

# **Arkansas Health Insurance Marketplace**

## **Request for Proposals**

### **Implementation and Operation Services for the Arkansas Health Insurance Marketplace SBE-FP Hotline**

**September 26, 2016**

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## **1 INTRODUCTION AND OVERVIEW**

### **1.1 Arkansas Health Insurance Marketplace**

The Arkansas Health Insurance Marketplace (AHIM) was established pursuant to Act 1500 (HB1508). This enabling legislation enacted AHIM as a private, nonprofit state-based health insurance marketplace approved by the U.S. Department of Health and Human Services on July 1st, 2015. Act 1500 (HB1508) was passed in by the 89th General Assembly of Arkansas during its 2013 Regular Session and subsequently signed by Governor Mike Beebe in the Spring of 2013. It is “an act to enact the Arkansas Health Insurance Marketplace Act; to promote competition among health insurance carriers; to decrease the cost of health insurance; to declare an emergency; and for other purposes.” AHIM is responsible for complying with the mandates required within the Affordable Care Act (ACA).

In November of 2015, AHIM successfully launched a State-Based Exchange for the Small Business Health Options Program (SHOP). Effective for Plan Year 2017, the Arkansas Individual Marketplace (IM) will operate as a State-Based Exchange on the Federal Platform (SBE-FP). As an SBE-FP, Arkansas relies on the Federal Exchange for consumer eligibility and enrollment and AHIM is responsible for Exchange functions such as Consumer Assistance and Plan Management.

AHIM seeks to provide Arkansans with the highest value health insurance options. Our mission is to increase access to health insurance through innovative and practical solutions, and a simplified customer interface.

### **1.2 Purpose of Procurement**

Per 45 CFR Part 155, AHIM, operating as an SBE-FP, is responsible for providing, at a minimum, a toll-free hotline to respond to requests for assistance and appropriately direct consumers to the Federal Exchange services to apply for and enroll in Exchange coverage.

AHIM seeks to contract with a Call Center vendor with established experience to design, implement, and operate a Hotline to manage all calls coming from AHIM’s toll-free number. The Hotline will assist consumers seeking healthcare coverage through the Federal Exchange or who have related healthcare coverage inquiries. The Hotline will appropriately direct callers to one of the listed entities:

1. The Federal Exchange: For application, enrollment, eligibility, complaints, appeals, and other technical inquiries.
2. Arkansas Small Business Health Options Program (SHOP) Exchange: For small business employers and employees needing information or technical assistance with the SHOP Exchange.
3. Arkansas Department of Human Services (DHS): For Medicaid-related inquiries.
4. Navigator Organizations: For application and/or enrollment assistance inquiries or as requested by consumers.
5. Agents/Brokers: As requested by consumers.
6. Carriers (medical and dental): For questions concerning benefits, coverage, provider networks, billing, and other related inquiries.

### **1.2.1 Functions of the Toll-Free Hotline**

The Hotline shall be staffed with Customer Service Representatives (CSRs) to handle all calls. CSRs must be trained staff who can provide excellent service to consumers and appropriately transfer calls. CSRs will perform warm transfers to the identified entities listed in *Section 1.2 Purpose of Procurement*. The selected Vendor will work with AHIM to develop a series of questions which will assist CSRs in determining which entity a consumer should be referred to for further assistance.

The Vendor must have the infrastructure in place to perform all functions and requirements detailed in this RFP. The Vendor must be able to accommodate to variable call volume and consider staffing capacity and cost-effectiveness. Additionally, AHIM expects the selected Vendor to have the technology and capability to report on performance metrics on a monthly basis.

AHIM expects that the Vendor has the experience and ability to successfully and efficiently design, implement, and operate the Hotline by October 31, 2016. The Vendor should demonstrate their experience in establishing similar Hotlines, the processes/models implemented, and their capability in establishing a Hotline within a similar timeline as that indicated in this RFP.

Vendors should note that the following listed items are **outside** the purpose and scope of this RFP. Hotline functions will not include tracking history, outbound mail, web chat, email, interactive voice response (IVR), customer relationship management (CRM), and access or interfaces to state systems.

### **1.3 Call Center Volume Projections**

AHIM requires that the Vendor is able to adjust accordingly to meet variable call volume throughout the duration of the contract. AHIM projects call volume to be, on average, between 200-300 calls per day. The Vendor acknowledges the stated average call volume is an estimate and not a certainty. The Vendor should expect a higher call volume during the Open Enrollment period and should be prepared to accommodate with additional staffing and services as required. Vendors are required to provide processes and practices on how variable call volume is handled that ensures quality and timeliness in assisting consumers.

### **1.4 Issuing Officer**

The information about the Issuing Officer is described below. This person will serve as the single point of contact for communication regarding this RFP.

Alicia McCoy  
Director of Communications and Marketing  
Arkansas Health Insurance Marketplace  
221 W. 2<sup>nd</sup> Street, Suite 700  
Little Rock, AR 72201  
Phone: 501-313-4197



## **1.5 Contract Term**

This is a one-year contract solicitation that has been deemed to be in the best interest of the citizens of the State of Arkansas by AHIM. The contract term shall begin upon execution of the Contract and shall continue its initial term for one year. At the discretion of AHIM, this contract may be extended for one subsequent year.

The Contractor acknowledges that other unanticipated uncertainties may arise that may require an increase or decrease in the original scope of services from the Contractor awarded this contract. In the event that an increase or decrease of services may be required, the Contractor agrees to enter into a supplemental agreement upon request by AHIM for the additional work. The supplemental agreement may also include a respective increase or decrease in the compensation.

In the event a proposal is submitted that involves more than one organization, a single organization shall be designated as the Prime Vendor. All other participants shall be designated as subcontractors. All subcontractors shall be identified by name and for each proposed subcontractor, background information along with a description of the functions or tasks the subcontractor(s) would perform under this RFP must be included, consistent with instructions found elsewhere in this RFP. The Prime Contractor shall be wholly responsible for the entire performance whether or not subcontractors are used. The project leader (Project Manager) shall be an employee of the Prime Vendor and meet all the relevant requirements. The Prime Vendor shall sign the contract with AHIM.

## **1.6 Overview**

This RFP is composed of nine sections, plus appendices:

*Section 1: Introduction and Overview* – Provides general information on the purpose of the RFP, the authorities relating to the issuance of the RFP and the organization of the RFP.

*Section 2: RFP Schedule and Procurement Process* – Provides information on the rules and schedules guiding this procurement.

*Section 3: Scope of Work* – Provides information on the services to be provided under the contract.

*Section 4: Format and Content of Proposal* – Defines the requirements for Vendors' Technical Proposals and the information to be provided.

*Section 5: Cost Proposal Requirements* – Defines the requirements for Vendors' Cost Proposals and the information to be provided.

*Section 6: Evaluation Process* – Defines the evaluation process and gives an overview of the evaluation categories.

*Section 7: Contract Terms and Conditions* – Describes the terms and conditions under which the work shall be performed.

Various appendices are included to support the information presented in Sections 1 through 7.

## 2 RFP SCHEDULE AND PROCUREMENT PROCESS

### 2.1 RFP Timeline

The schedule set forth herein represents AHIM’s anticipated schedule for this procurement. AHIM reserves the right to modify dates per extenuating circumstance. The procurement schedule is as follows:

**Table 2-1: Procurement Schedule**

Activity	Date
RFP Announcement	September 26, 2016
Deadline for Questions	September 29, 2016 at 1:00 PM
Proposals due	October 3, 2016 at 4:30 PM
Committee Selection	October 11, 2016
Board Selection	October 12, 2016
Contract Negotiations	October 13, 2016
Contract Signing	October 17, 2016

### 2.2 Written Questions

AHIM will accept written questions related to this RFP until the dates and times specified in *Table 2-1*. The written questions must reference the RFP section, page, and paragraph number in the format provided in *Appendix B* of this RFP.

Vendors may email written questions in Word 2010 or earlier version to the following procurement email address: [solicitations@ARMarketplace.com](mailto:solicitations@ARMarketplace.com).

AHIM intends to respond to all written questions and issue addenda (if necessary) no later than the dates and times specified in *Table 2-1*. Only written responses to questions and/or information included in formal addenda to this RFP shall be considered as official.

### 2.3 Acceptance of Proposals

All proposals properly submitted will be accepted by AHIM. However, AHIM reserves the right to request necessary amendments from a Vendor, reject any or all proposals received, or cancel this RFP, according to the best interests of AHIM and the residents of the state of Arkansas.

AHIM also reserves the right to waive minor irregularities in proposals, providing such action is in the best interest of AHIM or the State of Arkansas. In the event AHIM waives any minor irregularity in any Vendor’s proposal, such waiver shall in no way modify the requirements of this RFP or excuse the Vendor from full compliance with the specifications of this RFP nor excuse the Vendor from any Contract requirement. At the discretion of AHIM, the RFP Issuing Officer or his/her designated agent may contact the Vendor to clarify irregularities or provide missing requirements. The Vendor is required to submit clarifications or missing requirements with a turnaround time to be determined by AHIM.

AHIM reserves the right to exclude any and all non-responsive proposals from any consideration for Contract award.

## **2.4 Submission of Proposals**

Proposals must conform to all proposal submission requirements as stated in *Section 4: Format and Content of Proposal* of this RFP. Failure to meet all requirements will place the Vendor at risk, and AHIM may reject the entire proposal.

## **2.5 Proposal Opening and Inspection**

During the proposal evaluation and award recommendation period, proposals shall not be available for inspection. Proposals shall not be opened publicly, but shall be opened in the presence of two or more AHIM officials. The register of proposals and Vendors' proposals shall be open to public inspection after a contract has been awarded and executed by all parties.

## **2.6 Disqualification of Vendors**

A Vendor may be disqualified and the proposal may be rejected for any one or more of the following reasons applicable to the Vendor or any proposed subcontractor:

- Proof of collusion among Vendors, in which case all bids involved in the collusive action shall be rejected and any participant to such collusion shall be barred from future bidding until reinstated as a qualified Vendor;
- Inappropriate or unauthorized communication with AHIM staff or Board of Directors, as outlined in AHIM's Procurement Rules;
- Lack of responsibility and cooperation as shown by past work or services;
- Being in arrears on existing contracts with the State of Arkansas or having defaulted on previous contracts;
- Lack of proper licensure to cover the type of work contemplated, if required;
- Any noncompliance with applicable laws;
- Delivery of proposal after the proposal due date;
- Failure to pay, or satisfactorily settle, all bills overdue for labor and material on former contracts with the State of Arkansas at the time of issuance of this RFP;
- Lack of financial stability and viability;
- Substandard performance related to meeting the requirements from previous State of Arkansas contracts; and,
- Lack of sufficient experience to perform the work contemplated.

## **2.7 Irregular Proposals**

Proposals may be considered irregular and rejected for the following reasons including, but not limited to the following:

- If the Transmittal Letter is unsigned by a Vendor or does not include a certification of the authority of the officer submitting the proposal to submit such proposal;

- If the proposal shows any non-compliance with applicable law or contains any unauthorized additions or deletions, conditional bids, incomplete bids, or irregularities of any kind, which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning; and,
- If a Vendor adds any provisions reserving the right to accept or reject an award or adds provisions contrary to those in the solicitation.

## **2.8 Cancellation of RFP Additional Materials and Documentation**

The RFP may be cancelled and any or all proposals may be rejected in whole or in part, when it is determined to be in the best interest of the AHIM or the State of Arkansas. AHIM shall not be liable for any costs, expenses, loss of profits, or damages whatsoever incurred by the Vendor in the event this RFP is cancelled or a proposal is rejected.

## **2.9 Award Notice**

Notification of intended contract award, if any, shall be provided to the selected Vendor on or about the date specified in *Table 2-1*. Such notification shall be subsequently confirmed in writing. The Contract award is subject to availability of funding. The successful Vendor receiving award notification agrees to enter immediately into good faith contract negotiations.

Neither AHIM, nor the State of Arkansas, are liable for any work, costs, expenses, loss of profits, or any damages whatsoever incurred by the Vendor prior to the official starting date, and contract work prior to this date may result in no payment. AHIM reserves the right to modify this policy; any modification will be made in a written statement and signed by both AHIM and the Vendor.

## **2.10 Contract Negotiation Process**

Upon completion of the evaluation process, AHIM will select one Vendor with which to negotiate a contract, based on the evaluation findings and other criteria deemed relevant for ensuring that the decision is in the best interest of AHIM and the State of Arkansas. In the event that AHIM is not successful in negotiating a contract with a selected Vendor within thirty (30) days from the date contract negotiations begin, AHIM reserves the option of negotiating with another Vendor.

## **2.11 Protest Policy and Procedures**

The Vendors who submit proposals in response to this RFP may protest the award of the contract resulting from this RFP. A Notice of Intent to Protest must be made in writing to the Issuing Officer and must be received no later than three (3) working days from the notice of non-award. If no such Intent is timely filed, the Vendor forgoes its ability to pursue a protest.

A Protest Notification must be made in writing to the Issuing Officer and must be received no later than seven (7) working days from the notice of non-award. The Protest Notification must contain specific grounds for the protest. Supporting documentation must be included with the protest. A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived.

Only the following are acceptable grounds for protest:

- Failure to follow any of the following: 1) AHIM procedures established in the RFP; or 2) AHIM rules of procurement;
- Errors in computing scores which contributed to the incorrect selection of a Vendor; and,
- Bias, discrimination, or conflict of interest on the part of an evaluator.

Disallowed grounds include:

- Evaluator qualifications;
- The professional judgment of the reviewers; and,
- AHIM's assessment of its own needs regarding the solicitation.

A protest that is incomplete or not submitted within the prescribed time limits will be summarily dismissed.

## **2.12 Contract Period**

This is a multi-year contract solicitation that has been deemed to be in the best interest of the citizens of the State of Arkansas by AHIM. The contract term shall begin upon execution of the Contract and shall continue its initial term for three years. At the discretion of AHIM, this contract may be extended for three subsequent one year periods on a year to year basis.

The Contractor acknowledges that other unanticipated uncertainties may arise that may require an increase or decrease in the original scope of services from the Contractor awarded this contract. In the event that increase or decrease of services may be required, the Contractor agrees to enter into a supplemental agreement upon request by AHIM for the additional work. The supplemental agreement may also include a respective increase or decrease in the compensation.

## **2.13 Evaluation of Proposals**

Detailed information on the Evaluation of Proposals can be found in *Section 6: Evaluation Process*. Any submitted proposal shall remain a valid proposal for 180 days from the proposal due date. Proposals that are submitted in a timely manner and meet the mandatory submittal requirements of this RFP will be reviewed and evaluated in accordance with *Section 6: Evaluation Process* of this RFP.

A Proposal Review Team will be charged with evaluating proposals based on the criteria put forth in *Section 6: Evaluation Process*. During the evaluation process, the Issuing Officer or designated agent may contact a Vendor for the purpose of obtaining clarification of its proposal. AHIM may, at its discretion, select finalists who would be required to travel to Little Rock, Arkansas (at their own expense) to provide a presentation to a group as selected by AHIM. See *Section 6: Evaluation Process* for more detailed information about the evaluation process.

## **2.14 Qualifications of Vendor**

Qualified Vendors for this RFP must have demonstrable experience building health insurance marketplaces; either in the public sector as created by the Affordable Care Act (ACA) or in the private sector. Complete details on necessary information on corporate experience can be found in *Section 4.5.2*.

### **3 Scope of Work**

#### **3.1 Requirements**

This section describes the requirements for the startup and operations of the Hotline, which shall include the following:

1. The Hotline shall be a Little Rock Arkansas metro region-based call center.
2. The Hotline shall be available to receive calls from 7:00 a.m. to 7:00 p.m. Central Time on all business days except for the federally designated Open Enrollment period.
3. The Hotline shall be available to receive calls from 7:00 a.m. to 7:00 p.m. Central Time Monday through Saturday during federally designated Open Enrollment periods.
4. The Hotline shall provide after hours, weekend, holiday, and weather emergency messaging.
5. The contractor shall have experience operating call centers of similar size and complexity
6. The contractor shall have working knowledge of the Affordable Care Act, and demonstrate its ability to comply with all related regulations.
7. The Hotline must be fully operational and ready to accept calls as set forth in the RFP beginning October 31, 2016.
8. The contractor shall maintain a trained staff of Customer Service Representatives (CSRs) capable of answering questions and accurately transferring and referring calls as specified in the RFP including TTY or Relay capability, trained CSR support for Spanish speakers, translation support for other non-English speaking callers.
9. The Hotline shall ensure that its staff understand and comply with all applicable privacy laws.
10. The contractor shall provide a training and quality assurance program that ensures the accuracy and quality of CSR support.
11. The contractor shall ensure no disruptions in service or blocked calls due to insufficient capacity. The contractor shall must ensure there are processes in place which are sensitive to and capable of addressing the special needs of callers including the following populations:
  - a. Hearing Impaired/Speech Impaired
  - b. Visually Impaired
  - c. Limited English Proficiency (LEP)
  - d. Low Literacy
  - e. The Contractor shall designate an individual responsible for all activities under the Contract and accountable to the AHIM Contract Manager.

#### **3.2 Types of Assistance Provided**

The Contractor shall provide inbound call support to individuals seeking assistance and information regarding health insurance available through the ACA or the Department of Human Services on the following subjects. The Contractor shall:

1. Answer basic questions regarding methods of application, where to apply, general eligibility requirements, processes for appealing, application and plan enrollment deadlines, and any other topics designated by AHIM.
2. Conduct “warm transfers” to organizations including but not limited to the Arkansas Department of Human Services (DHS), the Federal Exchange (healthcare.gov), the Arkansas Small Business Health Options Program (SHOP) Exchange, Navigator Organizations, Agents/Brokers, and Carriers.



3. Warm transfers require that the contractor's staff connect the caller to the third party, introduce the individual calling, summarize the reason for the call, and execute the transfer.
4. Demonstrate best in class customer services for all callers, irrespective of age, abilities, or language proficiency.
5. Possess and demonstrate critical thinking skills in order to accurately and efficiently assess callers need, respond to questions within Hotline scope, and or transfer or refer to third party organizations.

### **3.3 Administration**

1. The Contractor shall provide overall program management including efficient organization, documented and comprehensive policies, processes, procedures, internal controls, and, quality assurance and reporting.
2. The Contractor shall ensure that qualified individuals are assigned to oversee call center management, training, quality assurance and continuity of operations.
3. The Contractor shall hire and train CSRs with the following capabilities:
  - a. Understanding of ACA, Medicaid, and AHIM's Marketplace programs sufficient to answer questions and transfer or refer callers to the organization best able to answer caller's needs;
  - b. Have excellent vocal skills including proper grammar, tone, volume, rate, sentence structure, listening, questioning and call control techniques;
  - c. Have sufficient experience with the internet and various web browsers;
  - d. Have best in class customer service skills;
  - e. Have the ability to answer phones professionally and accurately; and,
  - f. Have the ability to accurately document call disposition in the contractor's telephone system.
4. Demonstrate cultural and age sensitivity in order to effectively handle customer needs.

### **3.4 Project Management and Implementation Plan**

1. The Contractor shall submit and project management plan (PMP) within three (3) business days of contract execution. The PMP shall describe resources, milestone, tasks, subtasks, methodologies, processes and tools required to successfully launch and manage Hotline services. to guide project management during the Development and Implementation ("D&I") and Operations and Maintenance ("O&M") periods. The PMP is the guide and framework for all project management functions. The PMP shall conform to Project Management Institute (PMI) Project Management Body of Knowledge (PMBOX). The PMP shall include:
  - a. Risk Management plan
  - b. Communication plan
2. The Contractor shall designate an individual from its leadership team to service as project manager.
3. During the implementation phase, and for thirty (30) days post launch, the contractor shall provide a daily status report detailing progress of project management activities, identifying risks and progress of activities.

### **3.5 Quality Assurance and Training**

1. The Contractor shall establish a robust and comprehensive quality assurance program.
2. The Contractor shall develop and maintain a comprehensive task inventory which lists and describes all tasks performed by all staff without exception and submit to AHIM fifteen (15) days prior to the start of operations.
3. The Contractor shall develop and publish a comprehensive policy, processes, and procedures manual that incorporates all tasks, the means and methods to execute all tasks Policies and Procedures.
4. The Contractor shall ensure that 100% of policies and procedures have been audited for completeness and accuracy by a third party. AHIM reserves the right to audit policies and procedures at its convenience and discretion throughout the lifetime of the contract.
5. The Contractor shall develop and implement comprehensive training to ensure that all CSRs and other staff possess the knowledge and the skills to accurately perform the scope of work described in the contract.
6. The Contractor shall deliver a comprehensive training plan that includes training modules, training goals, tests, and training schedule fifteen days (15) prior to the start of operations.
7. The Contractor shall submit all training content ten (10) days prior to the start of operations.
8. The Contractor shall establish a robust and comprehensive content management system that ensures that information being provided is accurate, complete, written in plain language and consistent with the requirements of the ACA and AHIM.
9. The Content Management Plan shall include the processes for creating, submitting, revising and obtaining AHIM approval.
  - a. The Content Management Plan shall include the contractor's plan for providing CSRs access to content, and alerting CSRs of changes to content.
  - b. The contractor shall conduct new hire training, ongoing training as requires, and remedial training as required.
  - c. Training Content shall include but shall not be limited to: CSR scripts, reference materials, job aids, instructional guides for the use of all contractor hardware and software including telephone, TTY, translation services, automated call distributor (ACD), and call disposition capture tool.

### **3.6 Call Quality Assurance and Calibration**

1. The Contractor is responsible for monitoring a statistically valid random sample of calls on a monthly basis to ensure quality, accuracy and completeness of information provided to callers, execution of transfers and referrals as required, and accuracy of call disposition selection. The contractor shall:
  - a. Develop and submit to AHIM its plan for conducting quality assurance. The plan shall include the scoring tool proposed, the sampling methodology including confidence level proposed, the method for calibrating quality scores to ensure inter-rater reliability.
2. The Contractor shall conduct a monthly calibration session to include AHIM representatives, the Hotline supervisor, and others as determined by AHIM.
3. The Contractor shall ensure that all calls selected for random sampling can be retrieved for quality assurance monitoring purposes.

### **3.7 Technology, Hardware, and Software**

1. The Contractor shall provide the following technologies:
  - a. Telephone system including Private Branch Exchange (PBX), that must integrate with an automatic call distribution system (ACD) in order to route calls to third parties
  - b. Telephone sets (hard or soft)
  - c. Internal and external transfer capabilities
  - d. Internal and external three-way conference call capabilities
  - e. Call tracking system that can capture the purpose and disposition of the call. The contractor shall work with AHIM to establish disposition reasons and codes.
2. The Contractor shall provide the required technical support to install and maintain the necessary components and validate the routing solution. This includes understanding how CSRs will be established in “skilling groups: to support callers.
3. The Contractor shall provide necessary staff to maintain voice and data networking equipment, and must be available if necessary to troubleshoot problems with AHIM or other contractor staff.
4. All equipment and systems shall be configured and tested for day 1 use.
5. The Contractor shall provide a toll-free telephone number which will remain the property of AHIM.

### **3.8 Facilities Infrastructure**

1. The Contractor shall provide all required infrastructure to operate the Hotline. This may include but is not limited to:
  - a. Furniture (desks, chairs, etc.)
  - b. Personal computers and related hardware (disk drives, dual monitors, secure internet, etc.)
  - c. Software Packages (Microsoft office, etc.)
  - d. Equipment (phones, headsets, switches, etc.)
  - e. System (servers, etc.)
  - f. Internet bandwidth to support efficient operations
  - g. Other infrastructure as proposed by Contractor
2. The Contractor shall provide sufficient undedicated space in its operation to allow up to two AHIM staff to access the Hotline facility at their discretion. Acceptable space may include work stations or conference room.

### **3.9 Reporting**

1. The Contractor shall prepare and submit weekly and monthly reports detailing call center operations. Reports will be in a mutually agreed upon format and will be delivered to AHIM in an agreed upon manner and shall include:
  - a. Weekly reports: Detailing the previous week’s call center activity. Weekly reports shall be distributed by the vendor to AHIM no later than 12:00 noon on the second business day of the week following the reporting period.
2. Weekly reports shall be cumulative for the month. Each week’s worth of data will be appended to the previous week’s report. At the end of the month, the Contractor shall archive each report and

a new report will be created for the next month. The call volume report shall provide the following information broken out by the day of the week:

- a. The date.
  - b. Number of calls received.
  - c. Number of calls answered.
  - d. Number of calls abandoned (abandoned calls are defined as calls that were in queue 30 seconds or longer before the caller disconnected.)
  - e. Number of calls dropped (dropped calls are calls defined as calls that were in queue less than 30 seconds before the caller disconnected.)
  - f. Abandonment rate (this is defined as the number of calls abandoned divided by the number of calls received.)
  - g. Average speed to answer.
  - h. Average hold time (hold time is defined as the time the call is placed on hold after an agent picks it up.)
  - i. Average handle time.
3. Call triage report: The call triage report shall provide the following information broken out by the day of the week:
- a. Date
  - b. Number of calls transferred outside of the Hotline
  - c. Number of calls transferred broken out by transfer number, and destination
  - d. The average handle time broken out by destination of the transfer
4. The call reason report shall provide the following information by day of week:
- a. Date
  - b. Number of calls by primary reason (disposition). AHIM will work with the vendor to define a set of primary reasons. This set is expected to change over the course of the contract.
5. Monthly status report: The call center vendor shall provide AHIM with monthly reporting detailing the previous month's call center activity. Monthly reports shall be distributed by the vendor to AHIM no later than 12:00 noon on the tenth business day of the month following the reporting period.
6. Training Report: Monthly report indicating the ongoing training activities over the previous month. Training activities shall include at a minimum:
- a. Training type, (new hire, refresher, new material)
  - b. Training dates, duration and outcomes as applicable (e.g. pass/fail numbers if testing administered)
7. Quality Assurance Report: Outcome of quality assurance including pass fail scores and percentages by domain measured, weaknesses identified. The report shall provide AHIM with the ability to observe QA results over a cumulative, thirteen-month period.
8. Incident Reporting: A list of all incidents recorded over the previous month including a description of the incident, the duration of the incident, the individuals and processes affected by the incident, the resolution of the incident, and steps taken to prevent reoccurrence of the incident.
9. Call recordings: Make available to AHIM recordings of calls as requested as follows:
- a. Calls from the last 24 hours within twenty-four hours of request.

- b. Calls prior to the last 24 hours but in the last seven days within one business day of request.
- c. Calls prior to the last seven days within three days of request.

### **3.10 Service Level Agreement**

Each Service Level Agreement (SLA) presented in this RFP establishes the performance level expected by AHIM in a particular area. Key Performance Indicators (KPIs) are identified within each SLA and are to be measured and reported each month by the Contractor. AHIM will finalize SLA and KPIs with the Contractor upon reward of the scope of work. The SLAs are:

<b>Service Level Agreement</b>	<b>Key Performance Indicator</b>	<b>Penalty</b>
Operations	The Hotline shall be operational by October 31, 2016.	\$3,000 for each day after October 31, 2016 that the Hotline is not operational.
Average Speed to Answer	For each business day, the Average Speed to Answer shall not exceed the contracted level of seconds.	\$750 for each business day the Average Speed of Answer exceeds measures defined in KPI.
Abandonment Rate	For each month, the average daily Abandonment Rate shall not exceed contracted level. Abandonment Rate is defined as the number of calls abandoned divided by the number of calls received. Abandoned calls are defined as calls that were in queue 30 seconds or longer before the caller disconnected.	\$5,000 for each month that exceeds measures defined in KPI.

#### **3.10.1 Performance Monitoring**

The KPIs used to define the service levels are an adjunct to the performance standards established in *Section 3: Scope of Work*. AHIM has identified the KPIs to be key measurements of the Contractor’s operational performance. Failure to achieve a KPI may, at the discretion of AHIM, result in liquidated damages.

#### **3.10.2 Monthly Reporting**

The Contractor is expected to monitor performance against the AHIM-specified KPIs in this document, and is to develop operational reports to demonstrate compliance with applicable KPIs. The Contractor is to submit a monthly Performance Report Card on all KPIs following the reporting requirements detailed in Section 3.10 Reporting with out-of-bounds metrics visually highlighted in the report. The Contractor may include additional information regarding SLA compliance in its report. The Contractor is to make available to AHIM, upon request, all reports or data used in the determination of SLA compliance and calculation of KPIs.

### **3.10.3 Corrective Action**

When a KPI is not met, the Contractor is expected to provide AHIM with a written detailed Corrective Action Report which describes: the missed KPI, a full description of the issue, the cause of the problem, risks related to the issue, the resolution, including any failed solution implemented prior to resolution, and the proposed corrective action going forward to avoid missing the KPI in the future. Upon receipt of the report, AHIM may request a meeting to further discuss issues. The Contractor is to implement proposed corrective action only upon approval of AHIM.

### **3.10.4 Periodic Reviews**

Prior to commencement of operations, AHIM and the Contractor will review all KPIs to determine if revisions are needed. After the start of operations, similar reviews will be held periodically, upon the implementation of a change that impacts existing KPIs, or at the request of AHIM.

AHIM and the Contractor agree that failure by the Contractor to perform in accordance with established KPIs results in a loss to AHIM. If the Contractor fails to meet the KPIs identified in the SLAs listed in this RFP, AHIM may deduct the specified amounts from the billed amount due to the Contractor for the total billed that month.

## **3.11 Disaster Recovery**

1. The Contractor shall develop and implement a disaster recovery plan that identifies and prioritizes critical systems and operations, preventative controls, and recovery strategies. Activities within the scope of the disaster recovery plan may include, but are not limited to:
  - a. Providing a disaster recovery plan by which service will be restored or maintained under emergency situations.
  - b. Executing recovery procedures in the event of catastrophic loss of facility or equipment.
  - c. Providing specific emergency maintenance actions with predefined response intervals.
  - d. Ensuring that its staff are properly trained in business continuity and disaster recovery procedures.
  - e. Determining business functions deemed essential for executing its core mission and the means (process, procedures, and resources) by which those functions shall be sustained, either in place or in a recovery site throughout emergencies of various severity.
2. Incidents and Severity Levels: For the purpose of quickly and efficiently responding to issues related to telecommunications and technology systems, Contractor shall establish a central point of contact (“POC”) to manage and convey information related to service level agreements. The POC shall determine the nature of incidents, coordinate, collaborate, and disseminate information to other parties until the issue is resolved. The Contractor shall be responsible for notifying the AHIM designee Director when an issue occurs, providing updates, root causes when applicable, and resolution information. The Contractor shall report on all planned and unplanned issues. Contractor shall provide initial, update and resolution notifications.
3. The Contractor, with AHIM’s approval, shall provide the definition of severity levels.

## 4 Format and Content of Proposal

### 4.1 Introduction

AHIM discourages overly lengthy and costly Technical Proposals; therefore, brochures or other presentations, beyond those sufficient to present a complete and effective proposal, are not desired. Elaborate artwork or expensive paper is not necessary or desired. Audio and/or videotapes are not allowed. Technical Proposals including audio or videotapes will be deemed non-responsive and rejected. In order for the Proposal Review Team to evaluate proposals completely, the Vendor must follow the format set out below to provide all requested information. The use of tabs as specified below is required.

The format and content requirements for each section of the Technical Proposal are described below. The Technical Proposal shall include complete responses to all required items listed under each heading. Without providing overly lengthy descriptions, the Technical Proposal must provide clear descriptions and/or responses so that the Proposal Review Team members can adequately evaluate the Vendor's response and intent. The Vendor is mandated to follow the defined format outlined at *Section 4.2*. At its sole discretion, AHIM may request written clarification to a Vendor's response in the Technical Proposal to better assist the Proposal Review Team members in evaluating the Vendor's response and intent.

### 4.2 Format of Proposal

Vendors' Proposals must include the components detailed in this section. No partial bids will be accepted. Any bids submitted that are deemed to be incomplete may be rejected by AHIM.

Vendors' Proposals must be received by AHIM on the date and time specified in *Table 2-1: Procurement Schedule* in *Section 2: RFP Schedule and Procurement Process*.

**Table 4-1: Formatting Requirements**

Subject	Requirement
Paper Size	8½ X 11 inch paper (letter size) and double-sided. While the appearance of proposals is important and professionalism in proposal presentation should not be neglected, the use of non-recycled, non-recyclable or glossy materials is discouraged.
Font	Text font must be no smaller than 12 points. Tables and Figures may be in smaller font but must be legible.
Spacing	Proposals must be single-spaced.
Cover Page	The cover page of each Proposal document must include the following information: <ul style="list-style-type: none"> <li>• Name and address of the Vendor</li> <li>• Date of submission</li> <li>• Title</li> </ul>
Binding	3-Ring Binder(s) of appropriate size(s) for Vendor's proposal
Page Limit	Although there are no page limits, Vendor should limit the amount of extra material they submit.

Subject	Requirement
Number of Proposals	<p>Vendor will submit two (2) Proposals including:</p> <ul style="list-style-type: none"> <li>• One (1) Technical Proposal</li> <li>• One (1) Cost Proposal</li> </ul>
Number of copies	<p>Technical Proposal:</p> <ul style="list-style-type: none"> <li>• One (1) original hard copy and ten (10) identical copies of the original, each in a three-ring binder with tabbed sections</li> <li>• Ten (10) electronic copies (flash drive)</li> </ul> <p>Cost Proposal:</p> <ul style="list-style-type: none"> <li>• One (1) original hard copy and two (2) identical copies of the original, each in a three-ring binder with tabbed sections</li> <li>• One (1) electronic copy (flash drive)</li> </ul>
Shipment	<p>All Proposals must be sealed and addressed to:</p> <p>Alicia McCoy Director of Communications and Marketing Arkansas Health Insurance Marketplace 221 W. 2<sup>nd</sup> Street, Suite 700 Little Rock, AR 72201 Phone: 501-313-4197</p>
Delivery Method	<p>The following hard copy Proposal delivery methods are acceptable:</p> <ul style="list-style-type: none"> <li>• U.S. Mail: Vendors are cautioned that it is their responsibility to mail Proposals in sufficient time to ensure receipt by the AHIM prior to the Proposal due date and time.</li> <li>• Express Delivery: If bids are being sent via an express delivery service, Vendors are responsible for clearly designating the Proposal delivery contact and address, including telephone number, on the outside of the delivery envelope or box.</li> <li>• Hand Delivery: Hand-carried bids shall be delivered to John Norman at the address above prior to the Proposal due date and time.</li> </ul> <p>AHIM will not accept Vendor Proposals submitted by e-mail or fax.</p>
Envelope Contents and Labeling	<p>Technical Proposals and Cost Proposals must be sealed in separate envelopes or boxes within the “Sealed Bid.” Proposals should be clearly marked “SEALED BID” and should include the following items:</p> <ul style="list-style-type: none"> <li>• Indicate if it is the Technical or Cost Proposal;</li> <li>• Title;</li> <li>• Proposal Due Date; and,</li> <li>• Name of the Vendor.</li> </ul>



Subject	Requirement
Flash Drive	The Technical Proposal and Cost Proposal must be provided on separate flash drives; they must be placed in the envelope with the original copy of each Proposal. The Technical Proposal must be submitted as Microsoft Office (Word, Excel, and PowerPoint) format or Portable Document Format (PDF) files. Files shall not be password-protected or saved with restrictions that prevent copying, saving, highlighting, or reprinting of the contents.
Request for Confidential Treatment	Requests for confidential treatment of any information in a Proposal must be communicated in writing to AHIM by providing a redacted copy of the Vendor's proposals. The Cost Proposal will be part of the ultimate contract entered into with the successful Vendor, so pricing information may not be designated as confidential material.
Exceptions to RFP / Contract Language	If the Vendor objects to any term or condition of the RFP, exceptions must be noted in the <i>Transmittal Letter</i> . Exceptions that materially change these terms or the requirements of the RFP may be deemed non-responsive by AHIM, in its sole discretion, resulting in possible disqualification of Vendor. AHIM reserves the right either to execute a contract without further negotiation with the successful Vendor or to negotiate contract terms with the selected Vendor if the best interests of AHIM would be served.

### 4.3 Tab 1 – Transmittal Letter

To be considered, the Proposal must be accompanied by a Transmittal Letter on company letterhead, signed in blue ink by an official of the bidding organization authorized to bind the Vendor to the provisions of the proposal. The signed Transmittal Letter must be included in the proposal marked ORIGINAL. It must include a statement that any contract terms spelled out in this RFP would be acceptable if a contract were awarded. The Transmittal Letter shall also include:

- A. A statement indicating that the Vendor is a corporation or other legal entity;
- B. A statement confirming that the Vendor is registered to do business in the State of Arkansas and providing its corporate charter number to work in the State of Arkansas;
- C. A statement identifying the Vendor's federal tax identification number;
- D. A statement identifying any prior solution project where the Vendor was terminated before the final solution was operational;
- E. A statement that no attempt has been made or will be made by the Vendor to induce any other person or firm to submit or not to submit a proposal.
- F. A statement that the Vendor has or has not retained any person or agency to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent arrangement except as disclosed in the Vendor's proposal;

- G. A statement of Affirmative Action, that the Vendor 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;
- H. A statement that no cost or pricing information has been included in the Transmittal Letter or any other part of the Technical Proposal;
- I. If issued, a statement identifying by number, date, and acceptance of all amendments to this RFP issued by AHIM that have been received by the Vendor;
- J. A statement that the Vendor has read, understands, and agrees to all provisions of this RFP without reservation;
- K. Certification that the Vendor's offer will be firm and binding for 180 days from the proposal due date;
- L. A statement naming any outside firms responsible for writing the proposal;
- M. All proposals submitted by corporations must contain certifications by the secretary, or other appropriate corporate official other than the corporate official signing the Technical Proposal, that the corporate official signing the Technical Proposal has the full authority to obligate and bind the corporation to the terms, conditions, and provisions of the Technical Proposal;
- N. All proposals submitted must include a statement that the Vendor presently has no interest and shall not acquire any interest, direct or indirect, that 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; and,
- O. If the proposal deviates from the detailed specifications and requirements of this RFP, the Transmittal Letter must identify and explain these deviations. AHIM reserves the right to reject any Technical Proposal containing such deviations or to require modifications by the Vendor before acceptance.

The Transmittal Letter must also be accompanied by the "Vendor Information Sheet" (*Appendix A*) containing the following:

- 1. Name of the company or individual;
- 2. Mailing address;
- 3. Street address (for FEDEX or other mail service);
- 4. Name and title of person who would sign the contract;
- 5. Name and title of the company contact person (if different); and,

6. Contact person: direct telephone number, fax number & email address.

The Transmittal Letter must also be accompanied by a letter from each subcontractor, signed by an individual with the authority to bind the company, that 1) affirms the subcontractor's participation in the bid as a subcontractor, 2) describes the subcontractor's understanding of their role(s) and responsibilities, and 3) estimates the amount of revenue that will flow to the subcontractor if the Vendor's Proposal is accepted.

#### **4.4 Tab 2 – Executive Summary**

The Executive Summary shall summarize and highlight relevant contents of the Proposal to provide AHIM and the Proposal Review Team with a broad understanding of the Vendor's Technical Proposal. The Executive Summary shall clearly and concisely highlight the contents of the Technical Proposal.

Vendors should summarize how their Proposal meets the requirements of this RFP, how the Vendor's Proposal is best suited to meet the goals and objectives of AHIM as understood by the Vendor, and why the Vendor is best qualified to perform the work required. The Executive Summary shall highlight the Vendor's:

- Understanding of the project, project management approach, and commitment to successfully performing all project activities;
- Qualifications to serve as the prime Contractor for the project;
- Overall approach to the project, including highlights of the proposed Solution, Work Plan, Schedule, Staffing, and approach to activities included in the scope of services;
- Project challenges, risks, and suggested mitigation strategies; and,
- Summary of the contents of the Proposal.

#### **4.5 Tab 3 – Corporate Experience**

This section will provide a description of the content that must be contained in the Company Background section of the Technical Proposal. This description will include:

- Company Background;
- Company Experience;
- Corporate References; and,
- Company Financial Condition.

Vendors must provide a detailed summary of Vendor and subcontractor experience including company background. The Vendor must provide a concise, but thorough description of its relevant experience, capabilities, and verifiable successes. The Vendor must also provide this information for its subcontractors as well. The material shall be presented for the Vendor first and subsequently for any subcontractor(s) in order of the size (i.e., revenue) of their role in the project.

##### **4.5.1 Company Background**

The Vendor must detail the background of the corporation, its size, and resources, including:

- Date established (for a corporation);
- Location of the principal place of business;
- Location of the submitting entity, if different;
- State of incorporation;
- Ownership (e.g., public company, partnership, subsidiary);
- Average number of employees for each of the last three years;
- Number of personnel currently engaged in project operations across the company;
- Performance history and reputation;
- Current products and services; and,
- Professional accreditations pertinent to the services provided by this RFP.

The Vendor shall also furnish this information for any subcontractor(s).

#### **4.5.2 Company Experience**

The Vendor must confirm and describe their experience as it relates to the activities outlined in this RFP describing relevant experience within the last five (5) years. The Vendor's statement should, among other things, include descriptions of the relevant work the Vendor has previously executed; how the Vendor will apply the experience in previous work to the requirements of the work being solicited in this RFP; and the form(s) of expertise the Vendor will bring to the project.

Description of contract scope and Vendor activities, noting similarities and differences with the AHIM scope of work in terms of size, scope, and complexity, including annual and total contract amounts should be included.

The Vendor should also indicate during which previous projects (if any) they have partnered with their subcontractors.

The Vendor shall also furnish this information for any subcontractor(s).

#### **4.5.3 Corporate References**

The Vendor must include a minimum of three (3) corporate references from three (3) separate projects during the last three (3) years that detail its experience in completing the activities similar to those described in this RFP. References should be submitted on the form included in *Appendix D*.

AHIM reserves the right to conduct checks of Vendor references, by telephone or other means, and evaluate the Vendor based on these references. It is the Vendor's responsibility to ensure that every reference contact (or a designated backup contact) is available during the evaluation period.

In addition, Vendors must provide the following information in this section:

- A list of prior and existing contracts or agreements that the Vendor has entered into with the State of Arkansas.

- If, at any time during the past three (3) years, the Vendor has had a contract terminated for convenience, nonperformance, non-allocation of funds, or any other reason, the Vendor must fully describe each termination and include the name, address, and telephone number of the contracting party and describe the circumstances surrounding the termination. If no such early terminations have occurred in the past three (3) years, the Vendor should include a statement to that effect.

The Vendor shall also furnish this information for any subcontractor(s).

#### **4.5.4 Company Financial Condition**

The Vendor must demonstrate that its organization is in sound financial condition or that appropriate corrective measures are being taken to address and resolve any identified financial problems. The Vendor shall provide financial information in such a manner that AHIM can reasonably formulate a determination about the stability and financial strength of the organization. This must include company size, organization, date of incorporation, ownership, number of employees, and revenues for the previous three (3) fiscal years. Additionally, audited financial statements for the contracting entity shall be provided for each of the last three (3) fiscal years, including at a minimum:

- Statement of income;
- Balance sheet;
- Statement of changes in financial position during the last three (3) years;
- Statement of cash flow;
- Auditors' reports;
- Notes to financial statements;
- Any contractual termination within the past three (3) years; and,
- Summary of significant accounting policies.

The Vendor must also disclose any and all judgments, pending or expected litigation, or other real potential financial reversals that might materially affect the viability or stability of the Vendor's organization; or certify that no such condition is known to exist. AHIM reserves the right to request any additional information to assure itself of a Vendor's financial status.

In the event a Vendor is either substantially or wholly owned by another corporate entity, the Vendor must also include the same information for the parent organization and a statement that the parent will unconditionally guarantee performance by the Vendor in each and every term, covenant, and condition of such contract as may be executed by the parties.

Any proposed subcontractor whose percentage of work to be performed (measured as percentage of total contract price) equals or exceeds twenty (20) percent must submit the required information as well.

Additional financial information may be requested during the evaluation process.

#### **4.6 Tab 4 – Organization and Staffing Plan**

#### **4.6.1 Organization**

#### **4.6.2 Responsibilities**

Responsibilities and the anticipated roles of key personnel shall be identified for all phases of the Contract. All proposed key management, including definitions of their responsibilities during each phase of the Contract, should be included.

#### **4.6.3 Resumes**

The Vendor must submit resumes of all proposed key personnel identified in its proposal. Resumes should be provided in the format shown in *Appendix E*.

Each project referenced in a resume 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.

#### **4.7 Tab 5 – Approach**

The Vendor must address the Vendor's approach to completing all activities described in *Section 3: Scope of Work*. The Vendor's Proposal must include the following subsections:

Any tasks to be completed by the subcontractor must be identified.

#### **4.8 Tab 6 – Privacy and Security**

The Vendor must provide a description of its approach to and requirements around privacy and security. It should outline the requirements for ensuring that the Vendor describes their approach to ensure proper Privacy and Security mandated by AHIM, the State of Arkansas, and federal regulations.

#### **4.9 Tab 7 – Assumptions, Qualifiers and Constraints**

The Vendor must indicate any assumptions made in submitting their Proposal. If no assumptions are included, the Vendor shall make a statement to that effect.

## **5 Cost Proposal Requirements**

### **5.1 General**

The Vendor must submit one (1) original hardcopy Cost Proposal and two (2) copies. The Cost Proposal must be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.). The original hardcopy of the Cost Proposal must contain original signatures in blue ink and be clearly marked as “Original Cost Proposal.” The Cost Proposal should also include one (1) electronic copy in Microsoft Office (Word, Excel, and PowerPoint) format or Adobe Acrobat Portable Document Format (PDF) saved to a flash drive.

Pricing will be considered under separate scoring criteria than the Technical Proposal.

### **5.2 Cost Proposal Content**

The Vendor’s Cost Proposal shall consist of the following sections, separated by tabs:

- Executive Summary; and,
- Price Sheets.

Price Sheets will be submitted as part of the Cost Proposal. The Vendor will propose firm pricing on each Price Sheet.

#### **5.2.1 Executive Summary**

The Vendor’s Cost Proposals must include an Executive Summary no more than three (3) pages long. The Executive Summary should summarize and highlight relevant contents of the Cost Proposal for AHIM and provide a broad understanding of the Vendor’s Pricing Approach. The Executive Summary should include a statement certifying that all pricing information presented as part of the Proposal is in U.S. dollars and that all required cost information is enclosed. It should also provide an attestation consistent with *Section 5: Cost or Pricing Data*. It must be signed by an individual authorized to legally bind the Vendor.

## **6 EVALUATION PROCESS**

### **6.1 Evaluation Approach**

AHIM will conduct a comprehensive, fair and impartial evaluation of proposals in response to this RFP. AHIM will select the successful Vendor through a formal evaluation process established prior to the opening and evaluation of proposals. The process will remain fixed throughout the procurement cycle.

Consideration will be given to capabilities and advantages which are clearly described in each proposal, confirmed by oral presentations/interviews if scheduled, and verified by information from reference and other sources contacted by AHIM. AHIM reserves the right to contact any individuals, entities, or organizations who have had recent contracts or relationships with the Vendor to fully ascertain the Vendor's ability to execute the scope of work described in this RFP.

By responding to this RFP, all Vendors acknowledge that AHIM is working under significant time restraints and may or may not have the resources to provide a full and complete evaluation of every proposal received in response to this RFP. In that regard, AHIM reserves the right, if deemed necessary and in its sole discretion, to conduct an initial review of all proposals for the purpose of establishing a list of qualified semi-finalists. The initial review will be based on factors that are consistent with the evaluation criteria outlined in this section. In such an event, AHIM will then move forward with a complete evaluation of those proposals meeting the criteria.

### **6.2 Proposal Review Team**

AHIM will select a Proposal Review Team that will evaluate the Technical and Cost proposals. The Proposal Review Team will provide recommendation(s) based on its review of the responses to the AHIM Board of Directors.

### **6.3 Evaluation of Proposals**

AHIM reserves the right to reject any or all of the proposals received or to cancel this RFP, in the best interest of AHIM and/or the State of Arkansas. AHIM reserves the right to request clarifications or enter into discussions with a Vendor. AHIM also reserves the right to waive minor irregularities in proposals, providing that such action is deemed to be in the best interest of AHIM and/or the State of Arkansas. Where AHIM may waive minor irregularities, such waiver shall in no way modify RFP requirements or excuse the Vendor from full compliance with RFP specifications and other contract requirements if the Vendor is awarded the contract.

All proposals submitted will become the property of AHIM and will be considered a matter of public record after Contract negotiations are complete.

### **6.4 Evaluation Criteria**

The following criteria will be used to score proposals:

<b>Proposal Category</b>	<b>Weight</b>
Company overview and qualifications	15 points



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Specific experience related to RFP content	25 points
Project overview and scope of work	20 points
Project plan and implementation	10 points
Price	30 points
<b>Total</b>	<b>100 points</b>

## **6.5 Contract Approvals**

AHIM will require that the selected Vendor participate in contract negotiations regarding the terms and conditions of the contract. Upon resolution of the final negotiations, AHIM will prepare a final contract. If for any reason AHIM and the apparent successful Vendor are unable to reach agreement on the terms and conditions of a contract, AHIM may then proceed to negotiate a contract with the next highest rated Vendor. AHIM may cancel negotiations entirely at any time at the exclusive discretion of AHIM.

The contract award is contingent upon both federal and State of Arkansas reviews and approvals and is subject to federal funding. Every effort will be made by AHIM, both before and after selection, to facilitate rapid approval. AHIM will obtain all required State and federal approvals prior to the start of work by the successful Vendor.

## **7 CONTRACT TERMS AND CONDITIONS**

### **7.1 General**

The Contract awarded at the end of this process shall be governed by and construed in accordance with the laws of the State of Arkansas. The Contract will include, in part, certain terms and conditions required by CMS, whether or not expressly set forth in the Contract provisions. All contractual provisions required by CMS and the ACA (including any changes) are hereby incorporated by reference. Anything to the contrary notwithstanding, all CMS and ACA mandated terms will be deemed to control in the event of a conflict with other provisions contained in the Contract. The Contract will also be subject to any financial assistance agreement between AHIM and CMS, and all laws, regulations, guidelines, and provisions of the financial assistance agreement will apply to the Contract and will be incorporated by reference as fully set forth herein.

### **7.2 Applicable Law**

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

#### **7.2.1 Conformance with Federal and State Regulations**

The Contractor will be required to conform to all federal and state laws, regulations, and policies as they exist or as amended, and will be required to indemnify AHIM against any claims arising from the Contractor's non-compliance.

Any provision of the contract which is in conflict with federal ACA statutes, regulations, or CMS policy guidance is hereby amended to conform to the provisions of those laws, regulations, and federal policy. Such amendment of the Contract will be effective on the effective date of the statutes or regulations necessitating it, and will be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

### **7.3 Terms of Contract**

This is a multi-year contract solicitation that has been deemed to be in the best interest of the citizens of the State of Arkansas by AHIM. The contract term shall begin upon execution of the Contract and shall continue its initial term for three (3) years. At the discretion of AHIM, this contract may be extended for three subsequent one year periods on a year to year basis.

The Contractor acknowledges that other unanticipated uncertainties may arise requiring an increase or decrease in the original scope of services from the Contractor awarded this contract. In the event that increase or decrease of services may be required, the Contractor agrees to negotiate in good faith and to enter into a supplemental agreement upon request by AHIM (for the additional work). The supplemental agreement may also include a respective increase or decrease in compensation.

### **7.3.1 Stop Work Order**

The Executive Director of AHIM 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 90 days after the order is delivered to the Contractor, unless the parties agree to any further period. 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 allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Executive Director 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 the Contract entered into pursuant to this RFP.

### **7.3.2 Cancellation or Expiration of the Order**

If a stop work order issued under this clause is cancelled 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, if:

- A. The stop work order results in an increase in the time required for 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 period of work stoppage; provided that, the Executive Director decides the facts justify such action. Any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

### **7.3.3 Termination of the Contract**

The Contract may be terminated for the reasons below.

**Bankruptcy or Insolvency.** AHIM may terminate this Contract, in whole or in part, 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 or creditors.

**Default.** AHIM may terminate this Contract, in whole or part, whenever the AHIM determines that the Contractor has failed to satisfactorily perform its contractual duties and responsibilities. The Contractor may be given the opportunity to cure the default at AHIM's discretion.

**Convenience.** AHIM may terminate this Contract, in whole or part, at any time and for any reason AHIM deems such termination is in the best interest of AHIM.

**Non-availability of Funds.** The parties understand that the AHIM is an independent body corporate and politic established by Arkansas Code § 23-61-801 *et seq.* The obligations of AHIM are not those of the State of Arkansas. It is expressly understood and agreed that the obligation to proceed under this contract is conditioned upon AHIM's receipt of federal funds. AHIM may terminate this Contract if sufficient federal funds are not received as anticipated by AHIM.

#### **7.3.4 Force Majeure**

If a Contractor is prevented from performing any of its obligations hereunder in whole or in part as a result of major epidemic, act of God, war, civil disturbance, court order or any other cause beyond its control, the Contractor shall make a good faith effort to perform such obligations through its then-existing facilities and personnel; and such non-performance shall not be grounds for termination for default.

Neither party to this Contract shall be responsible for delays or failures in performance resulting from acts beyond the control of such party.

Nothing in this section shall be construed to prevent AHIM from terminating this contract for reasons other than default during the period of events set forth above, or for default if such default occurred prior to such event.

#### **7.4 Payment**

AHIM shall pay Contractor's invoices within 45 days of AHIM's written acceptance of the deliverables associated with any such invoice. If AHIM is unable to pay because of cash flow limitations arising from AHIM's reliance on release of federal grant funds to pay Contractor, this period shall be extended.

The Contractor shall submit an original invoice and one copy for services performed to:

Tony Beeler  
Director of Finance  
Arkansas Health Insurance Marketplace  
221 W. 2<sup>nd</sup> Street, Suite 700  
Little Rock, AR 72201

#### **7.4.1 Payment for Development, Training, and Operations**

AHIM will pay a firm fixed price upon its completion and AHIM's written acceptance of each payment listed in Vendor Cost Proposal. This list represents each and every payment deliverable for all activities described in *Section 3: Scope of Work*. Prices for each payment deliverable will be based on the Vendor's Cost Proposal as finalized in the Contract resulting from this procurement.

#### **7.4.2 Other Payments**

No other payments will be made for deliverables or services provided under this contract without written amendment of the Contract. No separate payment will be made for Project Initiation or Services.

### **7.5 Performance Standards and Associated Liquidated Damages**

#### **7.5.1 System Liquidated Damages**

Each SLA presented in this RFP establishes the performance level expected by AHIM in a particular area. Key Performance Indicators (KPIs) are identified within each SLA and are to be measured and reported each month by the Contractor. The SLAs are:

- System Availability;
- System Performance;
- System Accuracy;
- System Security;
- Operational Problem Management;
- User Support; and,
- Staffing.

**Performance Monitoring.** The KPIs used to define the service levels are an adjunct to the performance standards established in *Section 3: Scope of Work*. AHIM has identified the KPIs to be key measurements of the Contractor's operational performance. Failure to achieve a KPI may, at the discretion of AHIM, result in liquidated damages.

**Monthly Reporting.** The Contractor is expected to monitor performance against the AHIM-specified KPIs in this document, and is to develop operational reports to demonstrate compliance with applicable KPIs. The Contractor is to submit a monthly Performance Report Card on all KPIs, regarding the prior month's performance, no later than the 10<sup>th</sup> of the month, with out-of-bounds metrics visually highlighted in the report. The Contractor may include additional information regarding SLA compliance in its report. The Contractor is to make available to AHIM, upon request, all reports or data used in the determination of SLA compliance and calculation of KPIs.

**Corrective Action.** When a KPI is not met, the Contractor is expected to provide AHIM with a written detailed Corrective Action Report which describes: the missed KPI, a full description of the issue, the cause of the problem, risks related to the issue, the resolution, including any failed solution implemented prior to resolution, and the proposed corrective action going forward to avoid missing the KPI in the future. Upon receipt of the report, AHIM may request a meeting to further discuss issues. The Contractor is to implement proposed corrective action only upon approval of AHIM.

**Periodic Reviews.** Prior to commencement of Maintenance and Operations, AHIM and the Contractor will review all KPIs to determine if revisions are needed. After the Start of Operations, similar reviews will be held periodically, upon the implementation of a change that impacts existing KPIs, or at the request of AHIM.

Information regarding performance monitoring, monthly reporting, corrective action, and periodic reviews relative to SLAs and KPIs can be found in *Section 3: Scope of Work*.

AHIM and the Contractor agree that failure by the Contractor to perform in accordance with established KPIs results in a loss to AHIM. If the Contractor fails to meet the KPIs identified in the SLAs listed in this RFP at *Section 3: Scope of Work*, AHIM may withhold payment to the Contractor through the amounts retained as a percentage of the billed amount, or AHIM may deduct the specified amounts from the billed amount due to the Contractor for the total billed that month.

### **7.5.2 Actual Damages and Liquidated Damages**

AHIM reserves the right to assess actual or liquidated damages upon the Contractor's failure to provide timely services required pursuant to the Contract. The Contractor shall be given 15 days' notice to respond before AHIM makes the assessment. Any assessment will be offset against the subsequent monthly payment(s) to the Contractor. If liquidated damages are known to be insufficient, then AHIM has the right to pursue actual damages. Assessment of any actual or liquidated damages does not waive any other remedies available to AHIM pursuant to this Contract or state or federal law.

### **7.5.3 Other Damages**

If the Contractor's failure to perform satisfactorily requires AHIM to contract with another person or entity to perform services required of the Contractor under the Contract, upon notice setting forth the services and liquidated damages, AHIM may retain from Contractor payment(s) in an amount commensurate with the costs anticipated to be incurred, as described above. AHIM shall account to the Contractor for costs incurred and return any excess amount to the Contractor. If the amount withheld is not sufficient, the Contractor shall immediately reimburse AHIM the difference or AHIM may offset from any payment(s) due the Contractor. The Contractor will cooperate fully with the supplemental Contractor and provide any necessary assistance to implement the terms of its agreement for services with the supplemental contractor.

## **7.6 Cost or Pricing Data**

The Contractor certifies that the prices submitted in response to this RFP have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Vendor, competitor, or conflicted entity relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

## **7.7 Publicity**

News release(s), media interviews or other publicity by a Vendor pertaining to this RFP or any portion of the project shall not be made without the prior written approval of AHIM. Failure to comply with this requirement is deemed to be a valid reason for disqualification of the Vendor's proposal.

The Contractor agrees not to use AHIM's name, trademark, service marks, type treatment, or any data resulting from this RFP or the Contract as part of any commercial advertising or proposal without the express prior written consent of AHIM in each instance.

## **7.8 Subcontracting**

To the fullest extent practicable, the Contractor shall enter into contracts with Arkansas businesses, employ citizens of Arkansas to staff, and provide support and other services for AHIM.

The Contractor is solely responsible for the fulfillment of the contract terms with AHIM. AHIM will make payments only to the Contractor. The Contractor will include all proposed subcontractors in its response to this RFP.

The Contractor may negotiate and enter into contracts or agreements with subcontractors (with prior written consent of AHIM) to the benefit of the Contractor and the State as long as the subcontractors meet all established criteria and provide the services in a manner consistent with the minimum standards specified. All such agreements shall be in writing and shall specify the activities and responsibilities delegated to the subcontractor. The contracts must also include provisions for revoking delegation or imposing other sanctions if the subcontractor's performance is inadequate. AHIM reserves the right to approve any subcontractor utilized by the Contractor. AHIM reserves the right to inspect all subcontract agreements at any time during the contract period. Any subcontract may be subject to the AHIM's prior review and approval. The Contractor's subcontractor shall submit evidence or other documentation from the Arkansas State Tax Commission, showing all delinquent taxes, if any, levied or accrued under State law against the subcontractor have been paid.

No subcontract or agreement the Contractor enters into with respect to the performance under this contract shall in any way relieve the Contractor of any responsibility for any performance required of it by this contract. The Contractor shall provide AHIM immediate notice in writing by registered or certified mail of any action or suit filed against it by any subcontractor or provider. Furthermore, the Contractor shall make prompt notice of any claim against it or one that might result in litigation related in any way to the contract with the State of Arkansas. The Contractor shall designate itself as the sole point of recovery for any subcontractor.

Any use of subcontractors by the Contractor will not obligate AHIM as a party to the subcontract, nor create any right, claim, or interest for the subcontractor against AHIM, its agents, employees, representatives, or successors.

### **7.8.1 Anti-Assignment**

The Contractor shall not sell, transfer, assign, or otherwise dispose of its benefits, duties, or obligations of this Contract (whether by operation law, reorganization, reverse triangular merger, or otherwise) without the express written consent of AHIM.

## **7.9 Ownership Rights**

### **7.9.1 Ownership of Proposal**

AHIM shall have the right to use, monetize, license, seek patent protection for and otherwise exploit in any manner all ideas presented in any proposal unless a Vendor presents a statement of objection in its proposal. In no event will such objections be considered as valid with respect to the exploitation of such ideas; 1) that

are not the proprietary information of the Vendor as evidenced by a filed United States patent application (with a filing date that predates the date of the RFP and is so identified in its proposal); or 2) that were known to AHIM before submission of such proposal; or 3) that properly became known to AHIM, thereafter, through other sources or through acceptance of the Vendor's proposal.

### **7.9.2 Ownership of Documents**

Where activities supported by this Contract produce original writings, sound recordings, pictorial reproductions, drawings, or other tangible embodiments of creative ideas and works of any similar nature, AHIM shall own all right, title and interest in all intellectual property rights therein, and Contractor hereby assigns and agrees to assign to AHIM any and all right and title in and to such that Contractor may have. Contractor may retain a limited, revocable, personal, non-sublicensable, royalty-free license under AHIM's copyrights to use such materials solely for Contractor's internal business purposes, subject to Contractor's continuing obligation to preserve the confidentiality, if any, of such materials.

### **7.9.3 Ownership of Information and Data**

All data, electronic or otherwise, collected by the Contractor and all documents, notes, programs, databases (and all applications thereof), files, reports, studies, code, software, domain names, trademarks, source identifiers, trade secrets, works of authorship and/or other material authored, invented, conceived, reduced to practice, collected or prepared by the Contractor or its agents, employees, delegates or subcontractors in connection with this Contract, whether completed or in progress (collectively, the "Materials"), shall be the property of AHIM, and Contractor hereby assigns and agrees to assign to AHIM any and all right and title in and to such Materials that Contractor may possess. Accordingly, Contractor shall obtain from all persons engaged or employed by Contractor (under the Contract to perform or create any Materials) an assignment of intellectual property rights. AHIM hereby reserves all rights to the databases and all applications thereof and to any and all information and/or Materials prepared in connection with this Contract. The Vendor and Contractor are prohibited from use of the above described information and/or materials without the express written approval of AHIM.

## **7.10 Interpretations / Changes / Disputes**

### **7.10.1 Amendment or Modification**

Any amendment or modification of the Contract must be written and signed by both parties.

### **7.10.2 Conflict of Language**

In the event of a conflict in language among any of the components of the Contract, this RFP shall govern. AHIM reserves the right to clarify any Contractual relationship in writing and such clarification will govern in case of conflict with the requirements of this RFP. Any ambiguity in this RFP shall be construed in favor of AHIM.

### **7.10.3 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.

#### **7.10.4 Severability**

If any provision of the Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both AHIM 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.

AHIM may at any time, by written order delivered to the Contractor at least 15 days prior to the commencement date of such change, make administrative changes within the general scope of the contract. If such change(s) 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 change in the cost of performance under this contract will be made in the contract price or delivery schedule, or both. Any claim by the Contractor for adjustment under this clause must be asserted in writing to AHIM within 15 days from the date of receipt by the Contractor of the notification of change. Failure of the parties to agree to any adjustment will be a dispute within the meaning of *Section: 9.10.5* herein. Nothing in this case, however, will in any manner excuse the Contractor from proceeding diligently with the contract as changed.

If the parties are unable to reach agreement within 15 days of receipt of the Contractor's cost estimate, AHIM will make a determination of the revised price and the Contractor will proceed with the work according to a schedule approved by AHIM subject to the determination of price pursuant to the *Section: 9.10.5* herein. Nothing in this section will in any manner excuse the Contractor from proceeding diligently with the contract as changed.

#### **7.10.5 Disputes**

If a dispute arises between the parties regarding their rights or obligations under this Agreement, the parties shall first attempt to settle the dispute by direct discussions. If the dispute is not settled by direct discussions, then the parties agree to endeavor to settle the dispute in an amicable manner by mediation administered by the American Arbitration Association under its Commercial Mediation Rules. Thereafter, any unresolved dispute arising from or relating to this Agreement or a breach of this Agreement shall be resolved as provided by this Agreement and by law. The State and federal courts of Arkansas have exclusive jurisdiction, and venue for litigation. All other proceedings shall be located in Pulaski County, Arkansas.

#### **7.10.6 Cost of Litigation**

In the event that AHIM 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 AHIM prevails. AHIM shall not bear any of the Contractor's attorney fees or other cost of litigation for any legal actions initiated by the Contractor against AHIM regarding the provisions of the Contract. Legal action shall include administrative proceedings.

### **7.10.7 Attorney Fees**

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

## **7.11 Status of the Contractor**

### **7.11.1 Independent Contractor**

Contractor's status under this Agreement shall be that of an independent contractor and not that of an employee of AHIM. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture between the parties, an employer-employee relationship or any other relationship between the parties that could result in any liability of AHIM for any indebtedness, liabilities, or obligations of Contractor except as expressly provided in this Agreement.

- A. **Supervision of Contractor:** In accordance with Contractor's status as an independent contractor, AHIM shall not have the right to control the means or methods by which Contractor performs the services, as set forth in this Agreement. Notwithstanding the foregoing, AHIM shall have the right to control or direct Contractor as to the result to be accomplished under this Agreement and with respect to the services provided herein.
- B. **As an independent contractor:** 1) Contractor shall be solely responsible for all federal, state, and local payment, withholding, and filing requirements for payroll, income, self-employment, retirement, disability, or unemployment taxes, assessments, or regulations, and 2) Contractor shall be ineligible for any vacation, sick leave, pension, bonus, insurance, or other benefit now or in the future established by AHIM for employees of AHIM. All applicable tax payments and withholdings, if any, with respect to services rendered under this Agreement are the sole responsibility of Contractor, which responsibility Contractor agrees to carry out as required by applicable law. Contractor shall indemnify and hold AHIM harmless from any and all loss or liability arising from Contractor's failure to make any appropriate income tax payments, self-employment tax payments or other payments required on behalf of Contractor.

### **7.11.2 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 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 also comply with the Civil Rights Act of 1964 and related State laws and regulations, if any.

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

### **7.11.3 Conflict of Interest**

A bid shall not be considered for award if the price in the bid was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Vendor or with any competitor or conflicted entity.

A Vendor shall include a certified statement in the proposal certifying that the bid was arrived at without any conflict of interest, as described above. Should a conflict of interest be detected at any time during the term of the Contract, the Contract shall be null and void and the Vendor shall assume all costs of this project until such time that a new Vendor is selected.

## **7.12 Risk Management**

### **7.12.1 Indemnification**

The Contractor agrees to indemnify, defend, save, and hold harmless AHIM, 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 AHIM, their officers, agents, employees, representatives, assignees, and Contractors against any and all liability, loss, damage, costs, or expenses that AHIM 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, AHIM 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 AHIM, their officers, agents, employees, representatives, assignees, and Contractors against any and all liability, loss, damages, costs or expenses which AHIM 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 AHIM; or 2) breaching in any manner the confidentiality

or privacy obligations required pursuant to federal and state law and regulations, including but not limited to HIPAA or ACA.

The Contractor agrees to indemnify, defend, save, and hold harmless AHIM, 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 its employees.

If, in the reasonable judgment of AHIM, 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 AHIM or by another resource without unduly interfering with the continued performance of the Contractor, AHIM may provide or procure such services as are reasonably necessary to correct the default. In such event, the Contractor shall reimburse AHIM for the cost of those services. AHIM may deduct the cost of those services from the Contractor's monthly administrative invoices. The Contractor shall cooperate with AHIM 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.

#### **7.12.2 Insurance**

Contractor shall provide the Insurance described in *Appendix G*.

#### **7.12.3 Limitation of Liability**

In recognition of the relative risks and benefits of the project to both the Contractor and AHIM, the risks have been allocated such that AHIM agrees, to the fullest extent permitted by law, to limit the liability of the Contractor to the Consultant for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the Contractor to AHIM shall not exceed 1 ½ the total amount of the contract term including all phases. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

#### **7.13 Confidentiality of Information**

The Contractor shall comply with all obligations of privacy or confidentiality that may arise from any State and federal privacy laws. No information, documents or other material provided to or prepared by the Contractor deemed confidential by AHIM pursuant to State and federal privacy laws, shall be made available to any person or organization without the prior approval of AHIM. Any liability resulting from the wrongful disclosure of confidential information on the part of the Contractor shall rest with the Contractor.

#### **7.14 Right of Inspection**

AHIM, CMS, the U.S. Department of Health and Human Services (DHHS), the General Accounting Office (GAO), the Comptroller General of the United States, the Office of the Inspector General (OIG), or their

authorized representatives shall, during normal business hours, have the right to enter into the premises of a Vendor and/or all subcontractors and providers, or such other places where duties under the contract are being performed, to inspect, monitor, or otherwise evaluate the work being performed. The Vendor must provide access and assistance as required by AHIM, and refusal by the Vendor to allow access to all such documents, papers, letters, electronic files, or any and all other materials will constitute a breach of any resulting contract. All inspections and evaluations shall be performed in such a manner as to not unduly delay the Contractor's work.

## **7.15 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 AHIM 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.

### **7.15.1 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. AHIM makes no representation whatsoever as to exemption from liability to any tax imposed by any governmental entity on the Contractor.

### **7.15.2 License Requirements**

AHIM does not tolerate the possession or use of unlicensed copies of proprietary software. Contractor warrants that it has or shall obtain any license/permits that are required prior to and during the performance of work under this Contract. The Contractor shall be responsible for any penalties or fines imposed as a result of unlicensed or otherwise defectively titled software or other third-party intellectual property.

The Contractor, without exception, shall indemnify, defend and hold harmless AHIM and its agents, officers, attorneys, directors, and employees from liability of any nature or kind, including cost and expenses for or on account of any claim or allegation that any of the Materials infringe the intellectual property rights of any third party. AHIM will provide prompt written notification of any such claim.

Further, if such a claim is made or is pending, the Contractor shall procure for AHIM the right to continue use of, replace, or modify the implicated Material(s) to render it (them) non-infringing while retaining satisfactory functionality, as determined by AHIM. If none of the alternatives are reasonably available, the Contractor agrees to take back the Material(s) and refund the total amount AHIM has paid the Contractor under this Contract for preparation or use of such Material(s).

If the Contractor purports or proposes to use any third-party intellectual property in the performance of its duties under the Contract, it is mutually agreed and understood without exception that the proposed prices for Contract performance shall include all royalties or costs arising from the use of such design, device, or

materials in any way involved in the work. This shall be without prejudice to AHIM's right to full intellectual property indemnification hereunder.

### **7.15.3 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 AHIM 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 AHIM 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 or there is pending litigation. When an auditor pending litigation has not been completed at the end of the five (5) year period, records shall be retained until all issues are finally resolved.

### **7.15.4 HIPAA Compliance**

The Contractor must ensure that all of its work complies with the HIPAA Privacy and Security Rules.

### **7.15.5 Bribes, Gratuities, and Kickbacks Prohibited**

The receipt or solicitation of bribes, gratuities, considerations, and kickbacks is strictly prohibited. No elected or appointed officer or other employee of the federal government, the State of Arkansas or the AHIM Board of Directors or staff shall benefit financially or materially from this Contract. No individual employed by AHIM, no member of the AHIM Board of Directors, or no employee or officer of the State of Arkansas shall be permitted any share or part of this Contract or any benefit that might arise therefrom.

### **7.15.6 Small and Minority Businesses**

AHIM 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.

### **7.15.7 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.

## **7.16 Project Work Schedule**

During the project initiation, Contractor and AHIM will develop a mutually agreed upon work schedule including the division of responsibility between AHIM's staff and Contractor's staff. It is understood by the parties that the project work schedule must be in place prior to any work being performed. Once this mutually agreed upon work schedule, which will identify specific time frames and deliverable target dates for this project, has been developed, it will be incorporated into and made a part of the contract. The dates in the work schedule will define the agreed upon period of performance. The parties acknowledge that the work schedule will evolve and change from time to time upon the mutual written agreement of both parties.

The parties agree that the deliverables and schedule set forth in the latest version of the work schedule will take precedence over any prior plans.

## **7.17 Warranty**

Contractor represents and warrants that all work performed hereunder, including but not limited to Marketplace technology solution services, consulting, conversion, training, and technical support shall be performed by competent personnel, shall be of professional quality consistent with generally accepted industry standards for the performance of such services, and shall comply in all respects with the requirements of this RFP. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from the performance of service, perform the services again at no cost to AHIM, or if the Contractor is unable to perform the services as warranted, the Contractor shall reimburse AHIM the fees paid to the Contractor for the unsatisfactory services.

### **7.17.1 Warranty of Fiscal Integrity**

The Contractor warrants that it is of sufficient financial solvency to assure AHIM of its ability to perform the requirements of the contract. The Contractor shall provide sufficient financial data and information to prove its financial solvency pursuant to *Section 6: Technical Proposal Requirements*.

### **7.17.2 Warranty of Solution**

The Contractor shall provide a warranty on the implemented solution. The warranty shall encompass correction of defective software, functionality, and procedures that were considered to be within the scope of this procurement at no additional cost to AHIM. The warranty period will begin upon AHIM's Final Acceptance of the implemented solution for a period of three (3) years.

## **7.18 Federal Contract Clauses**

The required *Federal Contract Clauses* for Expenditure of Federal Grant Funds is attached as *Appendix H* and are incorporated by reference into this Agreement. To the extent the terms in the body of this Agreement directly conflict with any provision of the Federal Contract Clauses, the body of this Agreement shall govern.

# **Arkansas Health Insurance Marketplace**

## **Request for Proposals Appendices**

### **Implementation and Operation Services for the Arkansas Health Insurance Marketplace SBE-FP Hotline**

**September 26, 2016**



## LIST OF APPENDICES

**APPENDIX A:** VENDOR INFORMATION SHEET

**APPENDIX B:** WRITTEN QUESTIONS TEMPLATE

**APPENDIX C:** MANDATORY TECHNICAL PROPOSAL SUBMISSION REQUIREMENTS CHECKLIST

**APPENDIX D:** CORPORATE REFERENCES

**APPENDIX E:** PROPOSED KEY STAFF RESUME TEMPLATE

**APPENDIX F:** OBJECTION TO TERMS AND CONDITIONS

**APPENDIX G:** INSURANCE

**APPENDIX H:** FEDERAL CONTRACT CLAUSES

## APPENDIX A: VENDOR INFORMATION SHEET

<b>Name of the company or individual:</b>
<b>Mailing address:</b>
<b>Street address (for FEDEX or other mail service):</b>
<b>Name and title of person who would sign the contract:</b>
<b>Name and title of the company contact person (if different):</b>
<b>Contact person (direct telephone number, fax number &amp; email address):</b>

# APPENDIX B: WRITTEN QUESTIONS TEMPLATE

Bidder Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Question#	RFP Section #	RFP Page#	Paragraph#	Question

## APPENDIX C: MANDATORY REQUIREMENTS CHECKLIST

Tab	Mandatory Technical Proposal Submission Requirements Checklist	Completed
	<b>Format of Proposal:</b> Table 4-1 (Formatting Requirements); and Table 2-1 (Proposals received on date and time specified).	
Tab 1	Transmittal Letter	
Tab 2	Mandatory Requirements Checklist	
Tab 3	Executive Summary	
Tab 4	Corporate Experience: Company Background; Company Experience; Corporate References, and Company Financial Condition.	
Tab 5	Organization and Staffing Plan: Organization, Responsibilities, Resumes, and Staff References.	
Tab 6	Project Management and Control	
Tab 7	Work Plan	
Tab 8	Approach	
Tab 9	Additional Requirements Narrative	
Tab 10	Privacy and Security	
Tab 11	Assumptions, Qualifiers, and Constraints	
N/A	Vendor Information Sheet	
N/A	Cost Proposal (In a separately sealed envelope)	

## APPENDIX D: CORPORATE REFERENCES

The Bidder must confirm and describe their experience as it relates to the requirements outlined in this RFP. A minimum of three (3) projects highlighting the Bidder's Premium Aggregation or other large scale US Dept. of Health and Human Services (HHS) IT system implementation and integration project experience (for projects equal in scope and complexity) must be cited from the last five (5) years. The Bidder is also required to provide a minimum of three (3) corporate references for each Premium Aggregation project and for each project providing services similar to those being requested by this RFP. Each reference must include the client's name, address, current telephone number and e-mail address of the client's responsible project administrator or of a senior official of the client who is familiar with the Bidder's performance.

<b>Client:</b>		
<b>Project Name:</b>	<b>Beginning Date of Project:</b> Month/Year	<b>Ending Date of Project:</b> Month/Year
<b>Name Prime Vendor and All Subcontractors and Role of Bidder:</b>		
<b>Funded Contract Cost:</b>		
<b>1. Client References</b>  Name, Position: Client: Address: Email: Phone:	<b>2. Client References</b>  Name, Position: Client: Address: Email: Phone:	<b>3. Client References</b>  Name, Position: Client: Address: Email: Phone:
<b>Description of Work Performed:</b>		
<b>Project Personnel Requirements:</b>		
<b># of FTEs and Total Staff Hours Expended:</b>		

<b>Client:</b>		
<b>Project Name:</b>	<b>Beginning Date of Project:</b> Month/Year	<b>Ending Date of Project:</b> Month/Year
<b>Name Prime Vendor and All Subcontractors and Role of Bidder:</b>		
<b>Funded Contract Cost:</b>		

<b>1. Client References</b> Name, Position: Client: Address: Email: Phone:	<b>2. Client References</b> Name, Position: Client: Address: Email: Phone:	<b>3. Client References</b> Name, Position: Client: Address: Email: Phone:
<b>Description of Work Performed:</b>		
<b>Project Personnel Requirements:</b>		
<b># of FTEs and Total Staff Hours Expended:</b>		

<b>Client:</b>		
<b>Project Name:</b>	<b>Beginning Date of Project:</b> Month/Year	<b>Ending Date of Project:</b> Month/Year
<b>Name Prime Vendor and All Subcontractors and Role of Bidder:</b>		
<b>Funded Contract Cost:</b>		
<b>1. Client References</b> Name, Position: Client: Address: Email: Phone:	<b>2. Client References</b> Name, Position: Client: Address: Email: Phone:	<b>3. Client References</b> Name, Position: Client: Address: Email: Phone:
<b>Description of Work Performed:</b>		
<b>Project Personnel Requirements:</b>		
<b># of FTEs and Total Staff Hours Expended:</b>		

## APPENDIX E: PROPOSED KEY STAFF RESUME TEMPLATE

The Bidder must submit resumes of all proposed key staff personnel identified in its proposal. All Bidders are required to use the template below when providing the resumes of proposed key staff personnel. Information that is included as a part of this template should be relevant to the services requested in this RFP and should outline the individual’s knowledge and experience working with Health Insurance Exchanges and/or Financial Management systems. Each project referenced in a resume 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.

<b>Name</b>		
<b>Title, Company</b>		
<b>Summary</b>		
<b>Relevant Project Experience</b> (order in reverse chronological order – most recent first)		
<b>1.</b>	<b>Insert Client Name Here</b>	<b>mm/yyyy— mm/yyyy (Project Lifespan) mm/yyyy— mm/yyyy (Individual assignment if different)</b>
<b>Insert Project Name Here</b>		
	<b>Title on Project:</b>	Your title on the project here
	<b>Project Description:</b>	The overall description of the project here
	<b>Responsibilities:</b>	Your responsibilities on the project here
<b>2.</b>	<b>Insert Client Name Here</b>	<b>mm/yyyy— mm/yyyy (Project Lifespan) mm/yyyy— mm/yyyy (Individual assignment if different)</b>
<b>Insert Project Name Here</b>		
<b>Name</b>		

<b>Title, Company</b>		
<b>Summary</b>		
<b>Relevant Project Experience</b> (order in reverse chronological order – most recent first)		
<b>1.</b>	<b>Insert Client Name Here</b>	mm/yyyy— mm/yyyy <b>(Project Lifespan)</b> mm/yyyy— mm/yyyy <b>(Individual assignment if different)</b>
<b>Insert Project Name Here</b>		
	<b>Title on Project:</b>	Your title on the project here
	<b>Project Description:</b>	The overall description of the project here
	<b>Responsibilities:</b>	Your responsibilities on the project here
<b>2.</b>	<b>Insert Client Name Here</b>	mm/yyyy— mm/yyyy <b>(Project Lifespan)</b> mm/yyyy— mm/yyyy <b>(Individual assignment if different)</b>
<b>Insert Project Name Here</b>		



## APPENDIX F: OBJECTION TO TERMS AND CONDITIONS

The Bidder shall be presumed to be in agreement with the terms and conditions of the RFP unless the Bidder has specific objections.

**THE BIDDER IS CAUTIONED THAT BY TAKING ANY EXCEPTION THEY MAY BE MATERIALLY DEVIATING FROM THE RFP SPECIFICATIONS. IF THE BIDDER MATERIALLY DEVIATES FROM A RFP SPECIFICATION, ITS PROPOSAL MAY BE REJECTED.**

A material deviation is an exception to a specification which 1) affords the Bidder taking the exception a competitive advantage over other Bidders, or 2) gives the State something significantly different than the State requested.

**INSTRUCTIONS:** The Bidder must explicitly list all objections to AHIM terms and conditions (Reference the actual number of AHIM's term, condition and page number for which an objection(s) is being taken). If no objections exist, state "NONE" specifically on the form below. Whether or not objections are taken, the Bidder must sign and date this form and submit it as part of their Proposal. (*Add additional pages if necessary.*)

<b>Responder Name:</b>	
<b><u>Term &amp; Condition Number/Provision</u></b>	<b><u>Explanation</u></b>

*By signing this form, I acknowledge that the above named Bidder accepts, without qualification, all terms and conditions stated in this RFP except those clearly outlined as objections above.*

---

Signature

Title

Date

## APPENDIX G: INSURANCE

**REQUIRED COVERAGES.** For the Duration and for a period of three (3) years thereafter, Contractor shall procure and maintain, at its sole cost and expense, at least the following types and amounts of insurance coverage:

- Commercial general liability with limits no less than \$1,000,000 per occurrence and
- \$2,000,000 in the aggregate, including bodily injury and property damage and products and completed operations and advertising liability. The commercial general liability coverage shall also:
  - Include contractual liability coverage insuring the activities of Contractor under this Agreement, including without limitation Contractor's indemnification obligations provided in the Agreement.
  - Require the insurance carrier to give the Marketplace at least thirty (30) days' prior written notice of cancellation or non-renewal.
  - Name the Marketplace and the Marketplace's board members, employees, volunteers, and other agents, including, in each case, all successors and permitted assigns, as additional insureds.
  - Provide that the coverage is primary insurance and any similar insurance in the name of or for the benefit of the Marketplace or the Marketplace's board members, employees, volunteers, or other agents shall be excess and non-contributory.
  - Waive any right of subrogation of the insurers against the Marketplace or the Marketplace's board members, employees, volunteers, or other agents.
  - Worker's compensation with (i) limits no less than the minimum amount required by law and (ii) a waiver of any subrogation right of the insurers against the Marketplace or the Marketplace's board members, employees, volunteers, or other agents.
  - Errors and omissions with limits no less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate.
  - Data breach and cyber liability with limits no less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate.
- Umbrella follow-form coverage for the coverages listed above with limits of no less than \$10,000,000. The umbrella follow-form coverage shall also:
  - Name the Marketplace and the Marketplace's board members, employees, volunteers, and other agents, including, in each case, all successors and permitted assigns, as additional insureds.
  - Provide that the policy is primary insurance and any similar insurance in the name of or for the benefit of the Marketplace or the Marketplace's board members, employees, volunteers, or other agents shall be excess and non-contributory.

**ADDITIONAL INSURANCE REQUIREMENTS.** Each insurance policy required pursuant to this Appendix shall be issued by insurance companies with a Best's Rating of no less than A-.

**CERTIFICATIONS OF COVERAGE.** Contractor shall provide the Marketplace with copies of the certificates of insurance and policy endorsements for all insurance coverage required herein, and shall not

do anything to invalidate such insurance. Insurance coverage shall not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations imposed under this Agreement, including without limitation the indemnification obligations provided in the Agreement.

## **APPENDIX H: FEDERAL CONTRACT CLAUSES**

The following clauses govern contracts between Arkansas Health Insurance Marketplace (“AHIM”) and other parties (each a “Contractor”) when federal grant funds are used to pay Contractor.

### **1. REMEDIES.**

- a. Continued Performance. Unless otherwise directed by AHIM, Contractor shall continue performance under this contract while matters in dispute are being resolved.
- b. Notice of Injury. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- c. Governing Law. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to the laws of the State of Arkansas.
- d. Remedies Cumulative. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by AHIM or Contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **2. TERMINATION.**

- a. Termination for Convenience. AHIM may terminate this contract, in whole or in part, at any time by written notice to Contractor. For a cost-based contract, Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. For a service contract, AHIM shall be liable only for payment under the payment provisions of the Contract for services rendered before the effective date of termination. If termination occurs before payment would be due under the Contract, Contractor shall be entitled to the reasonable compensation for services accepted through the effective date of termination. Contractor shall promptly submit its termination claim to AHIM to be paid to Contractor. If Contractor has any property in its possession belonging to AHIM, Contractor will account for the same and return it or dispose of it in any manner AHIM directs.
- b. Termination for Breach. Either party may terminate for failure of the other party to fulfill its obligations, as set forth within a specific contract. Reasonable allowances will be made

for circumstances beyond the control of Contractor or AHIM. Written notice of the intent to terminate is required and shall specify the reasons supporting termination.

- c. Termination for Default. If Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, Contractor fails to perform in the manner called for in the contract, or if Contractor fails to comply with any other provisions of the contract, AHIM may terminate this contract for default. Termination shall be effected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by AHIM that Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of Contractor, AHIM, after setting up a new delivery of performance schedule, may allow Contractor to continue work, or treat the termination as a termination for convenience.
  - d. Termination Opportunity to Cure. AHIM in its sole discretion may, in the case of a termination for breach or default, allow Contractor ten (10) days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to AHIM's satisfaction the breach or default of any of the terms, covenants, or conditions of this contract within ten (10) days after receipt by Contractor of written notice from AHIM setting forth the nature of said breach or default, AHIM shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude AHIM from also pursuing all available remedies against Contractor and its sureties for said breach or default.
  - e. Non-Waiver of Remedies. In the event that AHIM elects to waive its remedies for any breach by Contractor of any covenant, term, or condition of this contract, such waiver by the AHIM shall not limit the AHIM's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.
3. **CIVIL RIGHTS (TITLE VI, EEO).** During the performance of this contract, Contractor, for itself, its assignees, and successors in interest, agrees as follows:
- a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 2000d, Title IX of the Education Amendments of 1972, as amended, Section 303 of the Age Discrimination Act of 1975, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and 42 U.S.C. 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, Contractor agrees that it will not (i) discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability or (ii) operate any programs or activities for AHIM in a manner that limits participation or access or otherwise discriminates against any person on the basis of

race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements HHS may issue, including any certifications of compliance required as a condition of using federal grant funds to pay Contractor.

- b. **Equal Employment Opportunity.** Contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in the U.S. Department of Labor (DOL) regulations, 41 C.F.R. 60 et seq.
  - c. **Subcontractor Selection.** In the event AHIM permits Contractor to contract with any third party to perform any of Contractor’s obligations to AHIM, Contractor must make positive efforts to use small businesses, minority-owned firms, and women-owned businesses as sources of goods and services whenever possible. To this end, Contractor must place qualified small, minority- owned, and women-owned business enterprises on solicitation lists; ensure that small, minority- owned, and women-owned business enterprises are solicited whenever they are potential sources; consider contracting with consortia of small, minority-owned, or women-owned business enterprises when an intended contract is too large for any one such firm to handle on its own or, if economically feasible, divide larger requirements into smaller transactions for which such organizations might compete; make information on contracting opportunities available and establish delivery schedules that encourage participation by small, minority-owned, and women- owned business enterprises; and use the services and assistance of the Small Business Administration and the Minority Business Development Agency, as appropriate.
4. **COPELAND ANTI-KICKBACK ACT.** Contractor agrees to comply with the Copeland Anti-Kickback Act, as amended, 18 U.S.C. 874, et seq., as supplemented in the DOL regulations 29 C.F.R. Part 3, which are hereby incorporated by reference.
  5. **DAVIS-BACON ACT.** If Contractor performs more than \$2,000 in construction, alteration, or repair services on public buildings or public works on behalf of AHIM, it must comply with the Davis-Bacon Act, 40 U.S.C. 3141 et seq., and implementing DOL regulations, 29 C.F.R. 5. The Davis-Bacon Act requires Contractors to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires Contractors to pay wages not less than once per week.
  6. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.** If Contractor performs more than \$2,000 in construction, alteration or repair services for AHIM, or more than \$2,500 for other contracts which involve the employment of mechanics or laborers, then Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327-330, and as supplemented by DOL regulations, 29 C.F.R. Part 5.

- a. **Overtime Requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
  - b. **Violation, Liability for Unpaid Wages, Liquidated Damages.** In the event of any violation of this section Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth above.
  - c. **Withholding for Unpaid Wages.** Contractor shall upon its own action or upon written request of an authorized representative of the DOL withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this Section 9.5.
7. **PERTAINING TO REPORTING. NOTICE OF AWARDING AGENCY REQUIREMENTS AND REGULATIONS PERTAINING TO REPORTING.** AHIM shall monitor Contractor's activities, and Contractor shall cooperate with AHIM and furnish all information necessary to fulfill all reporting requirements imposed upon AHIM under 45 C.F.R. 92.40 and 92.41. Contractor shall inform AHIM as soon as the following types of conditions become known: (i) problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Contract, and (ii) favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated, or producing more beneficial results than originally planned. Contractor shall permit AHIM and any appropriate Federal agency to make site visits as warranted by program needs.
8. **PATENT RIGHTS.** Irrespective of the status of the Contractor (for example, a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, individual, and so forth), Contractor agrees to comply with HHS requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract.

9. **COPYRIGHTS AND RIGHTS IN DATA.** This Contract is governed by the requirements of Federal law and regulations concerning ownership and licensing of copyrights and rights in data. Pursuant to 45 C.F.R. 92.36, HHS reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and authorize others to use, for Federal Government purposes: (i) the copyright of any work developed under this Contract or any subcontract thereunder, and (ii) any rights of copyright to which AHIM or Contractor purchases ownership of with Federal grant support. If, for any reason, the project is not completed, all data developed under the project is required to be delivered as AHIM or HHS may direct.
10. **ACCESS TO RECORDS AND RETENTION.** Contractor agrees to develop and retain records identifying the basis for determining the valuation of personal services, materials, equipment, buildings, and land.
- a. Inspection of Records. Contractor agrees that the relevant books, documents, papers, and records of the Contractor which are directly pertinent to the Contract shall be subject to inspection, examination, review, audit, transcription and summarization by AHIM, HHS, the Comptroller General of the United States, or any of their duly authorized representatives. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. This right of access shall last as long as the records are retained by Contractor in accordance with 45 C.F.R. 92.42.
  - b. Maintenance of Records. Contractor agrees to maintain all books, records, accounts, and reports related to Contractor's work for AHIM for a period of not less than three (3) years after the date of termination or expiration of this contract, except that in the event of litigation or settlement of claims arising from the performance of this contract, Contractor agrees to maintain same for any longer period required for AHIM, HHS, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
11. **CLEAN AIR ACT, CLEAN WATER ACT AND EPA REGULATIONS.** Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to: (i) the Clean Air Act, as amended, 42 U.S.C. 1875(h), et seq.; (ii) the Clean Water Act, as amended, 33 U.S.C. 1368, et seq.; and (iii) Executive Order 11738 and Environmental Protection Agency regulations, as amended, 40 C.F.R. Part 15. Contractor agrees to report each violation to AHIM and understands and agrees that AHIM will, in turn, report each violation as required to assure notification to HHS and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by HHS.
12. **GOOD STANDING.** Contractor certifies, by signing this Contract, that neither Contractor nor Contractor's principals are presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order



12549, “Debarment and Suspension,” 28 C.F.R. 67.510, and any relevant program-specific regulations. Contractor shall require this certification from every subcontractor receiving any payment in whole or in part from federal funds.

13. **SUBCONTRACTS.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this Exhibit and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these terms, and any other clauses required by federal statute or executive order, and their implementing regulations.
  
14. **COST PRINCIPLES.** If the agreement between AHIM and Contractor is a “cost-type” contract, then allowable costs will be determined in accordance with the appropriate cost principles required as a condition of using federal grant funds, as set forth in the HHS Grants Policy Statement or other federal regulations, policies, or agreements between AHIM and the applicable federal funding agency.