written approval. DOM reserves the right to approve all key staff persons assigned to this Contract.

An in-person interview with DOM is required at least five (5) working days prior to the proposed start date of assignment of any key staff person to this Contract. Resumes and references must be submitted to DOM for review and approval at least five (5) working days prior to the in-person interview. At least three (3) professional references per key staff person are required. Resumes must demonstrate that the individual has the educational background and work experience that meet the requirements and support the individual's ability to perform the duties of the position.

The Contractor must provide an updated Organizational Chart and Staffing Plan that identifies each staff person assigned to this Contract and update this Chart and Staffing Plan when there are changes in key personnel.

Staffing levels must be sufficient to complete the responsibilities outlined in this RFP.

8.16 KEY PERSONNEL

This section states the minimum requirements for staffing during the term of the contract. The Contractor must ensure that these minimum requirements are met and may also propose additional staff to ensure that all contract requirements are met and program operations are performed effectively and efficiently. Key staff persons may be based outside the state of Mississippi except where specifically noted otherwise.

The Contractor shall develop a written Staffing Plan that designates key staff persons who will be

responsible for program operations.

Key personnel for program operations must include at least the following:

1. Project Manager – This key staff person will be the person responsible for implementation of the contract requirements, including all deliverables for this phase. This person must have experience in project management in a TPL program and must have a college or university degree in public health, public administration, hospital administration, nursing or business administration with a health-care emphasis.
2. Data/Information Systems Manager – This key staff person will be responsible for developing and implementing all requirements related to hardware and software, data collection, information management, file transfers, and data coordination with DOM's fiscal agent. This person should be skilled and experienced with data systems in a TPL program and be able to work with DOM and the fiscal agent to develop and implement a data and information systems plan for implementation and operations. This person must have a college or university degree in information systems management, computer science, business administration with emphasis in information systems management, or similar degrees that relate to the required job duties.
3. Customer Service Manager – This key staff person will be responsible for management of the local staff. This person must have experience in management and must have a college or university degree in business administration, public administration public health management or other related field. This key person must be a resident of Mississippi.
4. Other Key Support Staff – Other key staff persons as assigned by the Contractor. All duties must be clearly defined and responsibilities must be directly related to program operations.

8.17 CONTRACTOR PAYMENT

The amount payable by DOM to the contractor under this contract shall be on a monthly basis. The contractor shall submit an invoice and progress report, to include any required deliverables, to DOM for payment. Such invoice shall provide a description to sufficiently support payment by DOM.

8.17.1 Implementation Price

The Contractor shall be paid an implementation price of no more than the actual implementation costs up to the amount specified in the Contractor's proposal set forth in the Budget Summary.

8.17.2 Payments for Data Matches

DOM will pay a fee for each update to an existing policy when the following criteria have been verified by DOM to have been met.

1. Insurance is in force simultaneously with Medicaid eligibility.
2. Verified coverage not previously indicated on the Policy File
3. Verified coverage meets the requirements of the RFP

The Offeror shall propose in its Business/Cost Proposal amounts to be paid per match that meets the requirements of the RFP.

8.17.3 Payments for Recovery Activities

DOM will pay a percentage of all recoveries made in accordance with a DOM-approved Work Plan. The Offeror shall propose in its Business/Cost Proposal payment amounts for recovery activities.

8.17.4 Turnover Price

No specific or lump-sum payment shall be made by DOM for Turnover Phase services. Payment for such services shall be encompassed in the Operations Phase.

8.17.5 Travel

All travel performed in conjunction with performing the responsibilities of this contract shall not include any profit for the Contractor. Travel costs should be included in the contract price and implementation costs as necessary.

8.17.6 Erroneous Issuance of Compensation

In the event compensation to the Contractor of any kind is issued in error, the Contractor shall reimburse DOM the full amount of erroneous payment within 30 days of written notice of such error. Interest shall accrue at the statutory rate upon any amounts determined to be due and not repaid within 30 days following the notice. If payment is not made within 30 days following notice, DOM may deduct the amount from the Contractor's monthly administrative invoice.

8.17.7 Release

Upon final payment of the amounts due under this contract, the Contractor shall release DOM, its officers and employees from all liabilities and obligations whatsoever under or arising from this contract.

Payment to the Contractor by DOM shall not constitute final release of the Contractor. Should audit or inspection of the Contractor's records or client complaints subsequently reveal outstanding Contractor liabilities or obligations, the Contractor shall remain liable to DOM for such liabilities and obligations. Any overpayments by DOM shall be subject to any appropriate recoupment to which DOM is lawfully entitled. Any payment under this contract shall not foreclose the right of DOM to recover excessive or illegal payments as well as interest, attorney fees and costs incurred in such recovery.

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Appendix:

Appendix - A: Budget Summary

Appendix - G: Glossary

Exhibits:

Exhibit 1: DHHS Certification Regarding Drug-Free Workplace Requirements

Exhibit 2: DHHS Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Exhibit 3: HIPAA Business Associate Agreement

Attachment:

Mississippi Division of Medicaid Provider Policy Section 6.0 Third Party Recovery

Appendix A - Budget Summary

Section 6.0 addresses submission of the Budget Summary. Failure to follow the submittal instructions will immediately disqualify the Offeror.

Budget Summary				
Third Party Data Matching and Recovery Services				
RFP# 20090327				
Name of Offeror:				
Implementation Cost:				
Service	FY 2009 7/1/09 – 6/30/10	FY 2010 7/1/10 – 6/30/11		Total
Data Matching/Commercial and Government Insurance Identification/Verification				
Recovery Activities				
Total:				
<p>The Contractor shall provide, as an attachment to the Budget Summary, a detailed worksheet by line item of all costs as it pertains to the Contractor’s responsibilities and deliverables as found in Section 8.0 of the RFP.</p>				
<p>I certify that I am legally obligating the above named Offeror to the conditions of this contract.</p>				
Signature:			Date:	
Printed Name:			Title:	

APPENDIX G: GLOSSARY OF TERMS AND ACRONYMS

For purposes of this Contract, the following terms, abbreviations, and acronyms are defined as follows:

BENEFICIARY AND EARNINGS DATA EXCHANGE (BENDEX) – The BENDEX is created from the Social Security Administration (SSA) Master Beneficiary Record (MBR). The primary purpose of the BENDEX is to assist states in managing the Medicaid [program and the Temporary Aid to Needy Family (TANF) program. The BENDEX contains records from a bi-monthly data exchange. It contains information that comes either as a result of a state's direct request or a change in the Buy-In file. The BENDEX file provides applicable Title II Social Security Disability Insurance (SSDI) information, Title XVI Supplemental Security Income (SSI) information and Title XVIII Medicare entitlement information.

CREDIT BALANCE – Excess payment made to a health care provider on behalf of a patient. This can occur when both a third party and Medicaid pay for the same service, or when Medicaid payments are made in excess of the amount due.

CROSSOVER CLAIM – A Medicare paid claim sent to the state Medicaid agency for payment of a recipient's Medicare coinsurance and/or deductible.

DUAL ELIGIBLE – Is a person who is entitled to Medicare Part A and/or Part B, and is also eligible for some form of Medicaid benefit.

ENROLLMENT DATABASE (EDB) – CMS comprehensive source for Medicare entitlement information. The database contains information on all individuals entitled to Medicare, including demographic information, enrollment dates, third party buy-in information, and Medicare managed care enrollment. This database is updated daily and is an extract from the Health Insurance Master record (HIMR).

MEDICARE BUY-IN – The Medicare Buy-In file is a CMS provided monthly billing file called the Third Party Tape Agency Bills (TPTAB) and is produced for each state at the conclusion of the monthly buy-in update. A separate billing file is prepared for Medicare Part A and Part B Buy-In. The TPTAB file contains the record of all transactions processed to the state's Buy-in file during the update. This includes ongoing, accepted, and rejected transactions.

PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM (PARIS) – A large database consisting of participating states as well as the federal government, which enables the Department of Defense to match veterans, active duty military and other military related personnel who may be eligible for federal benefits against public assistance rolls. The database include interstate match noting recipients of benefits within multiple states, individuals collecting Veteran Administration benefits, and identify those individuals receiving public assistance while collecting payment as a federal or military employee.

QUALIFIED MEDICARE BENEFICIARY (QMB) – An individual who is entitled to Medicare Part A, and who has an income of 100 percent FPL or less and resources that do not exceed twice the SSI limit set for an individual and couple. QMB's are eligible to have Medicaid pay all of their Medicare cost-sharing obligations, including monthly premiums for Part A and Part B coverage and all required deductibles and coinsurances (up to the Medicaid payment amounts)

SOCIAL SECURITY ADMINISTRATION (SSA) – The federal program responsible for determining eligibility for Social Security programs, including retirement, disability and survivor benefits to workers and their family; when a person becomes disabled, they may qualify for one or both SSI and SSDI.

SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB) – An individual who is entitled to Medicare Part A, whose income is above 100 percent FPL but less than 120 percent FPL, and whose resources do not exceed twice the SSI limit for an individual or couple. SLMB's are eligible to have Medicaid pay their Part B

monthly premiums, BUT unlike QMB's, SLMB's are NOT eligible for Medicaid payment of their Medicare cost sharing obligations (deductible and coinsurance).

STATE DATA EXCHANGE SYSTEM (SDX) – Files created to provide the States with eligibility, payment and demographic data relating to SSI claimants and recipients.

STATE VERIFICATION AND EXCHANGE SYSTEM (SVES) – The Social Security Administration's State Verification and Exchange System provide states with a standardized method of receiving Social Security Number verification along with SSA program information. This information can be requested through a batch process with a Monday through Friday request for information and next day receipt of information. The State Online Query (SOLQ) is an online version of SVES combined Title II (SSDI) and Title XVI (SSI) information. This service provides TANF and state health service agencies real time query access to the SSA data. Files include are SSN Verification/Standard response, Title II, Title XVI, work history (40 Qualifying Quarters), and prisoner record.

SUPPLEMENTAL SECURITY INCOME (SSI) – An entitlement program that provides cash assistance to low income, disabled individuals based on their ability to work, and an income and asset test. Generally individuals eligible for SSI are entitled to Medicaid. **SOCIAL SECURITY DISABILITY INSURANCE (SSDI)** – An insurance program that provides cash assistance to disabled individuals based on their ability to work, and on a worker's contributions to the Social Security system. Generally, 29 months after SSDI disability onset the individual becomes eligible for Medicare.

EXHIBIT 1

DHHS CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS:

GRANTEES OTHER THAN INDIVIDUALS

Instructions for Certification

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

1) This certification is required by regulations implementing the Drug-Free Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990, Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

2) Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

3) Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

4) If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

5) Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including (i) all direct charge employees; (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of sub recipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by

a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against

employees for violation of such prohibition;

b) Establishing an ongoing drug-free awareness program to inform employees about

1) The dangers of drug abuse in the workplace; 2) the grantee's policy of maintaining a drug-free workplace; 3) any available drug counseling, rehabilitation, and employee assistance programs; and 4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

1) Abide by the terms of the statement; and 2) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted:

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or 2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments if needed):

Place of Performance (street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

--->NOTE: Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For HHS, the central receipt point is Division of Grants Management and Oversight, Office of Management and Acquisition, HHS, Room 517-D, 200 Independence Ave, S.W., Washington, D.C. 20201

Signature

Date

Title

Organization

EXHIBIT 2

DHHS Certification Regarding Debarment, Suspension, and Other Responsibility Matters
Primary Covered Transactions
45 CFR Part 76, Appendix A

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature

Date

Title

Organization

EXHIBIT 3

HIPAA Business Associate Agreement

This Business Associate Agreement (“Agreement”) is entered into between Mississippi Division of Medicaid, a State Agency (“DOM”) and **(enter name of Contractor here)**, a corporation qualified to do business in Mississippi (“Business Associate”).

I. RECITALS

- a. DOM is a State Agency that acts both as an employer and as a health plan for public benefit with a principal place of business at 550 High Street, Suite 1000, Jackson, MS 39201.
- b. Business Associate is a corporation qualified to do business in Mississippi that will act to perform consulting services for DOM with a principal place of business at **(enter address of Contractor here)**.
- c. DOM, as a Covered Entity defined herein under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) is required to enter into this Agreement to obtain satisfactory assurances that Business Associate, a Business Associate under HIPAA, will appropriately safeguard all Protected Health Information (“PHI”) as defined herein, disclosed, created or received by Business Associate on behalf of, DOM.
- d. DOM desires to engage Business Associate to perform certain functions for, or on behalf of, DOM involving the disclosure of PHI by DOM to Business Associate, or the creation or use of PHI by Business Associate on behalf of DOM, and Business Associate desires to perform such functions, as set forth in the contracts or agreements which involve the exchange of information, and wholly incorporated herein.
- e. The terms used in this Agreement shall have the same meaning as those terms in the Privacy Rule.

In consideration of the mutual promises below and the exchange of information pursuant to this agreement and in order to comply with all legal requirements for the protection of this information, the parties therefore agree as follows:

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.
- b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to DOM any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of DOM agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- f. Business Associate agrees to provide access, at the request of DOM, and in the time and manner determined by DOM, to Protected Health Information in a Designated Record Set, to DOM or, as directed by DOM, to an Individual in order to meet the requirements under 45 CFR § 164.524.

- g. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that DOM directs or agrees to pursuant to 45 CFR § 164.526 at the request of DOM or an Individual.
- h. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, and available to DOM, or to the Secretary of the Department of Health and Human Service, in a time and manner designated by the Secretary, for purposes of the Secretary determining DOM's compliance with the Privacy Rule.
- i. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for DOM to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- j. Business Associate agrees to provide to DOM or an Individual, an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

General Use and Disclosure Provisions

Refer to underlying agreements and contracts:

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, DOM as specified in the service agreements and contracts, provided that such use or disclosure would not violate the Privacy Rule if done by DOM or the minimum necessary policies and procedures of DOM.

IV. OBLIGATIONS OF DOM

- a. Provisions for DOM to Inform Business Associate of Privacy Practices and Restrictions
 - i. DOM shall notify Business Associate of any limitation(s), as set forth in the Notice of Privacy Practices attached hereto as Exhibit "A" and wholly incorporated herein, in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
 - ii. DOM shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
 - iii. DOM shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that DOM has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

- b. Permissible Requests by DOM

DOM shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by DOM.

V. TERM AND TERMINATION

- a. Term. The Term of this Agreement shall be effective as of the effective date of the agreements and contracts entered into between DOM and Business Associate, and shall terminate when all of the Protected Health Information provided by DOM to Business Associate, or created or received by

Business Associate on behalf of DOM, is destroyed. If it is infeasible to destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

- b. Termination for Cause. Upon DOM's knowledge of a material breach by Business Associate, DOM shall, at its discretion, either:
 - i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the associated Contracts or Agreements. If Business Associate does not cure the breach or end the violation within the time specified by DOM; or
 - ii. Immediately terminate this Agreement and the associated Contracts or Agreements if Business Associate has breached a material term of this Agreement and cure is not possible; and
 - iii. In either event, DOM shall report the violation to the Secretary of Health and Human Services as required.
- c. Effect of Termination.
 - i. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall destroy all Protected Health Information received from DOM, or created or received by Business Associate on behalf of DOM. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - ii. In the event that Business Associate determines that destroying the Protected Health Information is infeasible, Business Associate shall provide to DOM notification of the conditions that make destruction infeasible. Upon notification in writing that destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

VI. MISCELLANEOUS

- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement as is necessary to effectively comply with the terms of any agreements or contracts, or for DOM to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191. Such modifications signed by the parties shall be attached to and become part of this Agreement.
- c. Survival. The respective rights and obligations of Business Associate under the Section, "Effect of Termination" of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit DOM to comply with the Privacy Rule.
- e. Indemnification. Business Associate will indemnify and hold harmless DOM to this Agreement from and against all claims, losses, liabilities, costs and other expenses incurred as a result of, or arising directly or indirectly out of or in conjunction with:
 - i. Any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the party under this Agreement; and

- ii. Any claims, demands, awards, judgments, actions and proceedings made by any person or organization arising out of or in any way connected with the performance of the Business Associate under this Agreement.
- f. Business Associate's Compliance with HIPAA. DOM makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- g. Notices. Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each party at the addresses which follow or to such other addresses as the parties may hereinafter designate in writing:

DOM: **Office of the Governor
Division of Medicaid
550 High Street, Suite 1000
Jackson, MS 39201**

Business Associate:
(enter Contractor information here)

Any such notice shall be deemed to have been given, if mailed as provided herein, as of the date mailed.

- h. Change in Law. In the event that there are subsequent changes or clarifications of statutes, regulations or rules relating to Agreement, DOM shall notify Business Associate of any actions it reasonably deems are necessary to comply with such changes, and Business Associate promptly shall take such actions. In the event that there shall be a change in the federal or state laws, rules or regulations, or any interpretation or any such law, rule, regulation or general instructions which may render any of the material terms of this Agreement unlawful or unenforceable, or materially affects the financial arrangement contained in this Agreement, Business Associate may, by providing advanced written notice, propose an amendment to this Agreement addressing such issues.
- i. Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.
- j. Counterparts. This Agreement may be executed in counterparts, any of which is considered to be an original agreement.
- k. Governing Law. This Agreement shall be construed broadly to implement and comply with the requirements relating to the HIPAA laws and regulations. All other aspects of this Agreement shall be governed under the laws of the State of Mississippi.
- l. Assignment/Subcontracting. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns. Except as otherwise provided in the contract and any proposal or RFP related thereto and agreed upon between the parties, Business Associate may not assign or subcontract the rights or obligations under this Agreement without the express written consent of DOM. DOM may assign its rights and obligations under this Agreement to any successor or affiliated entity.
- m. Entire Agreement. This Agreement contains the entire agreement between parties and supersedes all prior discussions, negotiations and services for like services.
- n. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than DOM, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

- o. Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or employees assisting Business Associate in the fulfillment of its obligations under this Agreement, available to DOM, at no cost to DOM, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DOM, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, except where Business Associate or its agents, affiliates, subsidiaries, subcontractors or employees are a named adverse party.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement to be effective on the date first herein written.

DOM

BUSINESS ASSOCIATE

By: _____

By: _____

Name:
Title: Executive Director
Date:

Name:
Title:
Date: