

STATE OF ALASKA INFORMAL REQUEST FOR PROPOSALS



COMPLEX CARE SUPPORT FUND ADMINISTRATION

IRFP 1626-023

ISSUED JANUARY 23, 2026

THE STATE OF ALASKA DEPARTMENT OF HEALTH, DIVISION OF BEHAVIORAL HEALTH IS SEEKING A CONTRACTOR TO ADMINISTER DISBURSEMENTS UNDER THE COMPLEX CARE SUPPORT FUNDS (CCSF). THE CONTRACTOR WILL BE RESPONSIBLE FOR DISBURSING FUNDS DIRECTLY TO CCSF AWARD RECIPIENTS AND SERVICE VENDORS, MAINTAINING FINANCIAL RECORDS AND REPORTING, AND COLLABORATING WITH THE DIVISION TO SUPPORT THE PROGRAM'S OPERATION.

ISSUED BY:

DEPARTMENT OF HEALTH
DIVISION OF BEHAVIORAL HEALTH

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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 NOTIFICATION OF SUBSEQUENT AMENDMENTS. FAILURE TO CONTACT THE PROCUREMENT OFFICER MAY RESULT IN THE REJECTION OF YOUR OFFER.

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SECTION 1. INTRODUCTION & INSTRUCTIONS

SEC. 1.01 PURPOSE OF THE IRFP

The Department of Health, Division of Behavioral Health, is soliciting proposals for a contractor to administer disbursements under the Complex Care Support Funds (CCSF) program. This initiative is designed to support individuals with complex behavioral needs by providing flexible funding for a broad range of services. The selected contractor will be responsible for disbursing funds directly to CCSF award recipients and service vendors, maintaining financial records and reporting, and collaborating with the Division of Behavioral Health to support the program's operation.

SEC. 1.02 BUDGET

Department of Health, Division of Behavioral Health, estimates a budget of \$37,500.00 for completion of this project, including renewal options. Proposals priced at more than \$37,500.00 will be considered non-responsive.

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

SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS

Proposals must be received no later than **2:00 PM** prevailing Alaska Time on **February 13, 2026**. Late proposals or amendments will be disqualified and not opened or accepted for evaluation.

SEC. 1.04 MANDATORY REQUIREMENTS

To be considered responsive for this IRFP, an offeror must meet the mandatory minimum experience requirements that are provided in **Submittal Form C – Mandatory Requirements**. Failure to meet all these requirements will result in immediate disqualification.

SEC. 1.05 REQUIRED REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material should be made in writing and received by the procurement officer prior to 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 proposal and exposure of the offeror's proposals upon which award cannot be made.

SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the IRFP. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the IRFP. The procurement officer will make that decision.

SEC. 1.07 RETURN INSTRUCTIONS

Offerors must submit their proposals via email. The technical proposal and cost proposal must be saved as separate documents and emailed to doh.procurement.proposals@alaska.gov as separate, clearly labeled attachments. The email must contain the IRFP number in the subject line.

The maximum size of a single email (including all text and attachments) that can be received by the state is 25mb (megabytes). If the email containing the proposal exceeds this size, the proposal must be sent in multiple emails that are each less than 25 megabytes.

Please note that email transmission is not instantaneous. Similar to sending a hard copy proposal, if you are emailing your proposal, the State recommends sending it ahead of time to ensure the email is delivered by the deadline for receipt of proposals.

It is the offeror's responsibility to contact the above email address to confirm that the proposal has been received. The State is not responsible for unreadable, corrupt, or missing attachments.

SEC. 1.08 ASSISTANCE TO OFFERORS WITH A DISABILITY

Offerors with a disability may receive accommodation regarding the means of communicating this IRFP 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. 1.09 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. 1.10 AMENDMENTS TO THE IRFP

If an amendment is issued, it will be provided to all who were notified of the IRFP and to those who have registered with the procurement officer after receiving the IRFP from the State of Alaska Online Public Notice website.

SEC. 1.11 IRFP SCHEDULE

The IRFP 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 accordingly. All times are Alaska Time.

ACTIVITY	TIME	DATE
Issue Date / IRFP Released		01/23/2026
Deadline to Submit Questions		02/03/2026
Deadline for Receipt of Proposals / Proposal Due Date	2:00 PM	02/13/2026
Proposal Evaluations Complete		2/17/2026
Notice of Award		2/17/2026
Contract Issued		3/1/2026

This IRFP 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, 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. 1.12 ALTERNATE PROPOSALS

Offerors may only submit one proposal for evaluation. In accordance with 2 AAC 12.830 alternate proposals (proposals that offer something different than what is asked for) will be rejected.

SECTION 2. BACKGROUND INFORMATION

SEC. 2.01 BACKGROUND INFORMATION

The State of Alaska recognizes that some individuals interact with multiple State agencies – such as the Division of Juvenile Justice, Office of Children’s Services, Division of Behavioral Health, Department of Corrections – due to complex behavioral health and social needs. These individuals often face significant barriers to living in the least restrictive setting of their choice and may require services or support that fall outside of existing funding streams. To address this gap, the Department of Health (DOH), Division of Behavioral Health (DBH), established the Complex Care Support Finds (CCSF) program. This initiative is designed to provide flexible, last resort funding for both youth and adults with complex needs when all other funding options have been exhausted.

Launched in state fiscal year 2026, CCSF is managed by DBH, which is responsible for receiving, reviewing, and approving funding requests. However, DBH requires a mechanism to efficiently disburse approved funds, either as one-time or recurring payments, to award recipients and service vendors. This project seeks to establish that mechanism through a contracted fiscal agent.

SECTION 3. SCOPE OF WORK & CONTRACT INFORMATION

SEC. 3.01 GOALS & OBJECTIVES

The primary goal of CCSF is to help individuals transition to or remain in the least restrictive setting possible and to avoid unnecessary institutionalization or repeated cycling through high-level care settings. Eligible uses of CCSF include, but are not limited to:

- A. Transitional levels of care.
- B. Institutional discharge planning.
- C. Provider consultation and / or training for specialized needs.
- D. Transportation to access or return from treatment.
- E. Acuity rate enhancements for providers.

The primary objective of this project is to ensure the timely and accurate disbursement of funds awarded through the Complex Care Support Fund program, administered by the Division of Behavioral Health. The contractor will act as a pass-through entity and fiscal agent, facilitating the flow of funds to eligible recipients and service providers. Anticipated outcomes include efficient fund distribution, fiscal accountability, and ensuring that individuals with complex behavioral health needs receive timely access to services funded through CCSF.

SEC. 3.02 SCOPE OF WORK & DELIVERABLES

The Department of Health, Division of Behavioral Health, is soliciting proposals for a contractor to ensure timely and accurate disbursement of funds awarded through the Complex Care Support Funds program. The contractor shall provide administrative and financial management services to support the disbursement of funds to CCSF award recipients and service providers. This includes:

1. Coordination with the Division of Behavioral Health
2. Direct interaction with recipients and service vendors.
3. Timely disbursement of funds.
4. Documentation collection.
5. Maintenance of accurate records.

DBH has budgeted up to \$250,000.00 per year for the CCSF program. The expected volume of fund requests is not expected to exceed thirty-six (36) requests per year, or three (3) requests per month. The contractor will receive quarterly payments to cover fund requests.

The contractor will be responsible for the following:

1. **Coordination with DBH Staff** – The contractor will respond to all communications and requests from DBH staff within one (1) business day and will collaborate to ensure smooth administration of the CCSF program.
2. **Disbursement of Funds** – The contractor will disburse funds directly to award recipients and service vendors in accordance with the terms of each funding award. The contractor will ensure timelines and accuracy in all financial transactions. Disbursements are to be made within five (5) business days of receipt of request.

3. **Oversight and Management** – The contractor will monitor the use of funds to ensure alignment with intended purposes. The contractor will identify and report any discrepancies or concerns regarding fund usage.
4. **Record Maintenance** - The contractor will maintain complete and accurate financial records for all transactions. The contractor will collect and archive receipts or other documentation verifying services rendered.
5. **Outcome Reporting** – The contractor will compile and submit quarterly reports on outcome data as required by each funding award. The contractor will ensure data is accurate, timely, and formatted according to program standards.
6. **Financial Accounting** – Upon request, the contractor will provide a balance sheet detailing funds disbursed, pending disbursements, and available funds year-to-date.

SEC. 3.03 CONTRACT TERM AND WORK SCHEDULE

The length of the contract will be from the date of award, approximately March 1, 2026, through June 30, 2026, with the option to renew for two (2) additional one-year terms under the same terms and conditions as the original contract. Renewals will be exercised at the sole discretion of the state.

Any extension of the contract beyond the exercised renewal options will be upon mutual agreement between the State and the contractor and effected with a contract amendment processed by the procurement officer and signed by both parties. All other terms and conditions of the contract, including those previously amended, shall remain in full force and effect. Unless otherwise agreed to by both parties, the procurement officer will provide written notice to the contractor of the intent to cancel an extension at least 30 days before the desired date of cancellation.

SEC. 3.04 CONTRACT TYPE

This contract is a firm fixed price contract.

SEC. 3.05 PAYMENT PROCEDURES

The state will make payments based on a regular payment schedule. 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. 3.06 CONTRACT PAYMENT

No payment will be made until the contract is approved by the Commissioner of the Department of Health 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. 3.07 LOCATION OF WORK

The location(s) the work is to be performed, completed and managed by the contractor.

The State will not provide workspace for the contractor. The contractor must provide its own workspace.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor 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 submit a request, set out in a separate document in their proposal, that provides a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason that is necessary.

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. 3.08 SUBCONTRACTORS

Subcontractors will not be allowed.

SEC. 3.09 JOINT VENTURES

Joint ventures will not be allowed.

SEC. 3.10 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. 3.11 CONTRACT PERSONNEL

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

SEC. 3.12 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. 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).

Additional information that the contractor shall hold as confidential during the performance of services under this contract includes:

1. Names of award recipients
2. Services funded

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 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. 3.13 INDEMNIFICATION

The contractor shall indemnify, hold harmless, and defend the state from and against any third-party 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 state. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the state, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "state", 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.

SEC. 3.14 INSURANCE REQUIREMENTS

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.

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

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.

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.

SEC. 3.15 TERMINATION FOR DEFAULT

If the project director or procurement officer 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 of Appendix A, attached in **SECTION 7. ATTACHMENTS**.

SECTION 4. PROPOSAL FORMAT AND CONTENT

SEC. 4.01 IRFP SUBMITTAL FORMS

This IRFP contains Submittal Forms, which must be completed by the offeror and submitted as their proposal. An electronic copy of the forms is posted along with this IRFP. Offerors shall not re-create these forms, create their own forms, or edit the format structure of the forms unless permitted to do so.

Unless otherwise specified in this IRFP, the Submittal Forms shall be the offeror's entire proposal. Do not include any marketing information in the proposal.

Any proposal that does not follow these requirements may be deemed non-responsive and rejected.

SEC. 4.02 SPECIAL FORMATTING REQUIREMENTS

The offeror must ensure that their proposal meets all special formatting requirements identified in this section.

Documents and Text: All attachment documents must be written in the English language, be single sided, and be single spaced with a minimum font size of 10. Pictures or graphics may be used if the offeror feels it is necessary to communicate their information, however, be aware of the requirements for page limits below.

Page Limits: Some Submittal Forms listed below have maximum page limit requirements. Offerors must not exceed the maximum page limits. Note, the page limit applies to the front side of a page only (for example, '1 Page' implies that the offeror can only provide a response on one side of a piece of paper).

Submittal Form	Maximum Page Limits
Submittal Form A – Offeror Information and Certifications	N/A
Submittal Form B – Experience and Qualifications	3
Submittal Form C – Contract Plan	3
Submittal Form D – Mandatory Requirements	N/A
Submittal Form E – Cost Proposal	N/A

Any Submittal Form that is being evaluated and does not follow these instructions may receive a '1' score for the evaluated Submittal Form, or the entire response may be deemed non-responsive and rejected. Failure to submit any of the Submittal Forms will result in the proposal being deemed non-responsive and rejected.

SEC. 4.03 OFFEROR INFORMATION AND CERTIFICATIONS (SUBMITTAL FORM A)

The offeror must complete and submit this Submittal Form. The form must be signed by an individual authorized to bind the offeror to the provisions of the IRFP.

By signature on the form, the offeror certifies they comply with the items listed in the Certifications section of the Submittal Form. If the offeror fails to comply with these items, the state reserves the right to disregard the proposal, consider the contractor in default, or terminate the contract.

The Submittal Form also requests the following information:

- a) The complete name and address of offeror's firm along with the offeror's Tax ID.

- b) Information on the person the state should contact regarding the proposal.
- c) Names of critical team members/personnel.
- d) Addenda acknowledgement.
- e) Conflict of interest statement.
- f) Federal requirements.
- g) Alaska preference qualifications.

An offeror's failure to provide this information may cause the proposal to be determined to non-responsive and rejected.

SEC. 4.04 EXPERIENCE AND QUALIFICATIONS (SUBMITTAL FORM B)

Offerors must provide detail on their specific experience managing pass-through funds, including disbursement of funds to recipients and service vendors, collection of receipts or other supporting documentation, maintaining accounting records, and providing financial and outcome reports.

Offerors must also provide details on the primary project manager's specific experience in projects of a similar nature along with the directly related experience of the overall project team identified in Submittal Form A.

Finally, offerors must provide a description of the organization of the project team and the individual(s) responsible and accountable for the completion of each component and deliverable of the IRFP.

SPECIAL NOTE: The offeror shall not disclose their costs in this Submittal Form. This Submittal Form cannot exceed the page limit (as described in Section 4.02).

SEC. 4.05 CONTRACT PLAN (SUBMITTAL FORM C)

Offerors must provide details that demonstrate their understanding of the requirements of the project and how to meet the state's needs.

Offerors must provide details that demonstrate the management plan they intend to follow in addition to the methods they will employ to accomplish the work and meet the State's needs.

SPECIAL NOTE: The offeror shall not disclose their costs in this Submittal Form. This Submittal Form cannot exceed the page limit (as described in Section 4.02).

SEC. 4.06 MANDATORY REQUIREMENTS (SUBMITTAL FORM D)

Offerors must complete and submit this Submittal Form.

SEC. 4.07 COST PROPOSAL (SUBMITTAL FORM E)

Offerors must complete and submit this Submittal Form.

SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION

SEC. 5.01 SUMMARY OF EVALUATION PROCESS

The state will use the following steps to evaluate and prioritize proposals:

- 1) Proposals will be assessed for overall responsiveness. Proposals deemed non-responsive will be eliminated from further consideration.
- 2) A proposal evaluation committee (PEC), made up of at least three state employees or public officials, will evaluate specific parts of the responsive proposals.
- 3) The Submittal Forms, from each responsive proposal, will be sent to the PEC. No cost information will be shared or provided to the PEC.
- 4) The PEC will independently evaluate and score the documents based on the degree to which they meet the stated evaluation criteria.
- 5) After independent scoring, the PEC will have a meeting, chaired by the procurement officer, where the PEC may have a group discussion prior to finalizing their scores.
- 6) The evaluators will submit their final individual scores to the procurement officer, who will then compile the scores and calculate awarded points as set out in Section 5.03.
- 7) The procurement officer will calculate scores for cost proposals as set out in Section 5.08 and add those scores to the awarded points along with factoring in any Alaska preferences.
- 8) The procurement officer may ask for best and final offers from offerors susceptible for award and revise the cost scores accordingly.
- 9) The state will then conduct any necessary negotiations with the highest scoring offeror and award a contract if the negotiations are successful.

SEC. 5.02 EVALUATION CRITERIA

Proposals will be evaluated based on their overall value to state, considering both cost and non-cost factors as described below. Note: 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.

Overall Criteria	Weight
Responsiveness	Pass/Fail
Mandatory Requirements Compliance (Submittal Form D)	

Qualifications Criteria	Weight
Experience and Qualifications	(Submittal Form B)
Contract Plan	(Submittal Form C)
	Total
	500

Cost Criteria	Weight
Cost Proposal	(Submittal Form E)
	Total
	400

Preference Criteria	Weight
Alaska Offeror Preference (if applicable)	100
Total	100

TOTAL EVALUATION POINTS AVAILABLE: 1000

SEC. 5.03 SCORING METHOD AND CALCULATION

The PEC will evaluate responses against the questions set out in Sections 5.04 through 5.07 and assign a single score for each section. Offerors' responses for each section may be rated comparatively against one another with each PEC member assigning a score of 1, 5, or 10 (with 10 representing the highest score, 5 representing the average score, and 1 representing the lowest score). Responses that are similar or lack dominant information to differentiate the offerors from each other will receive the same score. Therefore, it is the offeror's responsibility to provide dominant information and differentiate themselves from their competitors.

After the PEC has scored each section, the scores for each section will be totaled and the following formula will be used to calculate the amount of points awarded for that section:

- 1) Maximum Points Available / Maximum Combined PEC Score Possible
- 2) Combined PEC Score x Result of 1)

Example (Maximum Points Available for the Section = 100):

	PEC Member 1 Score	PEC Member 2 Score	PEC Member 3 Score	PEC Member 4 Score	Combined Total Score	Points Awarded
Offeror 1	10	5	5	10	30	75
Offeror 2	5	5	5	5	20	50
Offeror 3	10	10	10	10	40	100

Offeror 1 was awarded 75 points:

$$\frac{\text{Maximum Points Available (100)}}{\text{Maximum Combined PEC Score Possible (40)}} = 2.5$$

Combined PEC Score (30) x 2.5 = Points Awarded (75)

Offeror 2 was awarded 50 points:

$$\frac{\text{Maximum Points Available (100)}}{\text{Maximum Combined PEC Score Possible (40)}} = 2.5$$

Combined PEC Score (20) x 2.5 = Points Awarded (50)

Offeror 3 was awarded 100 points:

Maximum Points Available (100) _____ = 2.5

Maximum Combined PEC Score Possible (40)

Combined PEC Score (40) x 2.5 = Points Awarded (100)

SEC. 5.04 EXPERIENCE AND QUALIFICATIONS

This portion of the offeror's proposal will be evaluated against the following questions:

- 1) How well did the offeror detail their specific experience in managing pass-through funds, including disbursement of funds to recipients and service vendors, collection of receipts or other supporting documentation, maintaining accounting records, and providing financial and outcome reports
- 2) How well did the offeror detail the primary project manager's experience in projects of a similar nature and the directly related experience of the overall project team?
- 3) How did the offeror describe the organization of the project team and the individual(s) responsible for and accountable for the completion of each component and deliverable of the IRFP?

SEC. 5.05 CONTRACT PLAN

This portion of the offeror's proposal will be evaluated against the following questions:

- 1) How well did the offeror demonstrate their understanding of the project requirements and how to meet the state's needs?
- 2) How well did the offeror demonstrate the management plan they intend to follow in addition to the methods they will employ to accomplish the work and meet the State's needs.

SEC. 5.06 CONTRACT COST (COST PROPOSAL)

Overall, a minimum of 40% of the total evaluation points will be assigned to cost. After the procurement officer applies any applicable preferences, the offeror with the lowest total cost will receive the maximum number of points allocated to cost per 2 AAC 12.260(c). The point allocations for cost on the other proposals will be determined using the following formula:

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

Example (Max Points for Contract Cost = 400):

Step 1

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

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

Step 2

In this example, the IRFP allotted 40% of the available 1,000 points to cost. This means that the lowest cost will receive the maximum number of points.

Offeror #1 receives 400 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, 400 points.

Offeror #2 receives 374.3 points.

$\$40,000 \text{ lowest cost} \times 400 \text{ maximum points for cost} = 16,000,000 \div \$42,750 \text{ cost of Offeror #2's proposal} = 374.3$

Offeror #3 receives 336.8 points.

$\$40,000 \text{ lowest cost} \times 400 \text{ maximum points for cost} = 16,000,000 \div \$47,500 \text{ cost of Offeror #3's proposal} = 336.8$

SEC. 5.07 APPLICATION OF PREFERENCES

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

<http://doa.alaska.gov/dgs/pdf/pref1.pdf>

- 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.**

SEC. 5.08 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 Certification Form

In order to receive the Alaska Bidder Preference, the proposal must include the Alaska Bidder Preference Certification Form attached to this IRFP. An offeror does not need to complete the Alaska Veteran Preference questions on the form if not claiming the Alaska Veteran Preference. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 5.09 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.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

Alaska Veteran Preference Certification

In order to receive the Alaska Veteran Preference, the proposal must include the Alaska Bidder Preference Certification Form attached to this IRFP. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 5.10 ALASKA OFFEROR PREFERENCE

Per 2 AAC 12.260, 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, which will be added to the offeror's overall evaluation score.

Example:

Step 1

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

1000 Total Points Available in IRFP x 10% Alaska Offeror preference = 100 Points for the preference

Step 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska Offeror preference. For the purpose of this example, presume that all proposals have been completely evaluated based on the evaluation criteria in the IRFP. The scores at this point are:

Offeror #1	830 points	No Preference	0 points
Offeror #2	740 points	Alaska Offeror Preference	100 points
Offeror #3	800 points	Alaska Offeror Preference	100 points

Step 3

Add the applicable Alaska Offeror preference amounts to the offerors' scores:

Offeror #1	830 points
Offeror #2	840 points (740 points + 100 points)
Offeror #3	900 points (800 points + 100 points)

Offeror #3 is the top scoring offeror.

SEC. 5.11 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation, the procurement officer will issue a written Notice of Award and send copies of that notice to all offerors who submitted proposals. The notice will list the names of all offerors and identify the offeror selected for award.

SECTION 6. GENERAL PROCESS AND LEGAL INFORMATION

SEC. 6.01 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 Preference 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** for information on these licenses. Acceptable evidence that the offeror possesses a valid Alaska business license may consist of any one of the following:

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

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

SEC. 6.02 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign the state's Standard Agreement Form for Professional Services **OR** Standard Contract Form for Goods and Non-Professional Services. This form is attached with the IRFP for your review. The contractor must comply with the Appendix A contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law, and the state reserves the right to reject a proposal that is non-compliant or takes exception with the contract terms and conditions stated in the Agreement. Any requests to change language in this document (adjust, modify, add, delete, etc.), must be set out in the offeror's proposal in a separate document. Please include the following information with any change that you are proposing:

- 1) Identify the provision that the offeror takes exception with.
- 2) Identify why the provision is unjust, unreasonable, etc.

- 3) Identify exactly what suggested changes should be made.

SEC. 6.03 QUALIFIED OFFERORS

Per 2 AAC 12.875, unless provided for otherwise in the IRFP, to qualify as an offeror for award of a contract issued under AS 36.30, the offeror must:

- 1) Add value in the contract by actually performing, controlling, managing, or supervising the services to be provided; or
- 2) Be in the business of selling and have actually sold on a regular basis the supplies that are the subject of the IRFP.

If the offeror leases services or supplies or acts as a broker or agency in providing the services or supplies in order to meet these requirements, the procurement officer may not accept the offeror as a qualified offeror under AS 36.30.

SEC. 6.04 PROPOSAL AS PART OF THE CONTRACT

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

SEC. 6.05 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 IRFP and will not affect the proposal evaluations.

SEC. 6.06 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: <https://www.state.gov/trafficking-in-persons-report/>

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

SEC. 6.07 RIGHT OF REJECTION

Offerors must comply with all of the terms of the IRFP, 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 IRFP.

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 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 IRFP;

- 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;

may be waived by the procurement officer.

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. 6.08 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. 6.09 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 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 Award is issued.

SEC. 6.10 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. 6.11 DISPUTES

A contract resulting from this IRFP 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. 6.12 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. 6.13 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with Section 6.08 Right of Rejection. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this IRFP or that diminish the state's rights under any contract resulting from the IRFP, 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 IRFP, the term or condition of the IRFP 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. 6.14 SOLICITATION ADVERTISING

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

SEC. 6.15 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 make site inspection.

SEC. 6.16 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. 6.17 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 IRFP and proposal. Discussions will be limited to specific sections of the IRFP 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. 6.18 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 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. 6.19 FEDERALLY IMPOSED TARIFFS

Changes in price (increase or decrease) resulting directly from a new or updated federal tariff, excise tax, or duty, imposed after contract award may be adjusted during the contract period or before delivery into the United States via contract amendment.

- **Notification of Changes:** The contractor must promptly notify the procurement officer in writing of any new, increased, or decreased federal excise tax or duty that may result in either an increase or decrease in the contract price and shall take appropriate action as directed by the procurement officer.
- **After-imposed or Increased Taxes and Duties:** Any federal excise tax or duty for goods or services covered by this contract that was exempted or excluded on the contract award date but later imposed on the contractor during the contract period, as the result of legislative, judicial, or administrative action may result in a price increase provided:
 - a) The tax or duty takes effect after the contract award date and isn't otherwise addressed by the contract;
 - b) The contractor warrants, in writing, that no amount of the newly imposed federal excise tax or duty or rate increase was included in the contract price, as a contingency or otherwise.
- **After-relieved or Decreased Taxes and Duties:** The contract price shall be decreased by the amount of any decrease in federal excise tax or duty for goods or services under the contract, except social security or other employment taxes, that the contractor is required to pay or bear, or does not obtain a refund of, through the contractor's fault, negligence, or failure to follow instructions of the procurement officer.
- **State's Ability to Make Changes:** The state reserves the right to request verification of federal excise tax or duty amounts on goods or services covered by this contract and increase or decrease the contract price accordingly.
- **Price Change Threshold:** No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

SEC. 6.20 PROTEST

2 AAC 12.695 provides that an interested party may protest the content of the IRFP or the award of a contract.

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 the issuance of a contract solicitation, the award of a contract, or the failure to award a contract.”

Per 2 AAC 12.695, an interested party must first attempt to informally resolve the dispute with the procurement officer. If that attempt is unsuccessful, the interested party may file a written protest to the solicitation or the award of the contract. The protest must be filed with the Commissioner of the purchasing agency or the Commissioner's designee. The protester must also file a copy of the protest with the procurement officer. The protest 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.

If an interested party wishes to protest the content of a solicitation, the protest must be filed before the date and time that proposals are due.

If an offeror wishes to protest the award of a contract not greater than \$50,000, the protest must be filed within 10 days from the date of the solicitation or award, whichever is later.

If an offeror wishes to protest the award of a contract greater than \$50,000, the protest must be filed within 10 days from the date that notice of award is made.

A protester must have submitted a proposal in order to have sufficient standing to protest the award of a contract.

The procurement officer shall immediately give notice of the protest to the contractor or, if no award has been made, to all offerors who submitted proposals.

If the protestor agrees, the Commissioner of the purchasing department or the Commissioner's designee may assign the protest to the procurement officer or other state official for alternate dispute resolution. In other cases, the Commissioner or the Commissioner's designee may issue a decision denying the protest and stating the reasons for denial, issue a decision sustaining the protest, in whole or in part, and instruct the procurement officer to implement an appropriate remedy, or conduct a hearing using procedures set out in AS 36.30.670(b).

SECTION 7. ATTACHMENTS

SEC. 7.01 ATTACHMENTS

Attachments:

- 1) Cost Proposal (attached as a separate document)
- 2) Submittal Forms A – C (attached as a separate document)
- 3) Standard Agreement Form - Appendix A
- 4) HIPAA BAA

**State of Alaska, Department of Health
Health Insurance Portability and
Accountability Act of 1996 ("HIPAA")
Business Associate Agreement**

This HIPAA Business Associate Agreement is between the Department of Health (hereafter known as **Covered Entity or CE**) and _____ (hereafter known as **Business Associate or BA**). This agreement is intended to accomplish the objectives of a HIPAA Business Associate Agreement ("BAA") as set out in 45 C.F.R. §164.504(e)(3)(i).

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; including, but not limited to:
 - 1. The Genetic Information Nondiscrimination Act ("GINA");
 - 2. The HIPAA Final Rule (the "Final Rule").
- 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:

- i) Business Associate: "Business Associate" or "BA" shall generally have the same meaning as the term "business associate" at 45 C.F.R. 160.103.
- ii) Covered Entity: "Covered Entity" or "CE" shall have the same meaning as the term "covered entity" at 45 C.F.R. 160.103.
- iii) 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.
- iv) Triennially: "Triennially" shall mean once every three years.

2) Statement of Work and Responsibilities.

As provided by AS 44.21.020 and AS 44.21.160, the BA provides automatic data processing services to the CE. These services include storage, transmission, security, and recovery of electronic information owned by CE or created on behalf of CE. BA is responsible for ensuring continuity of service, delivery, and access to CE electronic information at all times including in the event of a disaster.

Notwithstanding the foregoing, if the Business Associate does not handle ePHI in connection with its services to the Covered Entity, the obligations described above regarding electronic data processing, transmission, and disaster recovery shall not apply.

3) Permitted Uses and Disclosures by Business Associate.

- a) BA may only use or disclose PHI for the following purposes:
 - i) BA may use or disclose PHI as required by law.
 - ii) BA agrees to make uses and disclosures and requests for PHI consistent with CE's minimum necessary policies and procedures.
 - iii) 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.
 - iv) 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.

- v) BA may provide data aggregation services related to the health care operations of CE.

4) 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 three business days of when it becomes aware of such Breach or incident.

BA is permitted or required to use or disclose PHI it creates, receives, maintains, or transmits in service to CE as follows:

- i) Marketing and Fundraising: Unless expressly authorized by the underlying contract between the parties, BA shall not Use or Disclose PHI for any marketing or fundraising purpose.
- ii) Audit: For purposes of determining BA's compliance with HIPAA, upon request of the Secretary of HHS, BA shall:
 - (1) Make its HIPAA policies and procedures, related documentation, records maintained, and any other relevant internal practices, books, and records relating to the use and disclosure of PHI, available to the Secretary of HHS.
 - (2) Provide reasonable access to BA's facilities, equipment, hardware, and software used for the maintenance or processing of CE's PHI.
- iii) Record Keeping: BA agrees to implement appropriate record keeping procedures to enable it to comply, and to adequately evidence such compliance, including; the documentation required regarding subcontractors and agents, records of BA's workforce HIPAA education and training, documentation related to any breach, Business Associate Agreements issued to third parties with whom BA discloses PHI for BA's proper management and administration, or as required by law.
- iv) Business Associate's Operations: BA may use and disclose the PHI it creates, receives, maintains, or transmits in service to CE, as necessary, to perform the BA's obligations under the contract, to enable that BA's proper management and administration of CE's PHI, or to carry out BA's legal responsibilities. All PHI disclosures must maintain compliance with the HIPAA minimum necessary standard.

- b) Prohibition on Unauthorized Use or Disclosure: BA shall neither use nor disclose PHI it creates, receives, maintains, or transmits in service to CE, except as permitted or required by the contract, as required by law, or as otherwise permitted in writing by CE. BA acknowledges that BA will be liable for violating any of the requirements of this agreement relating to the use or disclosure of PHI, or any privacy-related requirements of the HITECH Act and regulations issued thereunder.
- c) Offshoring Prohibition: BA may not transmit, store, process, or make PHI accessible to any recipient outside the United States of America without CE's prior written consent.
- d) Effect: The terms and provisions of this agreement shall supersede any other conflicting or inconsistent terms and provisions in any other contract between the parties, including any exhibits, attachments, addenda, or amendments thereto, and any other documents incorporated by reference therein, which pertain or relate to the use or disclosure of PHI by either party, or the creation or receipt of PHI by BA on behalf of CE.
- e) No Third-Party Beneficiaries: Nothing in this agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- f) Independent Contractors: The parties agree that they are independent parties and not employees, partners, or party to a joint venture of any kind. Neither party shall hold itself out as the other's agent for any purpose and shall have no authority to bind the other to any obligation.
- g) 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 patch its operating systems 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 necessary IT operations only.

- h) Reporting Unauthorized Disclosures and Breaches: During the term of this BAA, BA shall notify CE within 72 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.

Breach Reporting. BA shall report to CE any breaches of PHI as stipulated in 45 CFR 164.410. BA shall make such report to CE's Privacy Official within 72 hours of discovery. BA shall cooperate with CE in investigating such breach, and in meeting CE's obligations under the HITECH Act and any other security breach notification laws. BA shall report all breaches to CE, and such reports shall include, at a minimum:

- i) Identify the nature of the breach, including the occurrence and the discovery dates.
- ii) Identify which elements of the PHI (e.g., full name, social security number, date of birth, etc.) were breached or were part of the breach.
- iii) Identify who was responsible for the breach and who received the PHI.
- iv) Identify what corrective actions BA took or will take to prevent further incidents of a breach.
- v) Identify what BA did or will do to mitigate any deleterious effect of the breach.
- vi) Identify BA contact information and procedures the CE may use to request additional information if required.
- vii) Provide such other information, including a written report, as CE may reasonably request.
- i) BA is not an agent of CE.
- j) **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.

BA shall require any of its subcontractors and agents to which BA is permitted by this agreement or in writing by CE to disclose PHI, to sign a further Business Associate Agreement and to provide reasonable assurance evidenced by written contract, that such subcontractor or agent shall comply with the same privacy and security safeguard obligations with respect to PHI that are applicable to BA under this agreement, including, but not limited to:

- i) Holding such PHI in confidence and using or further disclosing it only for the purpose for which BA disclosed it to the agent, subcontractor, or other third party, or as required by law.
- ii) In compliance with 45 CFR 164.400-414 Subcontractor or Agent shall provide notification to BA, and the BA shall provide notification to the CE, of any instance of which the agent, subcontractor, or other third party becomes aware in which the confidentiality of such PHI was breached.
- k) 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.
- l) 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.
- m) Amendment of PHI: Within 30 days of a written request by CE, BA shall amend PHI maintained, transmitted, created, or received by BA on behalf of CE as directed by CE 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.
- n) 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.
- o) Risk Assessment: Upon agreement execution and triennially thereafter, or upon changes that occur which significantly affect the security posture of the system (whichever comes first), BA shall comply and complete CE's security assessment. Upon receipt of the security assessment, CE will review BA's responses prior to granting authority to operate, and provide any necessary instruction to ensure the confidentiality, integrity, and availability of CE's PHI. BA shall triennially, or upon changes that occur which significantly affect the security posture of the system (whichever comes first), review and update CE security assessment, as required, in order to comply with BA's current system controls. BA must provide an implementation response for each specific system control. Upon receipt of the updated assessment, CE will review the changes to the system for renewal of authority to operate.

Upon agreement execution and prior to any system entering a production state or containing production or protected data, BA must complete CE's established security assessment process and obtain Authority to Operate (ATO). Any identified risks must be remediated to ensure that the system complies with the CE's security standards and the CE's selected standards for HIPAA compliance.

- p) 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.

- q) Audits, Inspection and Enforcement: CE may, after providing 10 days' 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.
- r) 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.
- s) 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.
- t) Minimum Necessary and Limited Data Set: BA's use, disclosure, or request of PHI shall utilize a Limited Data Set (PHI that excludes direct identifiers per 45 CFR §164.514(e)(2)), whenever possible. Otherwise, BA shall, in its performance of the functions, activities, services, and operations, make reasonable efforts to use, to disclose, and to request only the minimum amount of PHI reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, except that BA shall not be obligated to comply with the minimum necessary limitations with respect to those exceptions specified in 45 CFR 164.502(b)(2). BA shall comply with the requirements governing the minimum necessary use and disclosure of PHI set forth in the HITECH Act § 13405(b) and any applicable regulations or other guidance issued thereunder.
- u) Employee Education: BA shall inform all of its employees, workforce members, subcontractors, and agents ("BA Personnel"), whose services may be used to satisfy BA's obligations under the agreement, of the BA's obligations under this agreement. BA represents and warrants that the BA Personnel are under legal obligation to BA, by contract or otherwise, sufficient to enable BA to fully comply with the provisions of this agreement. BA will maintain a system of sanctions for any BA Personnel who violates this agreement. (See 45 CFR 164.316).

5) 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.

6) 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.
- d) **Termination of Contract:** As required by the HIPAA Regulations and this agreement, CE may, in addition to other available remedies, terminate the contract if BA has materially breached any provision of this agreement and has failed to cure or take actions to cure such material breach within five (5) calendar days of such breach. CE shall exercise this right to terminate the contract by providing BA written notice of termination, which shall include the reason for the termination. Any such termination shall be effective immediately or at such other date specified in CE's notice of termination. Within thirty (30) calendar days of such termination of the contract, BA shall provide to CE one final report of any and all breaches made of all individuals' PHI during the term of the contract.
 - i) **Obligations upon Termination.** Upon termination, cancellation, expiration, or other conclusion of the contract, BA shall:
 - (1) Destruction verification: Complete all such return or provide an attestation of destruction within thirty (30) calendar days after the effective date of the termination, cancellation, expiration, or other conclusion of the contract.
 - (2) These provisions shall apply to PHI that is in the possession of subcontractors or agents of BA.
 - ii) **Continuing Privacy and Security Obligation.** BA's obligation to protect the privacy and security of the PHI, including all copies of and any data or compilations derived from and allowing identification of any individual who is a subject of the PHI it created for or received from CE, shall be continuous and survive termination, cancellation, expiration, or other conclusion of the contract.
- 7) **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.
- 8) **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.
- 9) **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.

- 10) **Regulatory References:** Any reference in this BAA to federal or state law means the section that is in effect or as amended.
- 11) **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.
- 12) **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.
- 13) **Designated Record Set:** BA agrees that all PHI received by or created for CE shall be included in an individual's Designated Record Set. BA shall maintain such Designated Record Set with respect to services provided to an individual under this agreement and shall allow such individual to access the Designated Record Set as provided in the HIPAA Regulations.
- 14) **Privacy Point of Contact:** All communications occurring because of this BAA shall be sent to the CE Privacy Official.
 - 1) **Privacy:**
 - a) **Covered Entity E-mail:** privacyofficial@alaska.gov
 - b) **Business Associate E-mail:** _____
 - 2) **Security:**
 - a) **Covered Entity E-mail:** doh.its.dso@alaska.gov
 - b) **Business Associate E-mail:** _____

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