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Request for Proposal Standard Terms and Conditions

1. Authority

Division 4 of the Department of Finance Administrative Code (Chapters 355-4-1 through 355-4-6), effective October 1, 2022, is incorporated by reference and made a part of this document. To view the relevant provisions of the Administrative Code, visit our website <https://purchasing.alabama.gov/>

2. Prohibited Contacts; Inquiries regarding this RFP

From the Release Date of this Request for Proposal (hereafter referred to as RFP) until a contract is awarded, parties that intend to submit, or have submitted, a Proposal are prohibited from communicating with any members of the Soliciting Party's Team for this transaction who may be identified herein or after the Release Date, or other employees or representatives of the Soliciting Party regarding this RFP or the underlying transaction except the designated contact(s).

3. Nonresponsive Proposals

Any Proposal that does not satisfy requirements of the RFP may be deemed non-responsive and may be disregarded without evaluation. Supplemental information, including information necessary to clarify a proposal, may be required from any Proposer.

4. Changes to RFP; Changes to Schedule

The Soliciting Party reserves the right to change or interpret the RFP prior to the Proposal Due Date. Changes will be communicated to those parties receiving the RFP who have not informed the Soliciting Party's designated contact that a Proposal will not be submitted. Changes to the deadline or other scheduled events may be made by the Soliciting Party as it deems to be in its best interest.

5. Expenses of Proposal

A Proposer will not be reimbursed for any expenses incurred in preparation of a proposal.

6. Rejection of Proposals

The State reserves the right to reject any and all proposals and cancel this Request if, in its sole discretion, it deems such action to be in its best interest.

7. The Final Terms of the Engagement

Issuance of this RFP in no way constitutes a commitment by the State to award a contract. The final terms of engagement for the service provider will be set out in a contract which will be effective upon its

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acceptance by the State as evidenced by the signature thereon of its authorized representative. Provisions of this RFP and the accepted Proposal may be incorporated into the terms of the engagement should the State so dictate. Notice is hereby given that there are certain terms standard to commercial contracts in private sector use which the State is prevented by law or policy from accepting, including indemnification and holding harmless a party to a contract or third parties, consent to choice of law and venue other than the State of Alabama, methods of dispute resolution other than negotiation and mediation, waivers of subrogation and other rights against third parties, agreement to pay attorney's fees and expenses of litigation, and some provisions limiting damages payable by a vendor, including those limiting damages to the cost of goods or services.

8. Choice of Law; Venue

This Contract will be governed by laws of the State of Alabama and the sole venue for litigation and alternative dispute resolution activities will be the City of Montgomery in the State of Alabama. No other court shall have jurisdiction.

9. Not to Constitute a Debt of the State

The terms and commitments contained in the solicitation, or any contract resulting from this solicitation, shall not constitute a debt of the State of Alabama, the incurring of which is prohibited by Section 213 of the Official Recompilation of the Constitution of Alabama, 1901, as amended.

10. Proration

Any provision of a contract resulting from this bid to the contrary notwithstanding, in the event of failure of the State to make payment hereunder as a result of partial unavailability, at the time such payment is due, of such sufficient revenues of the State to make such payment (proration of appropriated funds for the State having been declared by the governor pursuant to Section 41-4-90 of the Code of Alabama 1975), the supplier shall have the option, in addition to the other remedies of the contract, of renegotiating the contract (extending or changing payment terms or amounts) or terminating the contract.

11. Non-appropriation of funds

Section 41-4-144(c) of the Code of Alabama 1975 states: "(c) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled, and the supplier shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for that purpose."

12. Open Trade/No Boycott

For the term of this contract, supplier represents that it is not currently engaged in, and agrees not to engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this State can enjoy open trade.

13. Dispute Resolution

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In the event of any dispute between the parties arising from this solicitation and any agreement relating to purchases or leases resulting therefrom, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, supplier's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar Association.

14. Cancellation

A contract for supplies may be canceled by the Chief Procurement Officer, for justifiable cause, by giving the supplier thirty (30) days written notice. A supplier may request cancellation and the Chief Procurement Officer may grant the request, in his or her sole discretion, if performance is prevented by an act of God, act of War, order of legal authority, or other unavoidable circumstances not attributable to the fault or negligence of the supplier. Contracts for services may be cancelled for justifiable cause by the Chief Procurement Officer by giving the vendor at least 72 hours' written notice. The burden of proof for such relief rests with the supplier. All correspondence pertaining to cancellation of a contract must be addressed to the Chief Procurement Officer with a copy to the using agency.

15. Sales Tax Exemption

Pursuant to Section 40-23-4 (a)(11) of the Code of Alabama 1975, the State of Alabama is exempt from paying sales tax. An exemption letter will be furnished upon request.

16. No Indemnification

Supplier acknowledges and agrees that, under the terms of this solicitation and agreements relating to purchases or leases resulting therefrom, the State is prohibited from indemnifying the supplier. The State does not agree to and will not indemnify the supplier for any reason. The State of Alabama does not release or waive, expressly or implied, the State of Alabama's right to assert sovereign immunity or any other affirmative defense right it may have under law. The State of Alabama shall control the defense and settlement of any legal proceeding on behalf of the State, including the selection of attorneys.

17. Foreign Corporation – Alabama Secretary of State Registration

Section 10A-1-7.01 to -7.14 of the Code of Alabama 1975 require a foreign entity (an out-of-state company/firm) to register with the Alabama Secretary of State's Office before transacting business in the State.

18. Beason-Hammon Alabama Taxpayer and Citizen Protection Act

A contract resulting from this RFP will include provisions for compliance with certain requirements of the Beason-Hammon Alabama taxpayer and Citizen Protection Act, Sections 31-13-1 through 35, Code of Alabama 1975 as follows:

E- VERIFY ENROLLMENT DOCUMENTATION AND PARTICIPATION. As required by Section 31-13-9(b), Code of Alabama 1975 Contractor that is a "business entity" or "employer" as defined in

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Section 31-13-3, will enroll in the E-Verify Program administered by the United States Department of Homeland Security, will provide a copy of its Memorandum of Agreement with the United States Department of Homeland Security that program and will use that program for the duration of this contract.

As required by Section 31-13-9(k) of the Code of Alabama 1975, the supplier agrees to the following: “By signing this contract, the contracting parties affirm, for the duration of any agreement that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.”

To enroll in the E-Verify program visit <https://www.e-verify.gov/>

19. Conflict of Law

If any provision of this solicitation and any subsequent award shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this agreement, be enacted, then that conflicting provision shall be deemed null and void.

20. Disclosure Statement

A Proposal must include one original Disclosure Statement as required by Code Section 41-16-82, et seq., of the Code of Alabama 1975. The Disclosure Statement, and information, may be downloaded from the State of Alabama Attorney General’s web site at <https://www.alabamaag.gov/Forms>

21. Certification Pursuant to Act No. 2006-557

Section 41-4-142 of the Code of Alabama 1975 (Act No. 2006-557) provides that every bid submitted and contract executed shall contain a certification that the supplier, supplier, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting, and remitting Alabama State and local sales, use, and/or lease tax on all taxable sales and leases into Alabama. By submitting this bid or proposal, the supplier is hereby certifying that they are in full compliance with Section 41-4-142, they are not barred from bidding or entering into a contract as a result and acknowledges that the awarding authority may declare the contract void if the certification is false.

22. Supplier Qualifications

After bid opening, the State reserves the right to request written proof of qualifications including, but not limited to, manufacturer’s reseller authorization, professional licenses, certificates of insurance, etc.

23. Pricing

The State of Alabama reserves the right to conduct analysis based on cost realism and/or price reasonableness for any or all bids as determined necessary in the sole discretion of the Chief Procurement Officer. Such analysis may include requests pursuant to Section 41-4-141 of the Code of Alabama 1975.

24. Product Delivery, Receiving and Acceptance:

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In accordance with the Uniform Commerce Code (Title 7 of the Code of Alabama 1975), after delivery, the State of Alabama shall have the right to inspect all products before accepting. The State will inspect products in a reasonable timeframe. Signature on a delivery document does not constitute acceptance by the State. The State will accept products only after satisfactory inspection.

25. Invoices

Inquiries concerning invoice payments are to be directed to the receiving agency.

26. Late Payments

Penalty for agencies paying invoices late may not exceed the rate charged by State of Alabama Comptroller's Office per Section 41-16-3 of the Code of Alabama 1975 and as established by the Secretary of the Treasury under the authority of 26 U.S.C. §6621.

27. Electronic Payments

Vendors must accept multiple forms of electronic payment at no additional cost to the State. Payment forms include but are not limited to state issued credit cards, P-cards, EFT or other forms of electronic payment.

28. Supplier Registration

Suppliers may receive bid notices by registering for commodities at the Alabama Buys supplier portal, <https://alabamabuys.gov>

29. Internet Website Links

Internet and/or website links will not be accepted in bid responses as a means to supply any requirements stated in this solicitation.

30. Solicitation Responses and Results

The complete bid file will be made available for review as provided by (or as outlined) in Section 41-4-115 of the Code of Alabama 1975 and Rule 355-4-1-.04 of the Department of Finance Administrative Code.

31. Exception to Terms and Conditions

Suppliers may place any qualifications, exceptions, conditions, reservations, limitations, or substitutions in their bid or proposal concerning the contract terms and conditions. However, the State is not obligated to accept any changes to the published terms and conditions of the solicitation.

32. Intent to Award

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The State of Alabama Office of the Chief Procurement Officer will issue an 'Intent to Award' before a final award is made. The 'Intent to Award' will continue for a period of fourteen (14) calendar days, after which the award will be final provided there are no protests. A detailed explanation of this process may be reviewed in the Alabama Administrative Code – Chapter 355-4-6-.01. All protest communications filed via email must be sent to: protests@purchasing.alabama.gov

33. Confidentiality

Procurement information is a public record to the extent provided by state law and shall be available to the public. Section 41-4-115 of the Code of Alabama 1975 defines what is exempt from disclosure. Additional rules are included in Rules 355-4-1-.03(4) and 355-4-1-.04 of the Alabama Department of Finance Administrative Code.

34. Click Wrap

The State of Alabama acknowledges that additional terms between the supplier and the State or third-party terms may apply but does not agree to be bound by them unless provided for review and separately agreed to in writing by an authorized official of the State of Alabama. If the purchase or use of the supplies or services provided utilizes a computer interface, no State of Alabama end user shall be deemed to have agreed to any clause by virtue of it appearing in an "I agree" click box or other comparable mechanism ("click-wrap" or "browse-wrap"); rather the terms and conditions, such as End User License Agreements, may only be accepted by inclusion in an agreement and signature by an authorized official of the State of Alabama. If the terms and conditions or any other third-party terms and conditions are invoked through click wrap, execution by any unauthorized individual shall not bind the end user or the State of Alabama to such clause. Any clause which requires the State of Alabama to indemnify another party or clause which assigns jurisdiction to any state other than Alabama which is contained in such click-wrap is deemed to be stricken from the terms and conditions unless expressly agreed in writing and under the signature of an authorized individual.

35. Assignment

Any contract which results from this solicitation shall not be assignable by supplier without written consent of the State of Alabama. Any assignment or other transfer in violation of this provision will be null and void.

36. Debarment and Suspension

Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency. If supplier cannot certify this statement, supplier must attach a written explanation for review by the Chief Procurement Officer.

37. Merit System Exclusion

It is understood and agreed that supplier is an independent supplier and as such all services rendered by supplier and its agents and employees thereof shall be as an independent supplier and not as an employee, Merit or otherwise, of the State of Alabama, and supplier or its agents and employees thereof shall not be entitled to or receive Merit System benefits.

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38. Severability

In the event any provision of this solicitation or resulting contract shall not be enforceable, the remaining provisions shall continue in full force and effect.

39. Volume of Business

Except as otherwise stated in this solicitation, the State of Alabama cannot and does not guarantee any volume of business.

40. Waiver

The failure of the State of Alabama to require performance of any provisions of this solicitation or resulting contract shall not affect the State's right to require performance at any time thereafter, nor shall a waiver of any breach or default constitute a waiver of any subsequent breach or default nor constitute a waiver of the provision itself.

41. Legislative Contract Review Committee

Personal and professional services contracts with the State may be subject to review by the Contract Review Permanent Legislative Oversight Committee in accordance with Section 29-2-40, et seq. of the Code of Alabama 1975. The vendor is required to be knowledgeable of the provisions of that statute and the rules of the committee. These rules can be found at <https://alison.legislature.state.al.us/contract-review>. If a contract resulting from this RFP is to be submitted for review the service provider must provide the forms and documentation required for that process.

42. Compliance with Ala. Act No. 2023-409.

In compliance with Ala. Act No. 2023-409, by signing this contract, Supplier provides written verification that Supplier, without violating controlling law or regulation, does not and will not, during the term of the contract engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act. Under Section 2 of the Act, the written verification may be waived if the contracting governmental entity determines based on cost and quality factors that such a waiver is clearly in the best interest of the public.

By submitting a response, I hereby affirm the following:

I acknowledge receipt of the solicitation and all amendments (new rounds). I have read the solicitation and agree to furnish each item or service offered at the price quoted. I will comply with all terms and conditions contained within this solicitation. I have not been in any agreement of collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding. I further certify that I am not barred from bidding or entering into a contract and acknowledge that the State may declare the contract void if this certification is false.

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Alabama Department of Public Health (ADPH)

Request for Proposals (RFP) for MARKETING/ADVERTISING SERVICE

Release Date: NOVEMBER 14, 2024

Scope of Work Alabama Department of Public Health Marketing Services SOLICITATION NO. RFP

0.1 Introduction

About Alabama Department of Public Health (ADPH)

As the Public Health Authority of Alabama, ADPH is committed to "preventing disease, promoting health, and protecting the well-being of all." Anchored in a vision that envisions an optimal quality of life, health, and well-being for everyone, ADPH aims to create a society free from racism, poverty, and oppression. Dedicated to safeguarding residents from infectious diseases and environmental threats, ADPH actively promotes healthy

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behaviors to prevent chronic diseases. The organization engages in educational outreach to enhance community well-being by offering essential services, programs, and community social service investments, including immunizations, nutritional support, and screenings for chronic health conditions. In the face of unprecedented challenges, ADPH has not only deepened the quality and reach of its efforts but has also strengthened its advocacy for healthful behaviors, emergency preparedness, and services tailored to those most affected by the social determinants of health. Accredited by the National Public Health Accreditation Board (PHAB), ADPH consistently meets and exceeds rigorous public health standards, reflecting a steadfast commitment to continuous improvement in delivering high-quality services.

ADPH PROGRAMS AND SERVICES OVERVIEW

ADPH offers a comprehensive array of programs and services, including but not limited to:

- # Services to help people meet needs across the lifespan, such as immunizations, shelter, food, clothing, and job assistance.
- # Screening and testing for blood pressure, diabetes, sexually transmitted diseases, HIV/AIDS, hepatitis, and tuberculosis.
- # Nutritional support through the Women, Infants, and Children Program (WIC).
- # Birth and death certificates.
- # Inspection and permitting of restaurants and food establishments.
- # Outreach and education on diabetes, tobacco prevention and cessation, physical activity promotion, healthy eating, heart attack and stroke, mother-friendly workplaces, and injury prevention, including overdose prevention.
- # Emergency preparedness programs to help people in need during and after natural and artificial disasters.
- # Public Health Infrastructure includes departmental systems, performance, organizational development, competencies, and resources that enable ADPH to perform core functions and essential services identified by PHAB.

1.1 Definitions

- 1.2 **ADPH:** Alabama Department of Public Health
- 1.3 **Campaign Performance:** Metrics and data related to the effectiveness of advertising and marketing campaigns, including outreach metrics, target demographic reach, geographical reach, impressions, and return on investment.
- 1.4 **Department:** Public Health
- 1.5 **Department's Contract Manager:** The designated representative responsible for exercising oversight, providing feedback, and resolving day-to-day issues related to the contract.
- 1.6 **Cultural Competency Training:** Training provided to personnel involved in content creation, including translation, to better understand the nuances and sensitivities related to language and cultural diversity.
- 1.7 **Education:** The dissemination of information and knowledge related to health topics to raise awareness and foster informed decision-making.
- 1.8 **Focused Populations and Demographics:** The assessment includes a review of data that illuminates the social and economic context, community health issues, and community priorities for health improvement.
 - # African American/Black
 - # Americans
 - # Elderly/Homebound
 - # Latinx/Hispanic
 - # LGBTQIA +
 - # Populations who do not have ready access to computers and the internet.
 - # Populations/Communities by zip codes or Census tracts
 - # Immigrants
 - # Refugees
 - # Those who self-identify as not speaking English "very well" on the US Census
 - # Low-income individuals (income under 200% of the Federal Poverty Level)
- 1.9 **Health Misinformation:** Inaccurate or misleading information about health and well-being, including false claims, rumors, or unverified information that may adversely impact individuals' understanding of health matters.

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- 1.10 **Key Performance Indicators (KPIs):** Quantifiable measures are used to evaluate the success and performance of the advertising and marketing campaigns, ensuring consistency with prior similar campaigns conducted by the department.
- 1.11 **Language Access:** Ensuring that campaign materials are accessible to individuals with different language backgrounds, requiring translation services and multilingual representation.
- 1.12 **Multi-lingual Content Strategies:** Approaches to develop and implement content that is accessible and culturally competent for diverse linguistic communities.
- 1.13 **Outreach:** Initiatives and activities aimed at reaching and connecting with various populations, particularly those experiencing disparate outcomes or underserved communities.
- 1.14 **Outreach and Education:** Strategic initiatives aimed at engaging and educating diverse populations, emphasizing cultural relevance and inclusivity.
- 1.15 **Prevent Diseases:** Proactive measures and campaigns designed to minimize the occurrence and spread of diseases within the community.
- 1.16 **Program Manager:** The individual responsible for overseeing and coordinating specific health programs within ADPH, providing expertise on programmatic elements and goals distinct from the responsibilities of the Contract Manager.
- 1.17 **Promotion:** Strategic activities to encourage positive health behaviors and choices, creating awareness and engagement within the community.
- 1.18 **Racially, Ethnically, Culturally, and Linguistically Diverse Populations:** Communities representing a range of races, ethnicities, cultures, and languages within the Department and Travis County.
- 1.19 **Subgrantees:** Organizations or entities receiving grants or funding through the ADPH for specific initiatives related to advertising and marketing campaigns.
- 1.20 **Work Plan:** A detailed plan outlining all tasks, implementation schedules, content and collateral development, review and approval processes, advertising placement, proposed advertising platform mix, and budget allocation.

3.0 Purpose

- 2.1 The Alabama Department of Public Health (hereinafter referred to as the "Department") seeks to establish contracts with multiple qualified Contractors to provide comprehensive advertising and marketing services for the department. The objective is to ensure that the Department and Alabama residents receive culturally relevant health-related messaging across all programs, emphasizing outreach and education. This initiative aims to prevent diseases, promote overall health, and engage racially, ethnically, culturally, and linguistically diverse populations in multiple languages.

These contracts will support multiple campaigns for ADPH programs and services. Campaigns may focus on promoting vaccination, preventing and managing chronic conditions or injuries, promoting environmental health, promoting a specific ADPH program or service, or any topics embedded within ADPH programs and services.

Alabama Department of Public Health reserves the right to award multiple contracts to multiple vendors.

4.0 Term of Contract

Contracts will begin the day of the governor’s signature and expire one year afterward.

5.0 Background

Education and promotion are vital components of disease and injury prevention in our community. The Department recognizes the growing threat of health misinformation, underscoring the need for a diverse and qualified workforce with the skills and resources for strategic communication to combat this issue.

The advertising and marketing initiative aims to engage the community actively in understanding the importance of preventive measures, health-promoting behaviors, and public health infrastructure. By countering misinformation and fostering partnerships with diverse communities, healthcare providers, and stakeholders, the Department seeks to create a resilient community equipped with information and skills for discerning accurate (public) health information.

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These contracts will highlight the essential role of the public health workforce in providing education and promotion, emphasizing the need for a strategic response to address the challenges posed by health misinformation. This contract aims to foster a healthier, more informed community by strengthening messages through recruitment and integrating outreach and education efforts across all ADPH programs and services.

6.0 Minimum Qualifications

To be considered responsive to this solicitation, the contractors shall meet the following minimum requirements:

- 6.1 A minimum of five (5) years of experience developing and implementing high-impact multi-platform advertising and marketing campaigns that maximize population reach and effectively motivate behavior change. To create cohesive and compelling messages, the contractor must demonstrate proficiency in using various media channels, including digital, print, broadcast, and social media.
- 6.2 Demonstrated experience in creating diverse, culturally relevant, multi-platform, and multi-lingual campaigns targeted at specific populations. The contractor should showcase their ability to understand and address the unique needs of different demographic groups, ensuring inclusivity and cultural sensitivity.
- 6.3 Proven ability to leverage the use of in-kind or media matches (e.g., free and discounted media placements) to extend the reach and impact of campaigns. The contractor must demonstrate a strategic approach to maximizing available resources, ensuring that funding for one program can support in-kind advertising for other programs lacking dedicated funding.
- 6.4 Demonstrated coordination experience in managing complex, multi-program campaigns, including the ability to integrate various funding sources to optimize overall campaign effectiveness. This includes efficient allocation of resources and media placements across multiple programs and fostering collaboration among different program teams to maintain a unified communication strategy.
- 6.5 Compliance with financial and legal standards, including:
 - # Submission of all applicable tax returns to the IRS and the State of Alabama (e.g., Form 990 or 990-EZ and state and federal payroll tax filings).
 - # Eligibility to contract and not be debarred from contracting with the Department of Public Health, State of Alabama, and Federal government, according to SAM.gov and State and Department Debarment information.
 - # Current payment status of Federal and State payroll taxes.
 - # No past due taxes owed to the Department.
- 6.6 Experience managing multi-million-dollar campaigns, with at least one example of a campaign utilizing no less than \$1.5 million. The contractor should provide details of such a campaign, including the scope, objectives, and measurable outcomes.

7.0 Contractor's Requirements

The Contractor shall:

- 7.1 Develop holistic advertising and marketing plans that span across all ADPH programs and services, including outreach, education, and increasing community awareness of ADPH and Public Health Infrastructure. Campaigns shall be created on an ongoing basis, based on grant/business needs and/or requirements. Upon engagement by Department staff, the Contractor will construct a marketing plan that outlines messaging and priority audiences (including multi-lingual strategies) for the strategic health topic, program, or service requiring the campaign. The Contractor shall work with Department staff in the drafting process of all marketing plans. Upon the development of the marketing plan, the Contractor shall present the concept for each campaign to the Department Program Manager and other Department stakeholders for feedback.
- 7.2 Implement communication strategies designed to support behavior change and compliance with health and safety measures across various health programs.
- 7.3 Create and disseminate messaging that addresses a wide range of public health topics, ensuring coverage for all ADPH initiatives.
- 7.4 Purchase and provide placement of advertising assets on diverse media platforms, including but not limited to broadcast, print, digital, social, streaming, and other creative outlets.

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- 7.5 Provide focused outreach to populations experiencing disparate outcomes, with a strong emphasis on reaching underserved communities.
- 7.6 Collaborate with subgrantees to enhance the reach and effectiveness of the advertising and marketing efforts.
- 7.7 Create and disseminate messaging to encourage a diverse and qualified pool of applicants for ADPH employment.
- 7.8 Maintain the same Key Performance Indicators (KPIs) as any prior similar campaigns conducted by the Department. This ensures continuity and allows for effective comparison of campaign performance over time. If KPIs have changed, the Contractor shall note it and produce a comparison of results that achieve the same goals as prior campaigns.
- 7.9 Provide ADPH Contract Manager with access to a regularly updated digital advertising and marketing performance dashboard. This dashboard should track ad placements and performance, including data by Travis County zip code.
- 7.10 Provide comprehensive reports summarizing campaign implementation activities and expense justifications with each invoice.
- 7.11 Furnish all necessary services, qualified personnel and/or subgrantees, materials, equipment, and facilities to develop, implement, and manage the advertising campaign, including the purchase and placement of messaging content and collateral on all platforms.
- 7.12 Provide a formal presentation of the marketing plan(s) outlining messaging and target audiences (including multilingual content strategies) for outreach themes including vaccine hesitancy, hygiene, education outreach, and others as identified to the ADPH Contract Manager and other relevant Department stakeholders for review and approval.
- 7.13 Make any edits and submit an updated marketing plan for approval to the ADPH Contract Manager prior to any changes in the work being executed.
- 7.14 Develop a separate work plan that describes all tasks in detail and establishes an implementation schedule with lead times for content and collateral development, content and collateral review and approval by ADPH, clearance, material revisions, final production, advertising placement, proposed advertising platform mix, and confirmation of paid media budget, including any negotiated value-added placements.
- 7.15 Make any edits and submit an updated Work Plan for approval to the ADPH Contract Manager before any changes in the work are executed.
- 7.16 Develop and produce all advertising and marketing content and collateral as outlined in the approved Work Plan.
- 7.17 Provide a detailed budget as well as purchase and place all approved advertising and marketing content and collateral as outlined in the approved Work Plan.
- 7.18 Participate in and provide feedback on any outcome evaluation developed and conducted by ADPH, in relation to this contract.
- 7.19 Coordinate with the ADPH and any subcontractors before speaking with journalists to ensure consistent messaging. Any media interactions should align with approved campaign themes and messages.
- 7.20 Ensure that all advertising assets, including digital content, print materials, and audio-visual productions, are delivered utilizing Plain Language as defined by Federal standards. The liaison with the Department language access translation or interpretation vendors may vary between the contractor and the Language Access Program. The vendor will also provide document translation project coordination. In this role, the vendor will provide a translation point-person who will coordinate translation from English into various languages spoken by residents of Alabama and requested by ADPH staff, such as, but not limited to, Arabic, Burmese, Simplified Chinese, and Spanish. The coordination will facilitate request, design, quality check, distribution, and archiving processes for Department of Public Health. The vendor will request translations exclusively with translation agencies indicated by Public Health, who are on the Department of Public Health's list of approved Translation Vendors.
- 7.21 Create campaign objectives that are feasible, measurable, and aligned with funding performance measures.
- 7.22 Be responsible for submitting regular reports to the ADPH Contract Manager, summarizing campaign performance. These reports should include data on outreach metrics, target demographic reach, geographical reach, impressions, and return on investment.

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7.23 Marketing and Advertising Outreach Strategies

Outreach will center on developing creative concepts for comprehensive public health response marketing, including advertising content and collateral materials. Outreach scope includes identifying paid and other placement opportunities on traditional and non-traditional media outlets and platforms to maximize across key audiences by demographic and location(s) as identified and/or defined by ADPH.

8.0 Department's Responsibilities

- 8.1 The Department's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work and will provide regular revision requests or approval of work products.
- 8.2 The Contract Manager will represent the Department's interest in resolving day-to-day issues that may arise during the term of this Contract and shall participate regularly in conference calls or meetings for status reporting.
- 8.3 The Department's Contract Manager will provide timely feedback on the acceptability of progress and task reports, and clear communication channels will be established for efficient collaboration.
- 8.4 The Contract Manager or designated representative will provide the Contractor with all relevant ADPH data to focus future campaign messaging on specific topics and target demographic populations based on the project goal. Data-sharing mechanisms will be established to ensure the secure and timely provision of information such as historical advertising placement and impressions.

9.0 Designation of Key Personnel

The Department and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor shall promptly notify the Department and obtain approval for the replacement.

10.0 Deliverables/Milestones

The table below may vary based on grant/campaign requirements and may expand based on grant deliverables:

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Deliverables/ Milestones	Description	Timeline (due/ completion date, reference date, or frequency)	Performance Measure/ Acceptance Criteria	Contract Reference/ Section
Develop goals, objectives, priority audiences, and overall media strategy for the campaign				
Deliverable	Develop goals and measurable objectives for the marketing campaign based on needs identified by program manager (i.e.: educate community on a specific health behavior or risk factor, promote a specific service in the community and increase enrollment in program, etc).	<i>To be delivered three weeks after initial planning meeting with the program manager and contract manager</i>	Acceptance by ADPH Contract Manager	7.1,7.23
Deliverable	Work with program manager to identify priority audience(s) for the campaign based on public health or service utilization data. Program manager will provide relevant data that will inform decisions on priority audience(s) for campaign. Priority audiences may be defined by race/ethnicity, Department, gender, age, language spoken, sexual orientation, health status (such as being a smoker or having a chronic condition) income, or other factors.	<i>To be delivered three weeks after initial planning meeting with the program manager and contract manager</i>	Acceptance by ADPH Contract Manager	7.5
Deliverable	Develop creative messages for the campaign on relevant platforms including traditional advertising, paid media, social media and earned media	<i>Week 3</i>	Acceptance by ADPH Contract Manager	7.3
Deliverable	Determine the relevant platforms such as traditional advertising, paid media, social media and earned media to reach priority audience. Campaigns may need to be in multiple languages based on priority populations identified for the campaigns.	<i>Week 3</i>	Acceptance by ADPH Contract Manager	7.6, 7.7
Deliverable	Identify the types of creative assets required to execute the strategies. Obtain existing creative assets if assets can be utilized from existing federal, state, or local campaigns. If new creative elements need to be created, determine which elements shall be created. Secure vendors as needed such as videographer, graphic designer, talent, etc.	<i>Week 3</i>	Acceptance by ADPH Contract Manager	7.19,7.20

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Deliverable	Create a budget per campaign broken down by media type	<i>Week 3</i>	Acceptance by ADPH Contract Manager	7.10
Deliverable	Present overall campaign plan to relevant Department stakeholders and obtain feedback	<i>Week 3</i>	Acceptance by ADPH Contract Manager	7.12, 7.13
Deliverable	Contractor shall make any edits and submit final marketing plan for approval to ADPH Contract Manager.	<i>Week 4</i>	Acceptance by ADPH Contract Manager	7.16, 7.18
Develop a media placement plan and create new creative elements (if needed)				
Deliverable	Contractor shall develop a detailed media placement plan for the campaign for Department approval, including confirming final media budget and desired media mix, number of impressions and spots to run, estimated reach for the priority population identified for the campaign. ADPH will provide feedback. Contractor submits final media placement plan for approval prior to publishing purchased ads.	<i>Week 5</i>	Acceptance by ADPH Contract Manager	7.21
Deliverable	Contractor shall create any new creative elements needed for each campaign and provide ADPH Contract Manager a review of all creative elements of campaign (Advertising copy, video production, graphic design, and translations) for feedback.	<i>Week 5-6</i>	Acceptance by ADPH Contract Manager	7.22
Deliverable	Contractor shall expect to make 2 rounds of edits on new creative materials based on feedback by ADPH. Once final, Contractor should provide copies of final creative elements to be placed.	<i>Week 6-7</i>	Acceptance by ADPH Contract Manager	7.16

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Implement media placement plan				
Deliverable	The Contractor shall place all advertising across platforms including community and multi-cultural media outlets in order to reach priority populations for the campaign.	<i>Week 7 and ongoing</i>	Acceptance by ADPH Contract Manager	7.20
Deliverable	The Contractor shall identify and negotiate added value opportunities and provide a detailed summary of such activities.	<i>Week 7 and ongoing</i>	Acceptance by ADPH Contract Manager	7.5
Report on outcomes of campaign				
Deliverable	Contractor shall provide a digital performance dashboard which tracks ad placements and performance in real time including data by Department Council district and demographic.	<i>On-going</i>	Acceptance by ADPH Contract Manager	7.22
Deliverable	Provide a summary reporting to include outreach metrics, demographics, spend, residents reached, impressions made, reporting on zip codes and Department Council Districts served at the end of the campaign	<i>Within 3 weeks of campaign ending</i>	Acceptance by ADPH Contract Manager	7.22
Deliverable	Contractor shall provide monthly invoice and summary justification of rates and charges.	<i>Monthly</i>	Acceptance by ADPH Contract Manager	7.10
Deliverable	Contractor shall participate in and provide feedback on any outcome evaluation developed and conducted by ADPH, in relation to this project.	<i>On-going</i>	Acceptance by ADPH Contract Manager	7.18

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ADPH Advertising/Marketing Services

Program/Division Name: Home Health

Target Area: Statewide - Elderly, people with chronic conditions, people recovering from an illness or injury, and people with disabilities

Advertising Goals: Increase awareness about the Home Health program through:

Consumer marketing - Directly to the community through ads & community events

Referral marketing - Working with potential partners to build relationships where they'll send us client referrals

Program/Division Name: Child Passenger Safety

Target Area: Caregivers for children

Advertising Goals: Increase child passenger safety awareness/advertise fitting stations

Program/Division Name: Distracted Driving

Target Area: Passengers and drivers

Advertising Goals: Increase awareness of distracted driving

Program/Division Name: Alabama Brain Health Program; Chronic Disease Branch; Nutrition & Physical Activity Division

Target Area: Alzheimer's Disease and Related Dementias (ADRD)

Advertising Goals: Increased awareness of Alzheimer's Disease and Related Dementias; Risk Reduction and Primary Prevention of

ADRD; Early Detection and Diagnosis of ADRD

Program/Division Name: Alabama Alzheimer's Disease and Related Dementias Program; Chronic Disease Branch; Nutrition & Physical Activity Division

Target Area: Alzheimer's Disease and Related Dementias (ADRD)

Advertising Goals: Increased awareness of Alzheimer's Disease and Related Dementias; Risk Reduction and Primary Prevention of

ADRD; Early Detection and Diagnosis of ADRD

Program/Division Name: Office of Radiation Control

Target Area: State Indoor Radon Grant

Advertising Goals: public outreach-increase awareness of the potential health harm from indoor radon, encourage use of radon kits for in-home testing. Improve the overall return rate of radon kits used for in-home testing.

Program/Division Name: Office of Radiation Control

Target Area: Radiological Emergency Preparedness

Advertising Goals: public outreach-awareness of commercial nuclear power activity in the geographic area. Professional organization outreach- increase awareness of the duties and responsibilities of the ADPH Office of Radiation Control.

Program/Division Name: Office of Radiation Control

Target Area: Waste Isolation Pilot Project (WIPP)

Advertising Goals: Local organization outreach-increase awareness of the duties and responsibilities of the ADPH Office of Radiation Control, improve participation in WIPP planning and training.

Program/Division Name: Tobacco Prevention and Control

Target Area: Statewide and Target Cities

Advertising Goals: Educate adults on the dangers of secondhand smoke and promote the Quitline

Program/Division Name: Youth Tobacco Prevention

Target Area: Statewide

Advertising Goals: Educate youth on the dangers of tobacco and nicotine products and increase awareness of cessation services

Program/Division Name: Cancer Prevention and Control Division

Target Area: Cancer

Advertising Goals: Increase awareness of Operation WIPE OUT Cervical Cancer, Increase awareness of the Alabama Breast and Cervical Cancer Early Detection Program (ABCCEDP), Increase awareness of Prostate & Colorectal Cancer

Program/Division Name: Children's Health Insurance Program (CHIP)

Target Area: The ALL Kids target population is eligible uninsured children of families who reside in Alabama and are within the ALL Kids income guidelines.

Advertising Goals: The FY2025 ALL Kids marketing campaign will be both a continuation of our ongoing Digital Marketing Campaign to create awareness of the program within the target population, and the introduction of short Motion Videos. New in FY2025, we would like to develop and implement a series of short, informational Motion Videos targeting new applicants and current enrollees. For new applicants, we want to create a "How To/FAQ" video that explains the application process and addresses common questions Customer Service receives from applicants when completing the application. In an effort to increase retention rates and lessen the amount of breaks in coverage, we would like to implement a series of short Motion Videos targeting current enrollees regarding ways to eliminate coverage lapses. We are interested in using these services in FY2025: OTT Digital Ads (streaming TV ads); Social Media Digital Ads (Facebook, YouTube, Instagram); Indoor Digital Display Ads; Geofencing; Motion Video to assist with the application process; Motion Video to educate enrollees regarding the importance of submitting timely renewal applications; Motion Video to explain to new applicants

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and enrollees who are completing renewals what the Autorenewal option is, and to encourage its use; and Motion Video to explain the importance of and encourage the need for families to report address, phone, etc. changes immediately

Program/Division Name: ALL Babies Program

Target Area: The ALL Babies target population is eligible pregnant women who reside in Alabama, are uninsured, are within the ALL Babies income guidelines, and do not qualify for Medicaid.

Advertising Goals: The FY2025 ALL Babies marketing campaign will be geared towards educating current ALL Babies enrollees about optimal utilization of the benefits ALL Babies healthcare coverage offers. In FY2024, CHIP purchased a 1:30 second Motion Video that provides an overview of ALL Babies benefits. In FY2025, we would like to expand on that video with a series of shorter videos that detail specific benefit options available to the insured to increase utilization of the coverage. We also want to create a Motion Video that explains the importance of and encourages enrollees to report changes in due date or going past due date, miscarriage or no longer pregnant and to report the baby's name/date of birth immediately to ALL Kids upon delivery. We are also considering delivering the videos to enrollees via text messaging.

Program/Division Name: Office of Oral Health, Bureau of Family Health Services

Target Area: Statewide; population served by Maternal, Child, Health (and fathers)

Advertising Goals: To promote education and initiatives by way of billboards, magazine/virtual ads, television ads, and digital media

Program/Division Name: SNAP Nutrition Education Program / Nutrition & Physical Activity Division

Target Area: SNAP/SNAP eligible populations statewide

Advertising Goals: Increase awareness of resources to help individuals and families achieve healthy lifestyle behaviors through nutrition and physical activity.

Program/Division Name: Childhood Lead Poisoning Prevention Program / Child and Adolescent Health

Target Area: Statewide; parents with young children

Advertising Goals: To educate parents with young children on blood lead testing and lead poisoning prevention

Program/Division Name: Well Woman Program

Target Area: Women ages 15-55

Advertising Goals: This is health education and not outreach. The goal is to provide health education statewide through text messages to women ages 15-55 to reduce chronic conditions and improve maternal health outcomes.

Program/Division Name: Alabama Sexual Risk Avoidance Education (ASRAE) program and Alabama Personal Responsibility Education Program (APREP) in the Adolescent Pregnancy Prevention Branch (APPB) of the Child and Adolescent Health Division of Family Health Services.

Target Area: Youth ages 10-19, pregnant and parenting youth up to age 21, parents of youth

Advertising Goals: Provide education to youth that normalizes the optimal health behavior of avoiding non-marital sexual activity. Teach youth personal responsibility, self-regulation, goal setting, healthy decision-making, a focus on the future, and the prevention of youth risk behaviors, such as drug and alcohol usage without normalizing teen sexual activity. Provide messages to youth that normalize the optimal health behavior of avoiding non-marital sexual activity. Program elements must include delaying sexual activity, increasing condom or contraceptive use for sexually active youth, reducing the number of partners, or reducing pregnancy among youth. Implement education on both abstinence and contraception for the prevention of pregnancy and sexually transmitted infections, including HIV/AIDS. Include at least three of the six following adulthood preparation subjects in program implementation: healthy relationships, adolescent development, financial literacy, parent-child communication, educational and career success, and healthy life skills.

Program/Division Name: Environmental Services/Community Environmental Protection/Lead Branch

Target Area: Contractors who work with lead paint abatement projects.

Advertising Goals: To inform contractors of requirements for specific training related to handling paint and debris contaminated with lead paint.

Program/Division Name: Environmental Services/Community Environmental Protection

Target Area: Members of the public who have failing or non-existent septic systems.

Advertising Goals: To inform the public of the disease dangers associated with contact with raw sewage and septic system remediation programs available through ADPH; to inform septic system owners of proper septic maintenance methods.

Program/Division Name: Prescription Drug Monitoring Program (PDMP)/Pharmacy Division

Target Area: State of Alabama targeting persons 12 to 55 years old, parents of school age children, and health professionals.

Advertising Goals: Utilize platforms such as social media, websites, digital dashboards, professional publications, and written materials to (1) promote awareness of the dangers of fentanyl-contaminated illicit drugs and (2) promote effective use of the PDMP database.

Program/Division Name: Overdose Data to Action-States/Pharmacy Division

Target Area: General population, law enforcement, and medical providers

Advertising Goals: To include platforms such as social media, websites, and digital dashboards to promote de-stigmatization of harm reduction, particularly naloxone utilization. We would need assistance in creating the campaign material, as well as displaying the campaign on the platforms. The campaign material will also need to be reproduced, in-house, on posters, brochures, or other identified educational materials for mass distribution.

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Program/Division Name: Alabama WIC Program

Target Area: Outreach

Advertising Goals: Increase Awareness and Utilization of Alabama's WIC Program

Program/Division Name: Division of STD

Target Area: Montgomery County (River Region), Houston County (Wiregrass Region), and Statewide

Advertising Goals: Promote and share information with the public about Sexually Transmitted Disease Fast Track Initiative, PrEP and DoxyPEP, Congenital Syphilis, and at-home STD/HIV Specimen Collection Initiative

Program: Infectious Diseases & Outbreaks (ID&O)

Target Areas: State of Alabama

Goals: Provide education and awareness of COVID-19, Flu and other Respiratory Illnesses, Foodborne, Waterborne, Mosquito and Tickborne illnesses in Alabama, and provide information on disease prevention and control strategies to reduce the number of disease cases and outbreaks and minimize the spread of infectious diseases. COVID-19 Education and Awareness would need to include gas toppers, restaurant and restroom posters, videos in waiting rooms, digital and social media posts and using our ADPH Alabama Unites web page for messaging. For our other infectious diseases, we would like to advertise in magazines, and would promote foodborne, waterborne, respiratory, mosquito and tick-borne illness prevention. We would also promote hand hygiene and cough etiquette and other general infection control and prevention strategies.

Program/Division Name: Digital Media Branch, Health Media and Communications Division

Target Area: State of Alabama

Advertising Goals: Increase awareness of ADPH programs, services, and job opportunities

Program/Division Name: HIV Prevention and Care

Target Area: HIV Prevention

Advertising Goals: To encourage HIV testing, prevention, and treatment among pregnant women; to reduce perinatal transmission

Program/Division Name: Food and Nutrient Access (Block Grant); Nutrition and Physical Activity

Target Area: All Alabamians, especially low income

Advertising Goals: Support access to and intake of fruits and vegetables in Alabama, promote the health benefits of consuming nutritious foods and/or the link between food insecurity and chronic disease

Program/Division Name: Child Death Review (CDR) /Behavioral Health (BPPS)

Target Area: Statewide

Advertising Goals: Statewide Campaign on Gun Safety - End Family Fire with the Ad Council

Proposal Format

The proposal must be submitted on a USB drive to the address below and received by December 9, 2024, at 5:00pm CST. Applicants can a proposal on one or all of the programs listed above. When submitting a proposal(s), the applicant must provide the Program/Division Name. If the applicant is determined to submit a proposal on multiple programs, the proposal should be on one USB drive with a different file name for each Program/Division Name.

Proposal Submission

Deadline for Submission: Proposals must be received by Monday, December 9, 2024, 5:00 pm CST. All proposals received after this time will not be considered for award. Applicants who submit proposals deemed sufficient for being selected for awards may be discussed, but proposals may be accepted without such

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discussions. If additional information or discussions are needed with any Applicant, the Applicants will be notified.

Submit proposal to: The Alabama Department of Public Health
c/o Marcus Johnson
201 Monroe Street
Suite 1050
Montgomery, AL 36104

Proposal Evaluation

A review panel comprised of ADPH staff will evaluate all proposals based on the following criteria:

- # Technical expertise and experience: (20 points)
- # Previous work completed with government agencies: (15 points)
- # Proposed Work Plan: (25 points)
- # Ability to provide qualified staff that meet contract requirements: (20 points)
- # Cost: Proposals will be evaluated on the cost of the service(s) based on the work to be performed following the scope of this project (20 points)

Awards will go to the proposals that conform to the solicitation and are the most advantageous to the State, taking into consideration price and evaluation factors.

Contact Information

Applicants requiring additional information or assistance related to the scope of work contact by Thursday, November 21, 2024: All questions will be posted to STAARS as an amendment.

Email: FinanceRFP@adph.state.al.us

**CONTRACT
BETWEEN
THE ALABAMA DEPARTMENT OF PUBLIC HEALTH
AND
(CONTRACTOR NAME – ALL CAPS AND BOLD)**

This Contract entered into by and between the **Alabama Department of Public Health**, hereinafter “**Department**,” and **(Contractor Name – Bold)**, hereinafter “**Contractor**,” is effective **(Begin Date – Bold)**, and terminates **(End Date – Bold)**.

WHEREAS, the purposes of this Contract are to **(Insert the GENERAL “overview” of the purpose of this Contract)**.

WHEREAS, funding for activities performed under this Contract was provided by the Department, **(Bureau or County)** through a cooperative agreement with the **(Federal Grantee)**, being grant number **(Grant Number, Grant Name)**, for grant budget period **(Grant period)**. The program was authorized through the following Acts: **(Acts through which the program was authorized)** .

NOW THEREFORE, in consideration of the mutual covenants herein below specified, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties herein agree to the following:

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The Department shall:

- (1..... Insert specific tasks for the Department to complete use as many bullets/numbers as needed)
- (2.....)
- (3.....)

The Contractor shall:

- (1..... Insert specific tasks for the Contractor to complete)
- (2.....)
- (3.....)

Under no circumstances shall the maximum amount payable under this Contract exceed \$ (Max Amount do not exceed) for the Contract period.

FEDERAL DISCLOSURES CLAUSE. The Contract must meet the Federal requirements for pass-through entities in 2 C.F.R. § 200.332 which require the Department to notify Contractor of the following:

- a. This Contract constitutes a subaward. The identification information required to be provided under the subaward is enumerated in 2 C.F.R. § 200.332(a)(1);
- b. All requirements imposed by the Department on Contractor so that the Federal award is used in accordance with Federal statutes, regulations, and terms and conditions of the Federal award, as set forth below:
 - (1) ... Insert specific requirements for Contractor, using as many bullets/numbers as needed.
- c. Any additional requirements the Department imposes on Contractor in order for the Department to meet its own responsibility to the Federal awarding agency, including identification of any required financial and performance reports, as set forth below:
 - (1)...Insert specific requirements for Contractor, using as many bullets/numbers as needed.
- d. An approved federally recognized indirect cost rate negotiated between Contractor and the Federal Government, or, if no such rate exists, either a rate negotiated between the Department and Contractor (in compliance with 2 C.F.R. Part 200), or a de minimis indirect cost rate, as defined in 2 C.F.R. § 200.414(f), as set forth below:
 - (1)
- e. Contractor must permit the Department, including the Office of Program Integrity, and auditors access to Contractor's records and financial statements as necessary for the Department to meet the requirements of 2 C.F.R. Part 200;
- f. Additional terms and conditions concerning closeout of the subaward, as set forth below:
 - (1)...Insert specific requirements for Contractor, using as many bullets/numbers as needed.
- g. Contractor's use of the subaward will be monitored by the Department for compliance with the conditions of the award, Federal law and regulations, and for achievement of performance goals. As part of its compliance monitoring, the Department must:
 - (1) Review financial and performance reports required by the Department;
 - (2) Follow up and ensure that Contractor takes timely and appropriate action on all deficiencies pertaining to the subaward detected through audits, onsite reviews, and other means;
 - (3) Issue a management decision for audit findings pertaining to the subaward, as required by 2 C.F.R. § 200.521;
 - (4) ...Insert any additional monitoring requirements, using as many bullets/numbers as needed. Compliance monitoring may include conduction of onsite visits and requests for documents.
- h. Any additional specific subaward conditions imposed on Contractor by the Department, as described in 2 C.F.R. § 200.208, and as set forth herein, including, if applicable, the reasons for imposition of such conditions and any actions required by Contractor for their removal:
 - (1)...Insert specific requirements for Contractor, using as many bullets/numbers as needed.
- i. Contractor's failure to comply with the requirements of 2 C.F.R. Part 200 may result in the imposition of additional special conditions by the Department, as provided under 2 C.F.R. § 200.208, or additional remedies for non-compliance, as provided under 2 C.F.R. § 200.339.
- j. Whether the subaward is for research and development. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.
 - (1)...State whether the subaward is for research and development.

The Department must also notify Contractor of the requirement to adhere to the Federal property standards in 2 C.F.R. Part 200 for any equipment purchased with subaward funding, including the standards in 2 C.F.R. § 200.313 for the use of all such equipment.

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Insert the following clause when equipment will be purchased by Contractor with subaward funding:
EQUIPMENT USE AND PROCUREMENT CLAUSE. The Contractor shall adhere to the requirements of 2 C.F.R. § 200.313 for the use of all equipment purchased by Contractor with subaward funding, to include the following:

- a. Use all equipment purchased with subaward funding for the project's authorized purposes and in accordance with state laws and procedures;
- b. Not encumber or dispose of the property without the written approval of the Department and the Federal awarding agency. Disposition of any equipment will be made in accordance with instructions provided by the Federal awarding agency;
- c. Maintain property records that include a description of the property, a serial number, or other identification number, the source of funding, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project cost, the location, use and condition of the property, and any ultimate disposition data, including the date of disposal and sale price of the property;
- d. Physical inventory of the property must be taken and the results reconciled with the property records at least once every two years;
- e. Adequate safeguards to protect against loss, damage or theft of the property and investigation of any lost, damaged or stolen property;
- f. Develop procedures to ensure program staff forward invoices for equipment purchases of \$500 or more to Contractor's employee in charge of maintaining records for equipment inventory tracking;
- g. Recognize that title to materials and supplies, including computing devices, will vest in Contractor upon acquisition, subject to the requirements of 2 C.F.R. § 200.314 for compensation to the Federal awarding agency for residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program.

OFFICE OF INSPECTOR GENERAL EXCLUSION PROVISION. Section 6501 of the Patient Protection and Affordable Care Act ("PPACA") regarding exclusions from federal health care programs took effect on January 1, 2011. This Section of PPACA amends the Social Security Act to provide that State Medicaid agencies must exclude or terminate from participation any individual or entity excluded from participating in any Federal healthcare program, such that, if an individual or entity is excluded or terminated by Medicare or by Medicaid in any state, that individual or entity must be excluded from all other states' Medicaid programs.

Pursuant to that provision, if the Contractor is entering into this agreement for a federal health care program, Contractor agrees to screen all employees and subcontractors against the OIG list of excluded individuals and entities upon engagement and at least monthly. *This includes screening of former names and variations of names.*

CLOSEOUT CLAUSE. Contractor acknowledges that all invoices or other demands for payment must be received by the Department by (Invoice Closeout Date). Invoices or demands for payment received after that date cannot be paid and are forfeited.

ANTI-DISCRIMINATION CLAUSE. Contractor will comply with Titles IV, VI, and VII of the Civil Rights Act of 1964, the Federal Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and all applicable Federal and State laws, rules and regulations implementing the foregoing statutes with respect to nondiscrimination on the basis of race, creed, color, religion, national origin, age, sex, or disability, as defined in the above laws and regulations. Contractor shall not discriminate against any otherwise qualified disabled applicant for, or recipient of aid, benefits, or services or any employee or person on the basis of physical or mental disability in accordance with the Rehabilitation Act of 1973 or the Americans With Disabilities Act of 1990.

GOVERNOR'S PRORATION CLAUSE. It is agreed that the Department may terminate this Contract by providing thirty (30) days written notice to Contractor should the Governor of Alabama declare proration of the fund from which payment under this Contract is to be made. This termination for cause is supplemental to other rights the Department may have under this Contract or otherwise to terminate this Contract.

TERMINATION CLAUSE. This Contract may be terminated by either party providing a thirty (30) day written notice to the other party.

AMENDMENT CLAUSE. This Contract may be amended only by mutual agreement in writing, signed by Department and Contractor, and processed through and approved by all necessary authorities.

STANDARD OF PRACTICE CLAUSE. Contractor agrees to observe and comply at all times with all Federal and State laws and rules in effect during the term of this Contract which in any manner affect performance under

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this Contract. Contractor agrees to perform services consistent with customary standard of practice and ethics in the profession.

WHISTLEBLOWER PROTECTION CLAUSE. Pursuant to 41 U.S.C. § 4712, an employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for whistleblowing. The statute defines whistleblowing as making a disclosure that the employee reasonably believes is evidence of:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract or grant.

To qualify under the statute, the employee's disclosure must be made to:

- A Member of Congress or a representative of a Congressional committee;
- An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant agency;
- An official from the Department of Justice or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has responsibility to investigate, discover or address misconduct.

ASSIGNMENT CLAUSE. The rights, duties, and obligations arising under the terms of this Contract shall not be assigned by any of the parties hereto without the written consent of all other parties.

ENTIRE AGREEMENT CLAUSE. This Contract contains the entire agreement of the parties and there are no other agreements, verbal or written, affecting this Contract that have not been incorporated herein or attached hereto.

SEVERABILITY CLAUSE. Each provision of this Contract is intended to be severable. If any term or provision of this Contract is illegal or invalid for any reason whatsoever, said illegality or invalidity shall not affect the legality or validity of the remainder of this Contract.

HEADINGS CLAUSE. Headings in this Contract are for convenient reference only and shall not be used to interpret or construe the provisions of this Contract.

DO NOT WORK CLAUSE. Contractor acknowledges and understands that this Contract is not effective until it has received all requisite State government approvals and Contractor shall not begin performing work under this Contract until notified to do so by the Department. Contractor is entitled to no compensation for work performed prior to the effective date of this Contract.

EMERGENCY CANCELLATION CLAUSE. Notwithstanding any other provision of this Contract, upon the issuance of a Declaration of Financial Necessity by the State Health Officer, this Contract may be canceled immediately upon notice of such cancellation being given in writing to the Contractor. Notwithstanding such cancellation, the Contractor shall be recompensed for work and labor performed and completed prior to the issuance of such notice on principles of quantum meruit.

FINANCIAL NECESSITY CLAUSE. All terms and conditions of this Contract notwithstanding, the parties agree that upon the issuance of a Declaration of Financial Necessity by the State Health Officer, the maximum amount payable under this Contract may be unilaterally reduced by the Department to an appropriate amount to be determined by the Department upon notice of such being given in writing to the Contractor. Notwithstanding such reduction, the Contractor shall be recompensed for work and labor performed and completed prior to the issuance of such notice on principles of quantum meruit.

DEBT OF STATE CLAUSE. It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article XI, Section 213 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Contract shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Contract, be enacted, then that conflicting provision in the Contract shall be deemed null and void. The Contractor's sole remedy for the settlement of any and all disputes arising under the terms of this Contract shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

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MERIT SYSTEM CLAUSE. Contractor shall not be entitled to receive any benefits under this Contract that merit system employees receive by virtue of their status or employment, nor may Contractor nor any of its officers, agents, servants or employees be employed as a merit system employee during the term of this Contract. Any such employment automatically voids this Contract.

TOBACCO SMOKE CLAUSE. Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to one-thousand dollars (\$1000) per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this Contract the Contractor certifies that it will comply with the requirements of the Act.

The Contractor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for the children's services and that all Subcontractors shall certify accordingly.

LOBBYING CLAUSE. The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten-thousand dollars (\$10,000) and not more than one-hundred-thousand dollars (\$100,000) for each such failure.

DEBARMENT, SUSPENSION CLAUSE. For the purposes of this clause, "prospective lower tier participant" or "lower tier participant" refers to the Contractor herein.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible,

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or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under sub-paragraph 5 above, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions.

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

RECORD RETENTION. The Contractor is aware that it must retain all records pertinent to expenditure incurred under this Contract for a period of three (3) years after the termination of all activities funded under this Contract. Records for any displaced person must be kept three (3) years after he/she has received final payment. Notwithstanding the above, if there are litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the three-year period, plus the current year whichever occurs later. See Department of Public Examiners for its record retention policy.

AVAILABILITY OF FINANCIAL STATEMENTS. All records and financial statements, to include a copy of the independent audit report, shall be made available to authorized personnel from the State or Federal Program Office, the Examiners of Public Accounts or their representatives, for audit and inspection purposes.

AUDIT REQUIREMENTS. A non-Federal Contractor that expends \$750,000 in federal awards or more during the Contractor's fiscal year must have a single audit conducted in accordance with the Uniform Administrative Requirements, 2 CFR Part 200, Subpart F.

Use the following clause when the Federal Grant comes from CDC. If the Federal funding comes from an agency other than CDC or the FAPIIS clause in the Notice of Award includes disclosures in addition to those provided below, contact ADPH Legal for further instruction before proceeding.

REQUIRED DISCLOSURES FOR FEDERAL AWARDEE PERFORMANCE AND INTEGRITY INFORMATION SYSTEM (FAPIIS). Consistent with 45 C.F.R. 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the CDC and to the HHS OIG at the following addresses:

CDC, Office of Grants Services
Name, Grants Management Specialist
Centers for Disease Control and Prevention

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Address

Email: _____ (Include "Mandatory Grant Disclosures" in subject line)

AND

U.S. Department of Health and Human Services
Office of the Inspector General
ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, DC 20201
Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. 75.371. Remedies for noncompliance, including suspension or debarment (See 2 C.F.R. parts 180 and 376, and 31 U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS). (45 C.F.R. 75.372(b)). CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award. (45 C.F.R. 75.373(b)).

INTELLECTUAL PROPERTY CLAUSE. This clause applies to intellectual property and any derivative or iteration thereof, developed based upon funding from the Department whether such funding has as its source the United States Government or any department or agency thereof. Except as otherwise provided, Contractor may copyright, without prior approval, any work that is subject to copyright and was developed under such funding subject to the following conditions and except as limited herein below.

- (a) Contractor grants to the Department a royalty-free, nonexclusive and irrevocable license or right to reproduce, publish, translate, disseminate, dispose of or otherwise use the work for State purposes, and to authorize others to do so.
- (b) Contractor recognizes the rights of the Government of the United States and any department or agency thereof to reserve a royalty-free, nonexclusive and irrevocable right or license to reproduce, publish, translate, disseminate, dispose of or otherwise use the work for Federal Government purposes, and to authorize others to do so, if the original source of the funding to the Department was a Federal grant.
- (c) Copyrights: Contractor may establish claim to copyright subsisting in any data containing intellectual property first produced in the performance of this Contract. When claim is made to copyright, the funding recipient shall affix the applicable copyright notice of 17 U.S.C. Sections 401 or 402 and acknowledgment of the Department sponsorship to the data when and if the data are delivered to the Department, are published, or are deposited for registration as a published work in the U.S. Copyright Office. The Contractor hereby grants to the Department, and others acting on its behalf, a paid up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, perform publicly and display publicly, and for data other than computer software to distribute to the public by or on behalf of the State.
- (d) Publication: Contractor shall inform the Department at least thirty (30) days prior to submission for publication of any data containing intellectual property funded through this Contract. The Department shall have the right to object to such publication if such publication is not in the best interests of the State of Alabama. However, the Department's objection rights shall not be unreasonably exercised. The funding by the Department shall be attributed in any publication of such data.
- (e) Publication of research results: The decision on whether or not to publish research results will be made jointly by the Department and the Contractor, agreement to which shall not be unreasonably withheld. The funding by the Department shall be attributed in any publication of such data.

COMPUTER SOFTWARE CLAUSE. This clause applies to computer software and any derivative or iteration thereof developed under funding by the Department.

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(a) The Contractor possesses ownership rights in computer software or modifications or derivatives or iterations thereof and associated documentation designed, developed or installed with funding supplied by the Department whether the source of such funding to the Department was a grant by the United States Government or any department or agency thereof subject to the exceptions herein below stated.

(b) The Department reserves a royalty-free, nonexclusive, and irrevocable license to modify, enhance, reproduce, publish, or otherwise use and to authorize others to so use for State purposes, such software, modifications, enhancements, reproductions or derivatives or iterations thereof and all associated documentation.

(c) The Department reserves the right to grant to the Government of the United States or any department or agency thereof, a right equal to that of the Department to use for Federal purposes, such software, modifications, enhancements, reproductions or derivatives or iterations thereof and all associated documentation to the extent that funding to the Department was derived from Federal sources.

(d) Any use by the Contractor outside of this Contract shall be attributed to funding provided by the Department.

(e) This clause applies only to software and documentation that is specifically identified and for which delivery dates, places, medium (paper, electronic, magnetic), approval requirements, and specifications are clearly stated in the Contract.

(f) Contractor certifies that it is in compliance with and will comply with all requirements of the International Traffic in Arms Regulations (ITAR) and United States Department of Commerce regulations and restrictions on the transfer and export of technologies relating to civilian applications listed on the Commerce Control List (CCL) under the Export Administration Regulations (EAR) and hereby holds harmless the State of Alabama, the Department and any officers, agents, servants or employees of either from vicarious violations of ITAR or EAR. See U.S. Department of Commerce Export Administration Regulations (EAR) 15 CFR § 730-774; Commerce Control List (CCL) 15 CFR § 730-774 Supplement 1; U.S. Department of State International Traffic in Arms Regulations (ITAR) 22 CFR § 120-130; and Munitions Control List (MCL) 22 CFR § 121.

INTERPRETATION CLAUSE. Where there is an apparent conflict among the Contract documents which cannot be resolved by interpretation, this document controls.

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Contractor:
(Company Name)

Alabama Department of Public Health
This Contract has been reviewed as to content

Signed: _____
(Contractor's Name)

Signed: _____
(Bureau Director/District Administrator)

Date: _____

Date: _____

Address:
(Company Address)
(Second Address Line)
(City, State, Zip)

APPROVED:
Alabama Department of Public Health

Telephone: (Telephone #)
Fax: (Fax #)

Signed: _____
Scott Harris, M.D., M.P.H.
State Health Officer

Contractor please type or print your email address: (Email Address)

Date: _____

Social Security or FEIN:
(SS# or FEIN #)

APPROVED:

APPROVED:
Bureau of Information Technology

Signed: _____
Daniel Urquhart
Secretary of Information Technology
State of Alabama

Signed: _____
Leslie W. Hay, Acting Director

Date: _____

Date: _____

Sample ADPH BAA Template

**BUSINESS ASSOCIATE AGREEMENT
BETWEEN
THE ALABAMA DEPARTMENT OF PUBLIC HEALTH
AND**

This Agreement is entered into by and between the **Alabama Department of Public Health**, ("Covered Entity"), an agency of the State of Alabama, and ("Business Associate") and is effective as of _____.

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WHEREAS, Covered Entity and Business Associate have entered into a Contract ("Contract") in which Business Associate has agreed to provide certain services to Covered Entity. In connection with that Contract, Business Associate creates, receives, maintains or transmits Protected Health Information ("PHI") from, to, or on behalf of Covered Entity. This information is protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, (the "HITECH Act"), and the associated regulations promulgated by the Secretary ("HIPAA Rules").

WHEREAS, it is desirable, in order to further the continued efficient operations of Covered Entity to disclose to Business Associate certain PHI, and Business Associate has certain responsibilities with respect to that PHI; and

WHEREAS, in light of the foregoing requirements of HIPAA, the HITECH Act, and the HIPAA Rules, Business Associate and Covered Entity agree to be bound by the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

Definitions.

Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Designated Record Set, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Business Associate shall have the meaning given to such term in 45 CFR § 160.103.

Covered Entity shall have the meaning given to such term in 45 CFR § 160.103

HIPAA Rules means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

Permitted Uses and Disclosures.

Purposes. Except as otherwise limited in this Agreement, Business Associate may only use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure would not violate HIPAA or applicable state law if done by Covered Entity, or the minimum necessary and related Privacy and Security policies and procedures of Covered Entity. All such uses and disclosures shall be consistent with the minimum necessary requirements of HIPAA. Business Associate is directly liable under HIPAA for the impermissible Use or Disclosure of PHI it handles on behalf of Covered Entity.

De-Identified Data. Business Associate is not authorized to de-identify PHI or to use or disclose any de-identified PHI of Covered entity except as otherwise provided in the Contract. If de-identification is specified in the Contract, Business Associate shall de-identify the information in accordance with 45 CFR 164.514(a) - (c).

Use for Administration of Business Associate. Except as otherwise limited in this Agreement, the Business Associate may use PHI for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate.

Disclosure for Administration of Business Associate. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that (i) the disclosure is Required by Law; or (ii) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the PHI will remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person; and, (iii) the person agrees to notify the Business Associate and Covered Entity of any instances of which it is aware in which the confidentiality of the information has been breached.

Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.

Restriction on Use or Disclosure. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that covered entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

Revocation of Permission to Use or Disclose. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

Permissible Requests by Covered Entity. Except as set forth in Section 2 of this Agreement, Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

Obligations of Business Associate.

Use and Disclosure. Business Associate agrees not to use or disclose PHI other than as permitted or required by the Contract or as Required by Law. Business Associate shall comply with the provisions of the Agreement

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relating to privacy and security of PHI and all present and future provisions of HIPAA that relate to the privacy and security of PHI that are applicable to Covered Entity and/or Business Associate.

Appropriate Safeguards. Business Associate will use appropriate safeguards as are necessary to prevent the use or disclosure of PHI, except as provided for in this Agreement, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information. Business Associate represents and warrants that Business Associate:

Has implemented and will continue to maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI as required by the Security Rule; and

Will comply with 7 4 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XI 11. With regard to electronic PHI not covered by the Guidance published at 7 4 FR 19006, Business Associate will protect electronic PHI at rest and in transit through encryption that complies with State of Alabama Information Technology Policy 683-00: Encryption.

Shall ensure that any agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

Breach Notification. Business Associate shall promptly, and in any event within three (3) business days, report to Covered Entity any of the following:

Any use or disclosure of PHI not permitted by this Business Associate Agreement of which Business Associate becomes aware;

Any Security Incident of which Business Associate becomes aware; and

The discovery of a Breach of Unprotected Health Information.

A Breach is discovered as of the first day on which the Breach is known, or reasonably should have been known, to Business Associate or any employee, officer or agent of Business Associate. Any notice of a Security Incident or Breach of Unsecured Protected Health Information shall include (1) the date of discovery; (2) the data elements involved; (3) the identification of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during such Security Incident or Breach; (4) where the PHI or confidential data is believed to have been improperly transmitted; (5) the probable cause(s) of the improper use or disclosure; (6) a description of the proposed plan for preventing similar future incidents; and (7) whether any federal or state laws requiring breach notification are triggered. Any such notice shall be directed to Covered Entity's Privacy Officer.

Investigation. Business Associate shall reasonably cooperate and coordinate with Covered Entity in the investigation of any violation of the requirements of this Business Associate Agreement and/or any Security Incident or Breach.

Mitigation. Business Associate agrees to mitigate, to the extent practical, any harmful effect that is known to Business Associate or its employees, officers, Subcontractors or agents of a use or disclosure of PHI by Business Associate in violation of this Agreement. Business Associate shall keep Covered Entity fully apprised of all mitigation efforts, and all associated costs shall be borne by the Business Associate. This includes, but is not limited to, costs associated with notifying affected individuals.

Reports and Notices. Business Associate shall reasonably cooperate and coordinate with Covered Entity in the preparation of any reports or notices to the Individual or other authorities required to be made under HIPAA, the HITECH Act, HIPAA Rules, or any other federal or state laws. Any such reports or notices shall be subject to the prior written approval of Covered Entity.

Agents/Subcontractors. Business Associate agrees to ensure that any agent and/or subcontractor that creates, receives, maintains or transmits PHI on behalf of Business Associate agrees in writing to restrictions and conditions at least as stringent as those that apply to Business Associate pursuant to this Agreement

with respect to such PHI. Failure to include such requirement in any subcontract or agreement may result in Covered Entity's termination of the Agreement. If Business Associate becomes aware of a pattern of activity or practice of an agent and/or subcontractor that constitutes a material breach or violation of any such restrictions or conditions, Business Associate shall take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, to terminate the contract or arrangement with such agent and/or subcontractor.

Access to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, in the time, format and manner reasonably requested by Covered Entity to PHI in a Designated Record Set to enable Covered Entity to fulfill its obligations under HIPAA. If an Individual makes a request directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual.

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Amendment to Designated Record Sets. To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity. If an Individual makes a request to amend PHI directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual.

Access to Books and Records. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or to the Secretary, for the purpose of the Secretary determining Covered Entity's or Business Associate's compliance with HIPAA. Business Associate also agrees to make these records available to Covered Entity, or Covered Entity's contractor, for periodic audit of Business Associate's compliance with the Privacy and Security Rules. Upon Covered Entity's request, the Business Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Business Associate's subcontractors, if any.

Accountings. Business Associate agrees to document disclosures of PHI and information related to such disclosures that would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. This should include a process that allows for an

accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:

- the date of disclosure;
- the name of the entity or person who received the PHI, and if known, the address of the entity or person;
- a brief description of the PHI disclosed; and
- a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.

Requests for Accountings. Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner reasonably requested by Covered Entity, information collected in accordance with Section 5.k. of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. If an Individual makes a request for an accounting of disclosures of PHI directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual. The duty of the Business Associate and its agents and subcontractors to assist Covered Entity with any HIPAA required accounting of disclosures survives the termination of the Contract.

Privacy Requirements. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the covered Entity in the performance of such obligation(s).

Data Ownership. The PHI, and any related information created or received from or on behalf of Covered Entity, is and shall remain the property of Covered Entity. Neither Business Associate nor its agents or subcontractors shall hold any data ownership rights with respect to the PHI.

Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any subcontractors, workforce or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its officers or employees based upon claimed violations of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, which involves action or inaction by Business Associate, except where Business Associate or its subcontractor, workforce or agent is a named as an adverse party.

Remuneration for PHI. Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI without the written authorization of the individual. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITE CH Act.

Term and Termination.

Term. This Agreement shall be effective as of the date of the Contract and shall terminate upon termination of the Contract or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement. Covered

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Entity may, at its sole discretion, allow Business Associate a reasonable period of time to cure the material breach before termination.

Duties at Termination.

Upon termination of the Contract for any reason, Business Associate shall return or destroy, at Covered Entity's option, all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of the PHI infeasible, for so long as Business Associate maintains such PHI. This shall also apply to all agents and subcontractors of Business Associate.

Judicial or Administrative Proceedings. Covered Entity may terminate this Agreement, effective immediately, if (1) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HIPAA Regulations, or other security or privacy laws or (2) a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA, the HIPAA Regulations, or other security or privacy laws is made in any administrative or civil proceeding in which Business Associate is a party or has been joined. Business

Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.

Notices. Any notices required under this Agreement will be sent in writing via certified mail, return receipt requested and also via electronic mail.

For Business Associate:

For Covered Entity: