

STATE OF ALASKA REQUEST FOR PROPOSALS



ALASKA PSYCHIATRIC INSTITUTE IN-HOUSE SECURITY

RFP 200000015
SEPTEMBER 20, 2019

Alaska Psychiatric Institute (API) is soliciting proposals for a contractor to provide 24-hour uninterrupted unarmed security guard service to provide a safe environment to API staff, patients and guests.

ISSUED BY:

DEPARTMENT OF HEALTH & SOCIAL SERVICES
DIVISION OF FINANCE & MANAGEMENT SERVICES

PRIMARY CONTACT:

DOUG STANDERWICK
PROCUREMENT OFFICER

DOUG.STANDERWICK@ALASKA.GOV

(907)465-1621

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA'S "ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT OFFICER LISTED IN THIS DOCUMENT TO RECEIVE SUBSEQUENT AMENDMENTS.

TABLE OF CONTENTS

SECTION 1. INTRODUCTION AND INSTRUCTIONS	4
SEC. 1.01 PURPOSE OF THE RFP	4
SEC. 1.02 BUDGET.....	4
SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS	4
SEC. 1.04 MINIMUM QUALIFICATIONS.....	4
SEC. 1.05 REQUIRED REVIEW	5
SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS.....	5
SEC. 1.07 RETURN INSTRUCTIONS	5
SEC. 1.08 PROPOSAL CONTENTS	6
SEC. 1.09 ASSISTANCE TO OFFERORS WITH A DISABILITY	7
SEC. 1.10 AMENDMENTS TO PROPOSALS.....	7
SEC. 1.11 AMENDMENTS TO THE RFP.....	8
SEC. 1.12 RFP SCHEDULE	8
SEC. 1.13 PRE-PROPOSAL CONFERENCE	8
SEC. 1.14 ALTERNATE PROPOSALS.....	9
SEC. 1.15 NEWS RELEASES.....	9
SECTION 2. SCOPE OF WORK & CONTRACT INFORMATION	10
SEC. 2.01 CONTRACT TERM AND WORK SCHEDULE.....	10
SEC. 2.02 BACKGROUND INFORMATION	10
SEC. 2.03 SCOPE OF WORK.....	10
SEC. 2.04 CONSIDERATIONS	11
SEC. 2.05 DELIVERABLES.....	13
SEC. 2.06 CONTRACT TYPE.....	17
SEC. 2.07 PROPOSED PAYMENT PROCEDURES	17
SEC. 2.08 CONTRACT PAYMENT	17
SEC. 2.09 LOCATION OF WORK.....	18
SEC. 2.10 SUBCONTRACTORS.....	18
SEC. 2.11 JOINT VENTURES	18
SEC. 2.12 RIGHT TO INSPECT PLACE OF BUSINESS	19
SEC. 2.13 CONTRACT PERSONNEL	19
SEC. 2.14 INSPECTION & MODIFICATION - REIMBURSEMENT FOR UNACCEPTABLE DELIVERABLES	19
SEC. 2.15 CONTRACT CHANGES - UNANTICIPATED AMENDMENTS	19
SEC. 2.16 NONDISCLOSURE AND CONFIDENTIALITY	19
SEC. 2.17 INSURANCE REQUIREMENTS.....	20
SEC. 2.18 TERMINATION FOR DEFAULT	21
SEC. 2.19 INFORMAL DEBRIEFING	21
SECTION 3. PROPOSAL FORMAT AND CONTENT	22
SEC. 3.01 PROPOSAL FORMAT AND CONTENT	22
SEC. 3.02 INTRODUCTION	22
SEC. 3.03 UNDERSTANDING OF THE PROJECT	22
SEC. 3.04 METHODOLOGY USED FOR THE PROJECT	22
SEC. 3.05 MANAGEMENT PLAN FOR THE PROJECT	22
SEC. 3.06 EXPERIENCE AND QUALIFICATIONS	23
SEC. 3.07 COST PROPOSAL.....	23
SEC. 3.08 EVALUATION CRITERIA	23

SECTION 4.	EVALUATION CRITERIA AND CONTRACTOR SELECTION	24
SEC. 4.01	UNDERSTANDING OF THE PROJECT (10%)	24
SEC. 4.02	METHODOLOGY USED FOR THE PROJECT (10%)	24
SEC. 4.03	MANAGEMENT PLAN FOR THE PROJECT (10%)	24
SEC. 4.04	EXPERIENCE AND QUALIFICATIONS (20%)	25
SEC. 4.05	CONTRACT COST (40%)	25
SEC. 4.06	ALASKA OFFEROR PREFERENCE (10%)	25
SECTION 5.	GENERAL PROCESS INFORMATION	26
SEC. 5.01	ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES	26
SEC. 5.02	SITE INSPECTION	26
SEC. 5.03	CLARIFICATION OF OFFERS	26
SEC. 5.04	DISCUSSIONS WITH OFFERORS	27
SEC. 5.05	EVALUATION OF PROPOSALS	27
SEC. 5.06	CONTRACT NEGOTIATION	27
SEC. 5.07	FAILURE TO NEGOTIATE	28
SEC. 5.08	OFFEROR NOTIFICATION OF SELECTION	28
SEC. 5.09	PROTEST	28
SEC. 5.10	APPLICATION OF PREFERENCES	29
SEC. 5.11	ALASKA BIDDER PREFERENCE	29
SEC. 5.12	ALASKA VETERAN PREFERENCE	30
SEC. 5.13	ALASKA OFFEROR PREFERENCE	30
SEC. 5.14	FORMULA USED TO CONVERT COST TO POINTS	30
SEC. 5.15	EXAMPLES: CONVERTING COST TO POINTS & APPLYING PREFERENCES	31
SECTION 6.	GENERAL LEGAL INFORMATION	32
SEC. 6.01	STANDARD CONTRACT PROVISIONS	32
SEC. 6.02	PROPOSAL AS A PART OF THE CONTRACT	32
SEC. 6.03	ADDITIONAL TERMS AND CONDITIONS	32
SEC. 6.04	HUMAN TRAFFICKING	32
SEC. 6.05	RIGHT OF REJECTION	32
SEC. 6.06	STATE NOT RESPONSIBLE FOR PREPARATION COSTS	33
SEC. 6.07	DISCLOSURE OF PROPOSAL CONTENTS	33
SEC. 6.08	ASSIGNMENT	33
SEC. 6.09	DISPUTES	33
SEC. 6.10	SEVERABILITY	34
SEC. 6.11	SUPPLEMENTAL TERMS AND CONDITIONS	34
SEC. 6.12	FEDERAL REQUIREMENTS	34
SEC. 6.13	CONTRACT INVALIDATION	34
SEC. 6.14	SOLICITATION ADVERTISING	34
SECTION 7.	ATTACHMENTS	35
SEC. 7.01	ATTACHMENT 1 - COST PROPOSAL	36
SEC. 7.02	ATTACHMENT 2 - CERTIFICATION REGARDING DEBARMENT	38
SEC. 7.03	ATTACHMENT 3- PROPOSAL EVALUATION FORM	40
SEC. 7.04	ATTACHMENT 4- STANDARD AGREEMENT FORM (WITH APPENDICES)	45

SECTION 1. INTRODUCTION AND INSTRUCTIONS

Sec. 1.01 Purpose of the RFP

The Department of Health and Social Services, Alaska Psychiatric Institute, is soliciting proposals for a contractor to provide 24-hour uninterrupted unarmed security guard service to provide a safe environment to API staff, patients and guests.

Sec. 1.02 Budget

The Department of Health and Social Services, Alaska Psychiatric Institute estimates a budget of no more than \$1,400,000.00 annually. A total of 2,800,000.00 if the renewal option is executed. Proposals priced in excess of the full budgeted amount may be deemed non-responsive.

Approval or continuation of a contract resulting from this is contingent upon legislative appropriation.

Sec. 1.03 Deadline for Receipt of Proposals

Proposals must be received no later than 2:00 pm Alaska Time on Friday October 11, 2019

Sec. 1.04 Minimum Qualifications

In order for offers to be considered responsive, offerors must meet the following minimum requirements. Please ensure start and end dates (month and year) are indicated, and that experience is detailed sufficiently to ensure verification of all aspects of the minimums below:

1. Offeror must have at least five (5) years experience in providing security in a private/public site.
2. Offerors must be licensed as a Security Guard Agency in accordance with AS 18.65.400, 13 AAC 60, and any other applicable Local, state, or federal regulations, ordinances, or laws. Offerors must provide a copy of their current security guard agency certificate of license issued by the Department of Public Safety.
3. The offeror must certify that all security guards utilized under this contract are licensed in accordance with AS 18.65.400, 13 AAC 60, and any other applicable local, state, or federal regulations, ordinances, or laws. Certification must include the following:
 - Offeror guarantees that all guards utilized under this contract will meet the following criteria: Trained in the Mandt verbal de-escalation techniques;
 - Over the age of 21;
 - Have at least 2 years of security experience, preferably working in a behavioral health setting;
 - Must pass drug test, and be in possession of a clean criminal record
 - Have a minimum of 8 hours of general pre-assignment training, including but not limited to: first aid, fire prevention, and patrol techniques.
 - Guard is covered under a bond or insurance policy through the offeror.

An offeror's failure to provide enough information to verify meeting these minimum requirements will cause their proposal to be considered non-responsive and to be rejected accordingly.

Sec. 1.05 Required Review

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and objectionable material must be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which award could not be made. Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the procurement officer, in writing, at least ten days before the deadline for receipt of proposals.

Sec. 1.06 Questions Prior to Deadline for Receipt of Proposals

Questions must be submitted in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing. Questions must be received no later than Monday September 30, 2019.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the RFP. Other questions may be more complex and may require a written amendment to the RFP.

The procurement officer will make that decision. All questions are requested in writing to the below:

Procurement Officer: Doug Standerwick
doug.standerwick@alaska.gov
Phone 907.465.1621

Sec. 1.07 Return Instructions

Email Submission

The preferred method of response submission to this solicitation is via email, sent to the following address:

hss.procurement.proposal@alaksa.gov

The email submission must contain the RFP number in the subject line. In the body of the email, please indicate the Procurement Officer's name, the Offeror's name, the number of attachments, and the names of the attachments being submitted.

When submitting a proposal via email, the technical proposal and cost proposal must be saved as separate, clearly labeled PDF documents, such as "Vendor A – Technical Proposal.pdf" and "Vendor A – Cost Proposal.pdf" (Vendor A is the name of the offeror). The maximum size of a single email (including all text and attachments) that can be received by the State is 20mb (megabytes). If the email containing the proposal exceeds this size, the proposal must be sent in multiple emails that are each less than 20 megabytes; each email must comply with the requirements above. Please also include an indication of multiple email submissions (1 of 2, 2 of 2, etc).

It is the offeror's responsibility to ensure that the Procurement Officer has received the proposal in full, prior to the deadline. The Procurement Officer will respond to the email to confirm receipt. If you do not receive a confirmation, it is your responsibility to contact the Procurement Officer to confirm. The State is not responsible for lost, unreadable, or corrupt emails, or missing attachments.

An offeror's failure to submit its proposal prior to the deadline will cause the proposal to be disqualified. Late proposals or amendments will not be opened or accepted for evaluation.

Paper Submission

If submitting a proposal by mail, Offerors must submit one hard copy of their proposal, to the procurement officer, in a sealed package. The cost proposal included with the package must be sealed separately from the rest of the proposal and must be clearly identified.

The sealed proposal package(s) must be addressed as follows:

Department of Health and Social Services
Division of Finance and Management Services
Attention: Doug Standerwick, Procurement Officer
RFP Number: 200000015
RFP Title: API Campus Security and Transport Services

If mailing via US Mail, please use the following address:

PO Box 110650
Juneau, AK 99811-0650

If utilizing a delivery service, please use the following address:

333 Willoughby – Suite 760
Juneau, AK 99801

An offeror's failure to submit its proposal prior to the deadline will cause the proposal to be disqualified. Late proposals or amendments will not be opened or accepted for evaluation.

Faxed proposals will not be accepted. Oral proposals will not be accepted.

Sec. 1.08 Proposal Contents

The following information must be included in all proposals:

(a) Authorized Signature

All proposals must be signed by an individual authorized to bind the offeror to the provisions of the RFP. Proposals must remain open and valid for at least 90-days from the date set as the deadline for receipt of proposals.

(b) Offeror's Certification

By signature on the proposal, offerors certify that they comply with the following:

- a. the laws of the State of Alaska;

- b. the applicable portion of the Federal Civil Rights Act of 1964
- c. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- d. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- e. all terms and conditions set out in this RFP;
- f. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury;
- g. that the offers will remain open and valid for at least 90 days; and
- h. that programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government.

If any offeror fails to comply with [a] through [h] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

(c) Vendor Tax ID

A valid Vendor Tax ID must be submitted to the issuing office with the proposal or within five days of the State's request.

(d) Conflict of Interest

Each proposal shall include a statement indicating whether or not the firm or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The Commissioner of the Department of Health and Social Services reserves the right to consider a proposal non-responsive and reject it or cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be developed by the offeror. The Commissioner's determination regarding any questions of conflict of interest shall be final.

(e) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

Each proposal must include a signed certification form, see Section 7: Attachments.

Sec. 1.09 Assistance to Offerors with a Disability

Offerors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

Sec. 1.10 Amendments to Proposals

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

Sec. 1.11 Amendments to the RFP

If an amendment is issued, it will be posted directly to the solicitation on the VSS Portal and on the Alaska Online Public Notices. All vendors who have registered with the procurement officer will receive direct notification of the amendment.

Sec. 1.12 RFP Schedule

The RFP schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted by the same number of days.

- Issue RFP on September 20, 2019
- Pre-Proposal Meeting 10:00 am Alaska Time September 27, 2019
- Deadline for receipt of questions is September 30, 2019
- Deadline for receipt of proposals is 2:00 pm Alaska Time October 11, 2019
- Proposal Evaluation Committee complete evaluation by October 16, 2019
- State of Alaska issues Notice of Intent to Award a Contract by October 17, 2019
- State of Alaska issues contract award October 29, 2019
- Contract begins November 1, 2019

This RFP does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by the Commissioner of the Department of Health and Social Services, or the Commissioner's designee. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

Sec. 1.13 Pre-Proposal Conference

A pre-proposal conference will be held at 10:00 AM AKST September 27, 2019 , via teleconference. The purpose of the teleconference is to discuss the work to be performed with the prospective offerors and allow them to ask questions concerning the RFP. Questions and answers will be transcribed and sent to prospective offerors as soon as possible after the meeting. Call-in information is below:

Phone #: 1-800-315-6338

Access ID: 58212

Offerors with a disability needing accommodation should contact the procurement specialist prior to the date set for the pre-proposal conference so that reasonable accommodation can be made."

Sec. 1.14 Alternate Proposals

In accordance with 2 AAC 12.830 alternate proposals (proposals that offer something different than what is asked for) will be rejected.

Sec. 1.15 News Releases

News releases related to this RFP will not be made without prior approval of the project director.

Section 2. Scope of Work & Contract Information

Sec. 2.01 Contract Term and Work Schedule

The contract term will run from November 1, 2019 through October 31, 2020, with one (1) one-year renewal option available, to be exercised at the sole discretion of the State.

Sec. 2.02 Background Information

This contract is for security services at the Alaska Psychiatric Institute (API) campus. Security services are required at API in effort to 1) help ensure campus staff, patients, and visitor safety, and 2) help prevent patient elopement. API intends to follow industry best-practice on presence of integrated campus security forces on institutional campuses.

API is Alaska's only State owned psychiatric hospital. The hospital has 80 beds and approximately 254 FTE staff, who care for and provide treatment to acute psychiatric patients who may arrive at API from any location in Alaska, at any hour (including weekends and nights).

An intended result of implementing this contract is to help treatment team staff focus more on direct patient care, by contracting with a trained and competent security vendor to help ensure staff and milieu safety by monitoring, and when asked, engaging with the most physically dangerous and volatile patients at API

API has adopted the MANDT de-escalation model, and the expectation is that all security staff will be trained in MANDT.

At API, clinical areas consist of five (5) units (80 beds total), an admission area, coverage of the approximately 1/10-mile long "main street" area, a gymnasium, cafeteria, and a few other small clinical areas where patients might locate for treatment. Patients generally remain on the clinical units, unless in transit to, or scheduled for, clinical or recreational activities at another location within, or outside of the facility if on a medical appointment or attendance for court appearance.

API also conducts visiting hours Monday – Friday from 5pm – 7pm, and Saturday – Sunday from 1pm – 3pm. The vendor shall be expected to have a presence during these hours, as needed and directed by API leadership.

Sec. 2.03 Scope of Work

The intent of the contract is to provide 24/7 campus security to protect API employees, patients, and guests. Contractor will provide transport to Taku patient's to and from court. Guards are present to deter acts of violence, respond to emergencies, and help ensure the safety of building occupants and visitors. Guards are also present to provide observation/monitoring assistance and early intervention assistance. The Contractor shall provide a minimum of 4 unarmed security guards at all times to perform these duties.

API is seeking a vendor to provide Campus Security and Patient Transport Services at API to provide:

- A roving campus presence – primarily hallways and units, but occasionally other campus areas as requested.
- Monitoring of video cameras for early intervention and notification of irregular events.
- Additional coverage at API, special patients
- Campus security general consultation
- Staff Training / onboarding / out processing

Work Requirements:

Offerors must certify that all guards working under the resulting contract meet the following criteria:

- All security guards must be over the age of 21
 - All security guards must have at least 2 years of security experience, preferably working in a behavioral health hospital
 - Security guards have to pass drug test, and be in possession of a clean criminal record
 - The security guard must be covered under a bond or an insurance policy through the company
- Applicants must have a minimum of 8-hours general pre-assignment training, which includes among other topics first aid, Fire Prevention, and Patrol techniques.

Offeror Shall:

- Submit their Experience Modification Rating (EMR), as provided by insurer, prior to award
- Submit their employee training logs to API Quality department, quarterly during contract period, and if asked by API leadership.

Sec. 2.04 Considerations

Infection Control:

Prior to beginning work, all contractor staff must provide record of immunizations. API hospital infection control will record immunizations and/or refer staff to the appropriate clinic to obtain a PPD or TB clearance card prior to working.

Contract staff will be required to attend an infection control orientation that includes the OSHA Bloodborne Pathogens Standard, Hand Hygiene, Cover & Cough, and TB information with a yearly refresher course to review the information annually. The following information is a complete summarization of all immunizations pertaining to infection control for Contractor staff:

1. Mandatory

- a. Rubella - titer to show rubella (German measles / 3-day measles) immunity. Record of 2 MMR (measles/mumps/rubella) vaccines is also sufficient).
- b. PPD – skin test for TB.
- c. Tetanus/diphtheria/pertussis (Tdap) – This immunization is offered free of charge and staff are encouraged to receive them. It is recommended to receive the Tdap with pertussis protection if it has been at least 2 years since the last tetanus vaccine (and did not include pertussis). If refused, a form of refusal shall be submitted to infection control to indicate refusal date for the health record.

2. Voluntary

- a. Hepatitis A – 2 vaccines with dates. This immunization is offered free of charge and staff are encouraged to receive them. If refused, a form of refusal shall be submitted to infection control to indicate refusal date for the health record.
- b. Seasonal Flu Vaccine – This immunization is offered free of charge and staff are encouraged to receive it. It is recommended to receive the seasonal flu vaccine and if refused, a form of refusal shall be submitted to infection control to indicate refusal date for the health record.
- c.

3. Voluntary but will require status

- a. Hepatitis B – 3 vaccines with dates. This immunization is offered free of charge and staff are encouraged to receive them. If refused, a form of refusal shall be submitted to infection control to indicate refusal date for the health record.

Training:

In addition to the required training as identified in SECTION 1.04 MINIMUM QUALIFICATIONS, the security team will be required to attend MANDT training, to be provided by API staff. Training of the contracted personnel staff is estimated to take up to 4 days (each training is an 8 hour course) to train approximately 30 contractor staff. All contractor staff must be fully compliant with all API training requirements within 30 days of issuance of the contract and prior to onsite or transportation shift work.

It is expected the security personnel, as well their leadership attend and participate in API “after action events” or “hot wash” events, from codes, which occur. API is a learning organization and we welcome feedback and constructive dialogue from team members. Security staff are a vital member of the API team, and we require feedback in effort to improve services to patients, and to remain compliant with our many accrediting bodies.

Communication:

Security staff are required to respond promptly and appropriately to “patient codes” or “codes”, aka verbal or physical altercations either pending or in process in the facility/on campus. The facility is approximately 210,000 square feet of building space, plus associated parking lot space, so excellent communication is a necessity.

API provides radios operating on API authorized frequencies. Radios shall be checked out and returned to the API Communications Center at the beginning and end of each shift.

Uniform for security staff is black shirt, casual slacks, in good condition. Uniforms will be provided by the contractor.

Staff shall comply with all API policies and procedures

NOTE: If there is a co-employed staff member simultaneously providing services to both Contractor and API, Contractor will ensure that co-employee staff member does not perform security or transports while mutual staff member is in employment relationship with API.

General:

Security staff required breaks may be taken. However, coverage for emergency (all) “codes” must be a priority for security personnel at all times, and if codes are called, security staff shall respond immediately. When a code is called, it is expected that the security staff will promptly and with a sense of urgency, respond to codes, and within reason delay breaks until the code subsides.

API expects security staff breaks to be taken on campus, and within radio response range, so as to ensure coverage during prescribed hours. API shall pay time for two 10-minute breaks, and meal time so long as meal breaks 1) do not exceed 20 minutes, 2) security staff are on stand by and respond to codes appropriately, and 3) accurate time keeping is maintained by the vendor and submitted with invoices.

Security team members must be mindful that API is a hospital, and as such the primary function is patient treatment and recovery. In general, the practice of subduing patients by force is unacceptable. API expects that patients be treated with dignity and respect at all times. The vendor should articulate how they address these complicated moments with patients.

The expectation is 1) a close working relationship with security team members, and staff – and 2) a stable, consistent, team of security staff at API. The vendor should address their staff turnover rate in the narrative portion of the proposal.

The State conducts background checks systematically to ensure the safety of patients in accordance with CMS (Centers for Medicare and Medicaid Services) and Joint Commission requirements. Any information regarding on site contractor staff under review for disciplinary action must be provided to the project director in a timely manner. The State will not require the contractor terminate an employee, but does reserve the right to exclude contractor staff who fail to meet these requirements, or who demonstrate problematic or unreliable behavior, from working at API.

Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

Sec. 2.05 Deliverables

In accordance with the Scope of Work above, the successful contractor will be required to provide the following seven deliverables for the duration of the contract:

Service Component 1: Administrative Duties

Staffing: Continuity of staffing and consistent delivery of services is a priority.

1. Contractor will provide 24/7 staffing.
 - a. Contractor will provide a minimum of two “roving” security staff, and additional staff if requested by API. These staff may be requested by API to patrol separate areas rather than as a pair.
 - b. Contractor will provide two staff members specifically for court duties, as outlined in Component 3.

- c. Contractor will provide, unless otherwise indicated by API, a minimum of two additional staff for video monitoring responsibilities. Appropriate steps to prevent fatigue shall be taken by the contractor, such as rotating “roving” staff with “video” staff.
2. Contractor will provide at the first of each month a 30-day projected staffing schedule.
3. Contractor will notify the NSS immediately upon any change to the staffing schedule.
4. Contractor will ensure that it has adequate backup staffing in the event that there are any absences of contracted personnel.
5. If a contracted staff member calls out or is otherwise not present, contractor will ensure that back-up staff is present within 2 hours. Contractor must not bill for the absent staff member.
6. Back-up staff shall be staff who have already gone through all of the required training, onboarding, and other requirements before working at API.
7. If deemed necessary by API, in coordination with Contractor, the contractor shall provide additional staff at API for an agreed-upon time period.
8. Contractor shall have a supervisor or designated “lead” staff member on each shift.

Recording/documentation:

1. Whenever contracted staff are involved in or witness an incident or irregularity at API, the staff will write a narrative of the incident and provide the paperwork to the Nursing Shift Supervisor prior to the end of the employee’s scheduled shift. This is in addition to the duties to notify and engage in “real time.”
2. The vendor will provide staff shift logs upon request.
3. All records of any kind (including paper or electronic) are property of API and will be maintained at API. The contractor may not remove, physically or electronically, any documentation created while at API from API property without prior permission.
4. API will provide the contractor with a non-networked computer for use by the contractor for reports, narratives, or other work-related documents. API owns all work product created by contracted staff.
5. Contractor will abide by all rules and regulations, and API policies and procedures, regarding PHI and HIPAA.
6. Upon request, contractor staff must allow API to inspect any notes or recordings made while at API.

Reporting/Staff time: there will be a standard procedure for documenting and verifying contractor staff presence.

1. Upon arrival at API, contractor staff shall immediately report to the Nurse Shift Supervisor and sign in with signature verification by the NSS.
2. At end of shift, contractor staff shall report to the NSS and sign out with signature verification by the NSS.
3. API may add to or alter this process at any time, with reasonable notice to contractor.

Service Component 2: Roving Campus Presence

API requires the presence and engagement of security staff on the API clinical units on campus to ensure patient and staff safety. This consists of two onsite security staff on a 24/7 basis, roving between the five clinical units and other campus areas.

Contractor staff shall round on clinical areas (including Winter Garden during visiting hours) daily, distributing time throughout all areas as appropriate or as requested by API. Contractor staff will complete a security check of the entire facility within one hour of the start of each scheduled shift.

Contractor staff may receive a specific “pinpoint assignment” by API leadership (Chief Executive Officer, Chief Operating Officer, Director of Nursing, and QAPI Director) but generally will receive daily guidance from the Nursing Shift Supervisor (NSS).

Additionally, this security team will respond to all overhead paging “codes”, and overhead paging “calls for support” as they occur. It is expected the security team remain co-located for the majority of their shift, unless otherwise assigned by API. It is anticipated that security team personnel will receive their “pin-point assignment” from the Nursing Shift Supervisor (NSS), at the beginning of the shift.

In general, contractor staff shall not physically engage with patients, unless API clinical leadership present at the incident asks for contractor staff engagement, or, in exceptional circumstances, it is reasonably believed by contractor staff that API staff cannot contain the situation.

Should physical patient contact occur, contractor shall use only minimally necessary force. Immediately upon control being achieved, contractor shall disengage from contact and resume an observer stance and presence while API staff resume treatment and care. Contractor shall then resume duties as directed by API staff.

Billing: The services of this component will be billed at the hourly rate identified in Appx D

Service Component 3: Additional Coverage to Meet Special Needs

API receives particularly violent patients from time to time. These patients may be suffering from various illness; such as autism, Traumatic Brain Injury (TBI), dementia, bi-polar and/or other psychosis.

To respond to these patient’s needs, API requires additional security services. These may vary dependent on severity, up to and including provision of two security staff to support and work together with the staff PNA assigned to the patient. These services are anticipated approximately 6 times annually, each lasting 7-10 days and requiring 2 guards.

API will make every effort to provide as much advance notice of these needs as possible, but in general, these needs are emergent and unpredictable. The contractor shall make every effort possible to accommodate these emergent requests as quickly as possible, and all staff guards must be aware of and ready to respond to these needs with flexibility, towards the shared goal of patient/staff safety. The contractor will make accommodating these services a priority, and must remain in frequent contact with API with regard to their responsiveness plan and timeline.

Billing: The services of this component will be billed on an as-needed basis, at the hourly rate identified in Appx D.

Security Component 4: Campus Security Advice and Consultation

API requires frequent engagement with the contractor with regard to general campus security. This components needs will vary but are anticipated to involve approximately 24 hours monthly.

A Campus Security Plan is required, written and updated as requested (but at minimum annually) by the contractor in conjunction with API leadership and staff.

On an as-needed basis, the contractor will be expected to provide the following:

- Consultative and security expertise to API leadership
- Attendance at security drills, and community wide mass casualty practice events. For example: an active shooter drill conducted statewide or locally will requires vendor planning, engagement, training, synchronization etc.
- Communication with treatment team staff and/or API leadership regarding which patients are acutely dangerous to self or others, so as to remain current on propensity for violent/physical altercation-likely status.
- Attendance/participation in “after action” or “hot wash” events, resulting from code incidents that occur.
- MANDT “train the trainer” - to be attended by contractor

The contractor is also encouraged to reach out to leadership if they identify a need or issue related to security that requires addressing; to ensure safety needs are visible and being addressed. API is a learning organization and welcomes feedback and constructive dialogue. Security staff are a vital member of the API team, and we require feedback in effort to improve services to patients, and to remain compliant with our many accrediting bodies.

Billing: The services of this component will be billed on an as-needed basis, at the hourly rate identified in Appx D.

Security Component 5: Security Staff Training / Onboarding /Out Processing

The contractor must ensure all security staff meet the requirements outlined in the original contract prior to provision of any of the service components outlined in this contract.

API also has specific requirements with regard to Contractor Staff Onboarding and Out Processing, as follows:

Contractor Staff Onboarding Process:

1. Notification to API HR team via email api_human_resources@alaska.gov of potential onboarding of contractor staff to schedule background check
2. Once background check is processed and final approval is received, API HR staff will notify Contractor point of contact to schedule on-boarding Non-Staff Orientation.
3. Orientation should be done in accordance with the Non-Staff Orientation dates to ensure Contractor staff get necessary orientation information to include hospital P&P's, MANDT training, Infection Control orientation, ID/proxy badging, etc.
4. Contractor staff must complete all onboarding requirements, including training requirements, prior to beginning work duties.

Out processing:

1. Contractor point of contact will email notify api_human_resources@alaska.gov when notified or made aware that a Contractor staff will no longer be providing services at API. Notification of separation is required to ensure the following clearance actions occur:
 - a. Photo badge and proxy card are returned and/or deactivated
 - b. Background Check is deactivated and no longer associated with API
 - c. Notification of clearance to necessary personnel for security and compliance purposes (Hospital Education, Infection Control, Communication Center, Senior Management, etc.).
2. Contractor will immediately notify api_human_resources@alaska.gov if contractor has determined for any reason that one of its employees is no longer authorized to work at API.

Ongoing Training:

API requires ongoing training for security staff. Some examples of additional training include (but are not limited to):

1. Training specific to needs of incoming patients;
2. Training to update changes to API policies and procedures.

Billing:

The services of this component will be billed on an as-needed basis, at the hourly rate identified in Appx D.

Sec. 2.06 Contract Type

This contract will be a time and materials contract with a not to exceed amount of \$5,179,907.00 for the total project, or \$1,035,981.40 per year. The intent of this contract is to establish firm rates for services provided by the contractor. The State expects the contractor to invoice on an hourly rate for actual time spent providing services per those rates. This should allow flexibility to accommodate API's need as they change over the duration of the contract.

Sec. 2.07 Proposed Payment Procedures

The state will make payments based on a monthly payment schedule, which will be indicated in the resultant contract. Each billing must consist of an invoice and progress report. No payment will be made until the progress report and invoice has been approved by the project director.

Sec. 2.08 Contract Payment

No payment will be made until the contract is approved by the Commissioner of the Department of Health and Social Services or the Commissioner's designee. Under no conditions will the state be liable for the payment of any interest charges associated with the cost of the contract. The state is not responsible for and will not pay local, state, or federal taxes. All costs associated with the contract must be stated in U.S. currency.

Sec. 2.09 Location of Work

The work is to be performed at the API campus. While at API the vendor will be provided space for security personnel. It is the expectation that the vendor is responsible for managing and coordinating the contractual duties from their own place of business.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

Sec. 2.10 Subcontractors

Subcontractors may be used to perform work under this contract. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

Subcontractor experience shall be considered in determining whether the offeror meets the requirements set forth in Section 1.04: Minimum Qualifications.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;
- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and
- a written statement, signed by each proposed subcontractor that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the state to consider their proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the project director.

Sec. 2.11 Joint Ventures

Joint ventures will not be allowed.

Sec. 2.12 Right to Inspect Place of Business

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

Sec. 2.13 Contract Personnel

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project director. Personnel changes that are not approved by the state may be grounds for the state to terminate the contract.

Sec. 2.14 Inspection & Modification - Reimbursement for Unacceptable Deliverables

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project director. The state may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. The project director may instruct the contractor to make corrections or modifications if needed in order to accomplish the contract's intent. The contractor will not unreasonably withhold such changes.

Substantial failure of the contractor to perform the contract may cause the state to terminate the contract. In this event, the state may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

Sec. 2.15 Contract Changes - Unanticipated Amendments

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work outside the general scope is required, the project director will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the project director has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Commissioner of the Department of Health and Social Services or the Commissioner's designee.

Sec. 2.16 Nondisclosure and Confidentiality

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the

Social Security Act and HIPAA. See Appendix E of the Standard Agreement Template, in Section 7: Attachments, for the state's HIPAA Business Associate Agreement (BAA). The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

Sec. 2.17 Insurance Requirements

The successful offeror must provide proof of workers' compensation insurance prior to contract approval.

The successful offeror must secure the insurance coverage required by the state. The coverage must be satisfactory to the Department of Administration Division of Risk Management. An offeror's failure to provide evidence of such insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

Offerors must review form Appendix B in the Standard Agreement Template (Section 7.06), for details on required coverage. No alteration of these requirements will be permitted without prior written approval from the Department of Administration, Division of Risk Management. Objections to any of the requirements in Appendix B must be set out in the offeror's proposal.

Sec. 2.18 Termination For Default

If the project director determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work. This clause does not restrict the state's termination rights under the contract provisions (Appendix A of the Standard Agreement Template), attached in Section 7.06.

Sec. 2.19 Informal Debriefing

When the contract is completed, an informal debriefing may be performed at the discretion of the project director. If performed, the scope of the debriefing will be limited to the work performed by the contractor.

Section 3. Proposal Format and Content

Sec. 3.01 Proposal Format and Content

In preparing a proposal response, all narrative portions should be straightforward, detailed, and precise. Do not simply restate or paraphrase information in this RFP. The Department of Health and Social Services will determine the responsiveness of a proposal by its quality, not its volume or packaging.

Proposals will be limited to a total of no more than 100 pages (with no smaller than 11 pt font), including attachments such as resumes of project staff. The Cost Proposal will not be included in the page limit.

Sec. 3.02 Introduction

Proposals must include the complete name and address of offeror's firm and the name, email address, and telephone number of the person the state should contact regarding the proposal.

Proposals must confirm that the offeror will comply with all provisions in this RFP; and, if applicable, provide notice that the firm qualifies as an Alaskan bidder. Proposals must be signed by a company officer empowered to bind the company. An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

Sec. 3.03 Understanding of the Project

Offerors must provide comprehensive narrative statements that illustrate their understanding of the requirements of the project and the project schedule.

Sec. 3.04 Methodology Used For The Project

Offerors must provide comprehensive narrative statements that set out the methodology they intend to employ and illustrate how the methodology will serve to accomplish the work and meet the state's project schedule.

Sec. 3.05 Management Plan for the Project

Offerors must provide comprehensive narrative statements that set out the management plan they intend to follow and illustrate how the plan will serve to accomplish the work and meet the state's project schedule.

Sec. 3.06 Experience and Qualifications

The offeror must describe how they fully meet the minimum qualifications listed in Section 1.04.

Offerors must provide an organizational chart specific to the personnel assigned to accomplish the work called for in this RFP; illustrate the lines of authority; designate the individual responsible and accountable for the completion of each component and deliverable of the RFP.

Offerors must provide a narrative description of the organization of the project team and a personnel roster that identifies each person who will actually work on the contract and provide the following information about each person listed:

- CPR training certification
- Certification in MANDT restraint systems (one-on-one control tactics)
- Proof of age (over 21)
- Proof of at least 2 years of security experience, preferably working in a behavioral health hospital
- Ability to pass drug test
- Clean criminal record/background check
- Proof of bond or insurance coverage Proof of the minimum of 8 hours pre-assignment training.

Sec. 3.07 Cost Proposal

Offerors must complete the Cost Proposal, included in Section 7.01, as instructed. The Cost Proposal must be attached separately from the body of the technical proposal and no reference to cost should be included in the technical proposal.

Sec. 3.08 Evaluation Criteria

All proposals will be reviewed to determine if they are responsive. Proposals determined to be responsive will be evaluated using the criterion that is set out in Section 4: Evaluation Criteria and Contractor Selection.

An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

Section 4. Evaluation Criteria and Contractor Selection

The total number of points used to score this proposal will be 1000

Sec. 4.01 Understanding of the Project (10%)

Proposals will be evaluated against the questions set out below:

- 1) How well has the offeror demonstrated a thorough understanding of the purpose and scope of the project?
- 2) How well has the offeror identified pertinent issues and potential problems related to the project?
- 3) To what degree has the offeror demonstrated an understanding of the deliverables the state expects it to provide?
- 4) Has the offeror demonstrated an understanding of the state's time schedule and their ability to meet it?

Sec. 4.02 Methodology Used for the Project (10%)

Proposals will be evaluated against the questions set out below:

- 1) How comprehensive is the methodology and does it depict a logical approach to fulfilling the requirements of the RFP?
- 2) How well does the methodology match and achieve the objectives set out in the RFP?
- 3) Does the methodology interface with the time schedule in the RFP?

Sec. 4.03 Management Plan for the Project (10%)

Proposals will be evaluated against the questions set out below:

- 1) How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFP?
- 2) How well is accountability completely and clearly defined?
- 3) Is the organization of the project team clear?
- 4) How well does the management team illustrate the lines of authority and communication?
- 5) To what extent does the offeror already have the hardware, software, equipment, and licenses necessary to perform the contract?
- 6) Does it appear that the offeror can meet the schedule set out in the RFP?
- 7) Has the offeror gone beyond the minimum tasks necessary to meet the objectives of the RFP?

- 8) To what degree is the proposal practical and feasible?
- 9) To what extent has the offeror identified potential problems?

Sec. 4.04 Experience and Qualifications (20%)

Proposals will be evaluated against the questions set out below:

1) Questions regarding the personnel:

- a) Do the individuals assigned to the project have experience on similar projects?
- b) Are resumes complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires?
- c) How extensive is the applicable education and experience of the personnel designated to work on the project?

2) Questions regarding the firm and subcontractor (if used):

- a) How well has the firm demonstrated experience in completing similar projects on time and within budget?
- b) How successful is the general history of the firm regarding timely and successful completion of projects?
- c) Has the firm provided letters of reference from previous clients?
- d) If a subcontractor will perform work on the contract, how well do they measure up to the evaluation used for the offeror?

Sec. 4.05 Contract Cost (40%)

Overall, 40% of the total evaluation points will be assigned to cost. The cost amount used for evaluation may be affected by one or more of the preferences referenced under Section 5.10.

Converting Cost to Points

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the method set out in Section 5.14.

Sec. 4.06 Alaska Offeror Preference (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

Section 5. General Process Information

Sec. 5.01 Alaska Business License and Other Required Licenses

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806, for information on these licenses. Website: <https://www.commerce.alaska.gov/web/cbpl/BusinessLicensing.aspx>.

Acceptable evidence that the offeror possesses an Alaska business license may consist of any one of the following:

- copy of a valid Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Dept. of Revenue or Alaska Dept. of Fish and Game,
- liquor licenses issued by Alaska Dept. of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Dept. of Commerce, Community and Economic Development - Division of Insurance, or
- Mining licenses issued by Alaska Dept. of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

Sec. 5.02 Site Inspection

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer, at the state's expense, will perform the site inspections.

Sec. 5.03 Clarification of Offers

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or

eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

Sec. 5.04 Discussions with Offerors

The State may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the RFP and proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

Sec. 5.05 Evaluation of Proposals

The procurement officer, or an evaluation committee made up of at least three state employees or public officials, will evaluate proposals. The evaluation will be based solely on the evaluation factors set out in Section 4: Evaluation Criteria and Contractor Selection.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

Sec. 5.06 Contract Negotiation

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, shall be within the scope of the request for proposals and limited to those items which would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the state may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal. If contract negotiations are commenced, they may be held telephonically or via video conference.

Sec. 5.07 Failure to Negotiate

If the selected offeror:

- fails to provide the information required to begin negotiations in a timely manner; or
- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

Sec. 5.08 Offeror Notification of Selection

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award (NOIA) and send copies to all offerors. The NOIA will set out the names of all offerors and identify the proposal selected for award.

Sec. 5.09 Protest

AS 36.30.560 provides that an interested party may protest the content of the RFP.

An interested party is defined in 2 AAC 12.990(a) (7) as "an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract."

If an interested party wishes to protest the content of a solicitation, the protest must be received, in writing, by the procurement officer at least ten days prior to the deadline for receipt of proposals.

AS 36.30.560 also provides that an interested party may protest the award of a contract or the proposed award of a contract.

If an offeror wishes to protest the award of a contract or the proposed award of a contract, the protest must be received, in writing, by the procurement officer within ten days after the date the Notice of Intent to Award the contract is issued.

A protester must have submitted a proposal in order to have sufficient standing to protest the proposed award of a contract. Protests must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

Protests filed by telex or telegram are not acceptable because they do not contain a signature. Fax copies containing a signature are acceptable.

The procurement officer will issue a written response to the protest. The response will set out the procurement officer's decision and contain the basis of the decision within the statutory time limit in AS 36.30.580. A copy of the decision will be furnished to the protester by certified mail, fax or another method that provides evidence of receipt.

All offerors will be notified of any protest. The review of protests, decisions of the procurement officer, appeals, and hearings, will be conducted in accordance with the State Procurement Code (AS 36.30), Article 8 "Legal and Contractual Remedies."

Sec. 5.10 Application of Preferences

Certain preferences apply to all contracts for professional services, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the RFP process. Additional preferences that may apply to this procurement are listed below:

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)
- Alaska Veteran's Preference - AS 36.30.321(f)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.

Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the Department of Administration, Division of General Service's web site: <http://doa.alaska.gov/dgs/pdf/pref1.pdf>.

Sec. 5.11 Alaska Bidder Preference

An Alaska Bidder Preference of 5% will be applied to the price in the proposal.

The preference will be given to an offeror who:

- 1) holds a current Alaska business license prior to the deadline for receipt of proposals;
- 2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;
- 3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;

- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Statement

In order to receive the Alaska Bidder Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Bidder Preference.

If the offeror is a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the offeror is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

Sec. 5.12 Alaska Veteran Preference

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

- A. sole proprietorship owned by an Alaska veteran;
- B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

Alaska Veteran Preference Statement

In order to receive the Alaska Veteran Preference, the proposal must include a statement certifying that the offeror is eligible to receive the Alaska Veteran Preference.

Sec. 5.13 Alaska Offeror Preference

2 AAC 12.260(e) provides Alaska offerors a 10% overall evaluation point preference. Alaska bidders, as defined in AS 36.30.990(2), are eligible for the preference. An Alaska offeror will receive 10% of the total available points added to their overall evaluation score as a preference.

Sec. 5.14 Formula Used to Convert Cost to Points

The distribution of points based on cost will be determined as set out in 2 AAC 12.260(c). The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined using the formula:

$$[(\text{Price of Lowest Cost Proposal}) \times (\text{Maximum Points for Cost})] \div (\text{Cost of Each Higher Priced Proposal})]$$

Sec. 5.15 Examples: Converting Cost to Points & Applying Preferences

(a) Formula Used to Convert Cost to Points

STEP 1

List all proposal prices, adjusted where appropriate by the application of applicable preferences.

Offeror #1	\$40,000
Offeror #2	\$42,750
Offeror #3	\$47,500

STEP 2

In this example, the RFP allotted 40% of the available 100 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 40 points.

The reason they receive that amount is because the lowest cost proposal, in this case \$40,000, receives the maximum number of points allocated to cost, 40 points.

Offeror #2 receives 37.4 points.

$\$40,000 \text{ lowest cost} \times 40 \text{ maximum points for cost} = 1,600,000 \div \$42,750 \text{ cost of proposal} = 37.4$

Offeror #3 receives 33.7 points.

$\$40,000 \text{ lowest cost} \times 40 \text{ maximum points for cost} = 1,600,000 \div \$47,500 \text{ cost of proposal} = 33.7$

(b) Alaska Offeror Preference

STEP 1

Determine the number of points available to qualifying offerors under this preference.

100 (total points available in the RFP) x 10% Alaska offerors preference = 10 points for the preference

STEP 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska offerors preference.

For the purpose of this example, presume that all of the proposals have been completely evaluated based on the evaluation criteria in the RFP. The scores at this point are:

Offeror #1	83 points	No Preference	0	points
Offeror #2	74 points	Alaska Offerors Preference	10	points
Offeror #3	80 points	Alaska Offerors Preference	10	points

STEP 3

Add the applicable Alaska offerors preference amounts to the offeror's scores:

Offeror #1	83 points
Offeror #2	84 points (74 points + 10 points)
Offeror #3	90 points (80 points +10 points)

STEP 4

Offeror #3 is the highest scoring offeror and would get the award, provided their proposal is responsible and responsive.

Section 6. General Legal Information

Sec. 6.01 Standard Contract Provisions

The contractor will be required to sign and submit the State's Standard Agreement Form for Professional Services Contracts (including all associated appendices). This form is attached in Section 8: Exhibits, for your review. The contractor must comply with all contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law. Objections to any of the provisions in the Standard Agreement Form for Professional Services must be set out in the offeror's proposal.

Sec. 6.02 Proposal as a Part of the Contract

Part or all of this RFP and the successful proposal may be incorporated into the contract.

Sec. 6.03 Additional Terms and Conditions

The State reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

Sec. 6.04 Human Trafficking

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/j/tip/>.

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive, or cancel the contract.

Sec. 6.05 Right of Rejection

Offerors must comply with all of the terms of the RFP, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities may be waived by the procurement officer. These may include informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;

- do not change the meaning or scope of the RFP;
- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended offeror shall be rejected.

Sec. 6.06 State not Responsible for Preparation Costs

The State will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

Sec. 6.07 Disclosure of Proposal Contents

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

Trade secrets and other proprietary data contained in proposals may be held confidential if the offeror requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The offeror's request must be included with the proposal, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

Sec. 6.08 Assignment

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer.

Sec. 6.09 Disputes

A contract resulting from this RFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Sec. 6.10 Severability

If any provision of the contract or agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

Sec. 6.11 Supplemental Terms and Conditions

Proposals must comply with Section 6.05: Right of Rejection. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this RFP or that diminish the state's rights under any contract resulting from the RFP, the term(s) or condition(s) will be considered null and void.

After award of contract:

- if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- if the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

Sec. 6.12 Federal Requirements

The US Department of Labor requires all state agencies that are expending federal funds to have a certification filed in the proposal (by the offeror) that they have not been debarred or suspended from doing business with the federal government. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions, included as Attachment 5, must be completed and submitted with your proposal.

Sec. 6.13 Contract Invalidation

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

Sec. 6.14 Solicitation Advertising

Public notice has been provided in accordance with 2 AAC 12.220.

Section 7. Attachments

Attachments:

- 1) Cost Proposal
- 2) Certification Regarding Debarment
- 3) RFP Checklist
- 4) Proposal Evaluation Form
- 5) Standard Agreement Form - Appendices A - E

Sec. 7.01 Attachment 1 - Cost Proposal

Cost Proposal

The purpose of the cost proposal format below is to allow offerors to submit pricing in a consistent manner that API can evaluate. The API will evaluate the total costs for the initial term of this contract. Cost proposals priced in excess of the full budgeted amount of \$1,400,000 annually may be deemed non-responsive.

The rates provided in the cost proposal will be used to establish rates in the subsequent contract. **API expects the contractor to invoice on an hourly rate for actual time spent providing services per those rates.** This should allow flexibility to accommodate API's need as they change over the duration of the contract.

Renewals

This cost proposal format is not a guarantee of renewal. Optional renewals will be exercised at the sole discretion of the State.

Monthly Cost:

Service Component	Service Description	Billing type/frequency	Hourly Rate	Monthly Estimated Amount
1	Administrative Duties	No Additional charges to be included in rates outlined below	0.00	0.00
2	Roving Campus Presence	Hourly, scheduled (based on 2 guards 24/7)		
3	Additional Coverage to Meet Special Needs	As needed based on <u>estimate of 6 annual instances</u> , 7 days each instance, 24hr service, w/2 guards		
4	Campus Security Advice and Consultation	Hourly, as needed Estimate is based on 24 hrs/month		
5	Security Staff Training (onboarding/outprocessing/training)	Estimate based on 625 hrs/annually (25 employees/25 hrs each)		
Total Monthly Amount not to Exceed \$116,666.67 (\$1,400,000.00/12 months)				

API will not pay overtime or premium time for any services provided under this contract.

The following items may not be billed by the contractor:

- Staff time completing initial clearance requirements (e.g., fingerprinting, associated conversations/phone calls).
- Security staff administrative tasks completed outside of shift and off-premises

Invoicing

The Contractor will submit detailed invoice(s) for services performed in accordance with Appendix C. These invoices must be in a format approved by the Project Director. This format will require detailed and itemized billing, including the name of each employee associated with the time billed. If requested, the contractor must provide supporting documentation for any item billed (such as timesheets).

The State will pay all properly submitted and formatted invoices within thirty (30) days of invoice approval by the Project Director.

Each invoice must:

- reference the Contractor's name, address and phone number;
- reference the contract number (0618-102);
- include an invoice number;
- itemize the contractual services provided during the period invoiced as described in Appendix C.

All billing invoices and materials (backup documentation) will be delivered to API via USB drive and submitted to the Communications Center for pickup/delivery to Annalisa Haynie. Updates to the medical charts and Electronic Health Record will be coordinated from there with an invoice to be forwarded by Annalisa Haynie to the Grants & Contracts Support Team in Juneau to process for payment.

USB Delivery should be made to:

Alaska Psychiatric Institute (dropped off to Communications Center)

Attention: James Farley, CFO

3700 Piper Street

Anchorage, AK 99508

Notwithstanding any other provision of this contract, it is understood and agreed that the State shall withhold payment at any time the Contractor fails to perform work as required under Appendix C and/or D of this contract.

Sec. 7.02 Attachment 2 - Certification Regarding Debarment**Certification Regarding Debarment, Suspension, Ineligibility
and Voluntary Exclusion Lower Tier Covered Transactions**

Expenditures from this contract may involve federal funds. The U.S. Department of Labor requires all state agencies that are expending federal funds to have a certification filed by the contractor that they have not been debarred or suspended from doing business with the federal government. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions must be signed along with the contract documents.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participant's responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**Before completing this certification, read the instructions on the following page,
which are an integral part of the certification.**

1. The prospective recipient of Federal assistance funds certifies, by submission of this bid, 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 Federal department or agency.
2. Where the prospective recipient of Federal assistance funds is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this Proposal.

Name and Title of Authorized Representative

Signature

Date

Instructions for Certification

1. By signing and submitting this Proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this class 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 recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom this Proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has 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 meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds 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 debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this Proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," 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 debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, 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 Procurement or Non-procurement 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 paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

Sec. 7.03 Attachment 3- Proposal Evaluation Form

All proposals will be reviewed for responsiveness and then evaluated using the criteria set out herein.

The total number of points used to score each proposal is 1000.

Person or Firm Name: _____

Initials of Proposal Evaluation (PEC) Member: _____

Date of Review: _____

RFP Number: _____

Evaluation Criteria and Scoring

The total number of points used to score this proposal is 1000

4.01 Understanding of the Project – 10% (100 points)

1) How well has the offeror demonstrated an understanding of the purpose and scope of the project?

Evaluator's Notes: _____

2) How well has the offeror identified pertinent issues and potential problems related to the project?

Evaluator's Notes: _____

3) To what degree has the offeror demonstrated an understanding of the deliverables the state expects it to provide?

Evaluator's Notes: _____

- 4) Has the offeror demonstrated an understanding of the state's time schedule and can they meet it?

Evaluator's Notes: _____

Evaluator's Point Total for 4.01: _____

4.02 Methodology – 10% (100 points)

- 1) How comprehensive is the methodology and does it depict a logical and achievable approach to fulfilling the requirements of the RFP?

Evaluator's Notes: _____

- 2) How well does the methodology match and achieve the objectives set out in the RFP?

Evaluator's Notes: _____

- 3) Does the methodology interface with the time schedule in the RFP?

Evaluator's Notes: _____

Evaluator's Point Total for 4.02: _____

4.03 Management Plan – 10% (100 points)

- 1) How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFP?

Evaluator's Notes: _____

2) How well is accountability completely and clearly defined?

Evaluator's Notes: _____

3) Is the organization of the project team clear?

Evaluator's Notes: _____

4) How well does the management team illustrate the lines of authority and communication?

Evaluator's Notes: _____

5) To what extent does the offeror already have the hardware, software, equipment, and licenses necessary to perform the contract?

Evaluator's Notes: _____

6) Does it appear that the offeror can meet the schedule set out in the RFP?

Evaluator's Notes: _____

7) Has the offeror gone beyond the minimum tasks necessary to meet the objectives of the RFP?

Evaluator's Notes: _____

8) To what degree is the proposal practical and feasible?

Evaluator's Notes: _____

9) To what extent has the offeror identified potential problems?

Evaluator's Notes: _____

Evaluator's Point Total for 4.02: _____

4.04 Experience and Qualifications – 20% (200 points)

Questions regarding the personnel:

1) Do the individuals assigned to the project have experience on similar projects?

Evaluator's Notes: _____

2) Are resumes complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires?

Evaluator's Notes: _____

3) How extensive is the applicable education and experience of the personnel designated to work on the project?

Evaluator's Notes: _____

Questions regarding the firm and subcontractor:

4) How well has the firm demonstrated experience in completing similar projects on time and within budget?

Evaluator's Notes: _____

5) How successful is the general history of the firm regarding timely and successful completion of projects?

Evaluator's Notes: _____

6) Has the firm provided letters of reference from previous clients?

Evaluator's Notes: _____

7) If a subcontractor will perform work on the contract, how well do they measure up to the evaluation used for the offeror?

Evaluator's Notes: _____

Evaluator's Point Total for 4.04: _____

Evaluator's Combined Point Total for Sections 4.01 - 4.04: _____

The total points possible for the combined sections 5.01 – 5.04 is 500.
The remaining 500 points are allocated to cost (400), and the Alaska offeror Preference (100).

Sec. 7.04 Attachment 4- Standard Agreement Form (with Appendices)

1. Agency Contract Number	2. Solicitation Number	3. Financial Coding	4. Agency Assigned Encumbrance Number
5. Vendor Number	6. Project/Case Number	7. Alaska Business License Number	
This contract is between the State of Alaska,			
8. Department of Health and Social Services		Division	hereafter the State, and
9. Contractor			
Mailing Address		Street or P.O. Box	City State ZIP+4
10. ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it. ARTICLE 2. Performance of Service: 2.1 Appendix A (General Provisions), Articles 1 through 16, governs the performance of services under this contract 2.2 Appendix B (Indemnity and Insurance) sets forth the liability and insurance provisions of this contract 2.3 Appendix C (Description of Services) sets forth the services to be performed by the Contractor 2.4 Appendix D (Payment for Services) sets forth the provision for payment 2.5 Appendix E (Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Business Associate Agreement) governs the use of Protected Health Information under this contract ARTICLE 3. Period of Performance: The period of performance for this contract begins _____, and ends on _____ ARTICLE 4. Considerations: 4.1 In full consideration of the Contractor's performance under this contract, the State shall pay the Contractor a sum not to exceed <u>\$0,000.00</u> in accordance with the provisions of Appendix D.			
11. Department of Health and Social Services		Attention: Contracts Support Team	
Mailing Address P.O. Box 110650, Juneau, Alaska 99811-0650		Attention: Contracts Section	
12. CONTRACTOR		14. CERTIFICATION	
Name of Firm		I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alterations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.	
Signature of Authorized Representative			
Date			
Typed or Printed Name of Authorized Representative			
Title			
13. CONTRACTING AGENCY		Signature of Head of Contracting Agency or Designee	
Department/Division Health & Social Services /		Date	
Signature of Project Director		Typed or Printed Name	
Date			
Typed or Printed Name of Project Director		Title	
Title			

Appendix A

General Provisions

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of a breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure:

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

Appendix B²

Indemnity and Insurance

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. “Contractor” and “Contracting agency”, as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in the Contracting agency’s selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor’s work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor will provide a letter stating that they work independently; therefore have no need to carry Workers Compensation coverage.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.4 Professional Liability Insurance: covering all errors, omissions or negligent acts in the performance of professional services under this agreement.

Limits required per the following schedule:

Contract Amount	Minimum Required Limits
Under \$100,000	\$ 300,000 per Claim / Annual Aggregate
\$ 100,000 - \$499,999	\$ 500,000 per Claim / Annual Aggregate
\$ 500,000 - \$999,999	\$1,000,000 per Claim / Annual Aggregate
\$ 1,000,000 or over	Refer to Risk Management

Appendix C

Description of Services

Should there be a conflict among documents. The following order of precedence shall govern the resolution of conflicts:

First, this contract document,

Second, the RFP,

Third, the proposal.

Appendix D

Payment for Services

Payment for services provided under this contract shall not exceed **\$0,000.00** for the period of performance of this contract.

The Contractor will submit detailed invoice(s) for services performed in accordance with Appendix C. The State will pay all invoices within thirty (30) days of invoice approval by the Project Director.

Each invoice must:

- reference the Contractor's name, address and phone number;
- reference the contract number;
- include an invoice number;
- itemize the contractual services provided during the period invoiced as described in Appendix C.

The Contractor shall submit invoices to the email address specified below no later than 30 days after the end of each month for which services were performed. Failure to include the required information on the invoice may cause an unavoidable delay to the payment process.

Email invoices to:

hss.fms.contracts.invoicing@alaska.gov

(please reference the contract number in the subject line)

Notwithstanding any other provision of this contract, it is understood and agreed that the State shall withhold payment at any time the Contractor fails to perform work as required under Appendix C and/or D of this contract.

Appendix E
State of Alaska, Department of Health & Social Services
Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Business Associate Agreement

This HIPAA Business Associate Agreement is between the State of Alaska, Department of Health and Social Services ("Covered Entity" or "CE") and Insert Vendor Name here ("Business Associate" or "BA").

RECITALS

Whereas,

- A. CE wishes to disclose certain information to BA, some of which may constitute Protected Health Information ("PHI");
- B. It is the goal of CE and BA to protect the privacy and provide for the security of PHI owned by CE that is disclosed to BA or accessed, received, stored, maintained, modified or retained by BA in compliance with HIPAA (42 U.S.C. 1320d – 3120d-8) and its implementing regulations at 45 C.F.R. 160 and 45 C.F.R. 164 (the "Privacy and Security Rule"), the Health Information Technology for Economic and Clinical Health Act of 2009 (P.L. 111-5) (the "HITECH Act"), and with other applicable laws;
- C. The purpose and goal of the HIPAA Business Associate Agreement ("BAA") is to satisfy certain standards and requirements of HIPAA, HITECH Act, and the Privacy and Security Rule, including but not limited to 45 C.F.R. 164.502(e) and 45 C.F.R. 164.504(e), as may be amended from time to time;
- D. CE may operate a drug and alcohol treatment program that must comply with the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 U.S.C. 290dd-2 and 42 C.F.R. Part 2 (collectively "Part 2"); and
- E. BA may be a Qualified Service Organization ("QSO") under Part 2 and therefore must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information.

Therefore, in consideration of mutual promises below and the exchange of information pursuant to the BAA, CE and BA agree as follows:

1. Definitions.

- a. General: As used in this BAA, the terms "Protected Health Information," "Health Care Operations," and other capitalized terms have the same meaning given to those terms by HIPAA, the HITECH Act and the Privacy and Security Rule. In the event of any conflict between the mandatory provisions of HIPAA, the HITECH Act or the Privacy and Security Rule, and the provisions of this BAA, HIPAA, the HITECH Act or the Privacy and Security Rule shall control. Where the provisions of this BAA differ from those mandated by HIPAA, the HITECH Act or the Privacy and Security Rule but are nonetheless permitted by HIPAA, the HITECH Act or the Privacy and Security Rule, the provisions of the BAA shall control.
- b. Specific:
 - 1) Business Associate: "Business Associate" or "BA" shall generally have the same meaning as the term "business associate" at 45 C.F.R. 160.103.
 - 2) Covered Entity: "Covered Entity" or "CE" shall have the same meaning as the term "covered entity" at 45 C.F.R. 160.103.

- 3) Privacy and Security Rule: “Privacy and Security Rule” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.
2. Permitted Uses and Disclosures by Business Associate.
- a. BA may only use or disclose PHI for the following purposes:
 - b. BA may use or disclose PHI as required by law.
 - c. BA agrees to make uses and disclosures and requests for PHI consistent with CE’s minimum necessary policies and procedures.
 - d. BA may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by CE, except for the specific uses and disclosures set out below.
 - e. BA may disclose PHI for the proper management and administration of BA or to carry out the legal responsibilities of BA, provided the disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified BA of any instances of which it is aware in which the confidentiality of the information has been breached.
 - f. BA may provide data aggregation services related to the health care operations of CE.
3. Obligations of Business Associate.
- a. Permitted uses and disclosures: BA may only use and disclose PHI owned by the CE that it creates, receives, maintains, or transmits if the use or disclosure is in compliance with each applicable requirement of 45 C.F.R. 164.504(e) of the Privacy Rule or this BAA. The additional requirements of Subtitle D of the HITECH Act contained in Public Law 111-5 that relate to privacy and that are made applicable with respect to Covered Entities shall also be applicable to BA and are incorporated into this BAA.

To the extent that BA discloses CE’s PHI to a subcontractor, BA must obtain, prior to making any such disclosure: (1) reasonable assurances from the subcontractor that it will agree to the same restrictions, conditions, and requirements that apply to the BA with respect to such information; and (2) an agreement from the subcontractor to notify BA of any Breach of confidentiality, or security incident, within two business days of when it becomes aware of such Breach or incident.
 - b. Safeguards: 45 C.F.R. 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), and 164.316 (policies, procedures and documentation requirements) shall apply to BA in the same manner that such sections apply to CE, and shall be implemented in accordance with HIPAA, the HITECH Act, and the Privacy and Security Rule. The additional requirements of Title XIII of the HITECH Act contained in Public Law 111-5 that relate to security and that are made applicable to Covered Entities shall also apply to BA and are incorporated into this BAA.

Unless CE agrees in writing that this requirement is infeasible with respect to certain data, BA shall secure all paper and electronic PHI by encryption or destruction such that the PHI is rendered unusable, unreadable or indecipherable to unauthorized individuals; or secure paper, film and electronic PHI in a manner that is consistent with guidance issued by the Secretary of the United States Department of Health and Human Services specifying the technologies and methodologies that render PHI unusable, unreadable or indecipherable to unauthorized individuals, including the use of standards developed under Section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by Section 13101 of the HITECH Act contained in Public Law 111-5.

BA shall not use personally owned devices to create, receive, maintain or transmit PHI. Devices the BA uses to create, receive, maintain or transmit CE's electronic PHI shall be owned and managed by BA or CE.

BA shall patch its operating system and all applications within two weeks of the release of any patch. BA shall keep its antivirus and antimalware installed and active. BA shall limit its use of administrative accounts for IT operations only.

- c. Reporting Unauthorized Disclosures and Breaches: During the term of this BAA, BA shall notify CE within 24 hours of discovering a Breach of security; intrusion; or unauthorized acquisition, access, use or disclosure of CE's PHI in violation of any applicable federal or state law, including security incidents. BA shall identify for the CE the individuals whose unsecured PHI has been, or is reasonably believed to have been, Breached so that CE can comply with any notification requirements if necessary. BA shall also indicate whether the PHI subject to the Breach; intrusion; or unauthorized acquisition, access, use or disclosure was encrypted or destroyed at the time. BA shall take prompt corrective action to cure any deficiencies that result in Breaches of security; intrusion; or unauthorized acquisition, access, use, and disclosure. BA shall fulfill all breach notice requirements unless CE notifies BA that CE will take over the notice requirements. BA shall reimburse CE for all costs incurred by CE that are associated with any mitigation, investigation and notice of Breach CE undertakes or provides under HIPAA, HITECH Act, and the Privacy and Security Rule as a result of a Breach of CE's PHI caused by BA or BA's subcontractor or agent.

If the unauthorized acquisition, access, use or disclosure of CE's PHI involves only Secured PHI, BA shall notify CE within 10 days of discovering the Breach but is not required to notify CE of the names of the individuals affected.

- d. BA is not an agent of CE.
- e. BA's Agents: If BA uses a subcontractor or agent to provide services under this BAA, and the subcontractor or agent creates, receives, maintains, or transmits CE's PHI, the subcontractor or agent shall sign an agreement with BA containing substantially the same provisions as this BAA and further identifying CE as a third-party beneficiary with rights of enforcement and indemnification from the subcontractor or agent in the event of any violation of the subcontractor or agent agreement. BA shall mitigate the effects of any violation of that agreement.
- f. Availability of Information to CE: Within 15 days after the date of a written request by CE, BA shall provide any information necessary to fulfill CE's obligations to provide access to PHI under HIPAA, the HITECH Act, or the Privacy and Security Rule.
- g. Accountability of Disclosures: If BA is required by HIPAA, the HITECH Act, or the Privacy or Security Rule to document a disclosure of PHI, BA shall make that documentation. If CE is required to document a disclosure of PHI made by BA, BA shall assist CE in documenting disclosures of PHI made by BA so that CE may respond to a request for an accounting in accordance with HIPAA, the HITECH Act, and the Privacy and Security Rule. Accounting records shall include the date of the disclosure, the name and if known, the address of the recipient of the PHI, the name of the individual who is subject of the PHI, a brief description of the PHI disclosed and the purpose of the disclosure. Within 15 days of a written request by CE, BA shall make the accounting record available to CE.
- h. Amendment of PHI: Within 30 days of a written request by CE or an individual, BA shall amend PHI maintained, transmitted, created or received by BA on behalf of CE as directed by CE or the individual when required by HIPAA, the HITECH Act or the Privacy and Security Rule, or take other measures as necessary to satisfy CE's obligations under 45 C.F.R. 164.526.

- i. Internal Practices: BA shall make its internal practices, books and records relating to the use and disclosure of CE's PHI available to CE and all appropriate federal agencies to determine CE's and BA's compliance with HIPAA, the HITECH Act and the Privacy and Security Rule.
- j. Risk Assessment: BA shall biennially conduct a thorough assessment of the potential risks to and vulnerabilities of the confidentiality, integrity, and availability of CE's PHI that BA receives, stores, transmits, or has access to. BA shall provide CE, upon request, with a written report detailing the results of the risk assessment within 5 days.
- k. To the extent BA is to carry out one or more of CE's obligations under Subpart E of 45 C.F.R. Part 164, BA must comply with the requirements of that Subpart that apply to CE in the performance of such obligations.
- l. Audits, Inspection and Enforcement: CE may, after providing reasonable notice to the BA, conduct an inspection of the facilities, systems, books, logs and records of BA that relate to BA's use of CE's PHI, including inspecting logs showing the creation, modification, viewing, and deleting of PHI at BA's level. Failure by CE to inspect does not waive any rights of the CE or relieve BA of its responsibility to comply with this BAA. CE's failure to detect or failure to require remediation does not constitute acceptance of any practice or waive any rights of CE to enforce this BAA.

Notwithstanding BA's obligation to report under paragraph 3.c of this BAA, BA shall provide a monthly report to CE detailing the unauthorized, or reasonable belief of unauthorized, acquisition, access, use, or disclosure of CE's PHI, including any unauthorized creation, modification, or destruction of PHI and unauthorized login attempts. BA shall include privileged and nonprivileged accounts in its audit and report, indicating the unique individual using the privileged account. BA shall also indicate whether CE's PHI subject to unauthorized activity was encrypted or destroyed at the time of the unauthorized activity.

BA shall provide a yearly report to CE that lists the names of all individuals with technical or physical access to CE's PHI and the scope of that access.

- m. Restrictions and Confidential Communications: Within 10 business days of notice by CE of a restriction upon use or disclosure or request for confidential communications pursuant to 45 C.F.R.164.522, BA shall restrict the use or disclosure of an individual's PHI. BA may not respond directly to an individual's request to restrict the use or disclosure of PHI or to send all communication of PHI to an alternate address. BA shall refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to the BA.
 - n. Indemnification: BA shall indemnify and hold harmless CE for any civil or criminal monetary penalty or fine imposed on CE for acts or omissions in violation of HIPAA, the HITECH Act, or the Privacy or Security Rule that are committed by BA, a member of its workforce, its agent, or its subcontractor.
4. Obligations of CE. CE will be responsible for using legally appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to BA under the BAA until the PHI is received by BA. CE will not request BA to use or disclose PHI in any manner that would not be permissible under HIPAA, the HITECH Act or the Privacy and Security Rule if done by CE.
5. Termination.
- a. Breach: A breach of a material term of the BAA by BA that is not cured within a reasonable period of time will provide grounds for the immediate termination of the contract.
 - b. Reasonable Steps to Cure: In accordance with 45 C.F.R. 164.504(e)(1)(ii), CE and BA agree that, if it knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other

party's obligation under the BAA, the nonbreaching party will take reasonable steps to get the breaching party to cure the breach or end the violation and, if the steps taken are unsuccessful, terminate the BAA if feasible, and if not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services.

- c. Effect of Termination: Upon termination of the contract, BA will, at the direction of the CE, either return or destroy all PHI received from CE or created, maintained, or transmitted on CE's behalf by BA in any form. Unless otherwise directed, BA is prohibited from retaining any copies of PHI received from CE or created, maintained, or transmitted by BA on behalf of CE. If destruction or return of PHI is not feasible, BA must continue to extend the protections of this BAA to PHI and limit the further use and disclosure of the PHI. The obligations in this BAA shall continue until all of the PHI provided by CE to BA is either destroyed or returned to CE.
6. Amendment. The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving, and that the parties may be required to further amend this BAA to ensure compliance with applicable changes in law. Upon receipt of a notification from CE that an applicable change in law affecting this BAA has occurred, BA will promptly agree to enter into negotiations with CE to amend this BAA to ensure compliance with changes in law.
7. Ownership of PHI. For purposes of this BAA, CE owns the data that contains the PHI it transmits to BA or that BA receives, creates, maintains or transmits on behalf of CE.
8. Litigation Assistance. Except when it would constitute a direct conflict of interest for BA, BA will make itself available to assist CE in any administrative or judicial proceeding by testifying as witness as to an alleged violation of HIPAA, the HITECH Act, the Privacy or Security Rule, or other law relating to security or privacy.
9. Regulatory References. Any reference in this BAA to federal or state law means the section that is in effect or as amended.
10. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy and Security Rule and applicable state and federal laws. The parties agree that any ambiguity in BAA will be resolved in favor of a meaning that permits the CE to comply with and be consistent with HIPAA, the HITECH Act, and the Privacy and Security Rule. The parties further agree that where this BAA conflicts with a contemporaneously executed confidentiality agreement between the parties, this BAA controls.
11. No Private Right of Action Created. This BAA does not create any right of action or benefits for individuals whose PHI is disclosed in violation of HIPAA, the HITECH Act, the Privacy and Security Rule or other law relating to security or privacy.
12. Privacy and Security Point of Contact. All communications occurring because of this BAA shall be sent to HSS-Security@alaska.gov in addition to the CE.

In witness thereof, the parties hereto have duly executed this BAA as of the effective date.