

Vendor Selection Announcement

On May 1, 2014 the Alabama Medicaid Agency issued intent to award notice to Carr, Riggs & Ingram, LLC for The Independent DSH Audit Request for Proposal (RFP Number 2014-DSHA-01).

The final award of this contract is subject to review by the Legislative Oversight Committee, approval of the Centers for Medicare and Medicaid Services and signature by Governor Bentley.



ALABAMA MEDICAID AGENCY REQUEST FOR PROPOSALS

RFP Number: 2014-DSHA-01	RFP Title: Independent DSH Audit
RFP Due Date and Time: April 14, 2014 by 5pm Central Daylight Time	Number of Pages: 44
PROCUREMENT INFORMATION	
Project Director: Keith Boswell, CPA	Issue Date: March 12, 2014
Phone: (334) 242-2311 E-mail Address: keith.boswell@medicaid.alabama.gov Website: http://www.medicaid.alabama.gov	Issuing Division: Provider Audit/Reimbursement
INSTRUCTIONS TO VENDORS	
Return Proposal to: Keith Boswell, CPA, Director Provider Audit/Reimbursement Alabama Medicaid Agency Lurleen B. Wallace Building 501 Dexter Avenue PO Box 5624 Montgomery, AL 36103-5624	Mark Face of Envelope/Package: RFP Number: 2014-DSHA-01 RFP Proposal Due Date: April 14, 2014 by 5pm CDT Firm and fixed price from Appendix B: \$ _____
VENDOR INFORMATION <i>(Vendor must complete the following and return with RFP response)</i>	
Vendor Name/Address:	Authorized Vendor Signatory: (Please print name and sign in ink)
Vendor Phone Number:	Vendor FAX Number:
Vendor Federal I.D. Number:	Vendor E-mail Address:

Section A. Executive Summary

The Alabama Medicaid Agency is requesting Proposals for the certified independent audits of the Disproportionate Share Hospital (DSH) payment program required under 42 CFR §455.304 Condition for Federal Financial Participation (FFP) for the Medicaid State Plan rate years ending September 30, 2011 and 2012, with one year options for the 2013, 2014 and 2015 rate years.

The Alabama Medicaid Agency through its contracted agent is responsible for accumulating the documentation necessary for the State's compliance with 42 CFR §447.299 reporting requirement. The independent certified audit will be based on the reporting of the State that includes information obtained from the DSH hospitals. The certified independent audit will furnish opinions on the six (6) verifications outlined in 42 CFR §455.304(d).

The State's contracted agent responsible for accumulating the documentation necessary for the State's compliance with 42 CFR §447.299 reporting requirement is not eligible to respond to this RFP.

The independent certified audit for FY2011 will need to be completed by September 30, 2014, with each succeeding audit completed the following September in order to meet the December 31 deadline for the State to be in compliance based on 42 CFR §455.304(b).

Section B. RFP Checklist

1. _____ **Read the *entire* document.** Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; licensing requirements; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. _____ **Note the project director's name, address, phone numbers and e-mail address.** This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information for any questions you may have.
3. _____ **Take advantage of the "question and answer" period.** Submit your questions to the project director by the due date(s) listed in the Schedule of Events and view the answers as posted on the WEB. All addenda issued for an RFP are posted on the State's website and will include all questions asked and answered concerning the RFP.
4. _____ **Use the forms provided,** i.e., cover page, disclosure statement, etc.
5. _____ **Check the State's website for RFP addenda.** It is the Vendor's responsibility to check the State's website at www.medicaid.alabama.gov for any addenda issued for this RFP, no further notification will be provided. Vendors must submit a signed cover sheet for each addendum issued along with your RFP response.
6. _____ **Review and read the RFP document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluation committee members and will be used to score your response.
7. _____ **Submit your response on time.** Note all the dates and times listed in the Schedule of Events and within the document, and be sure to submit all required items on time. Late proposal responses are *never* accepted.

This checklist is provided for assistance only and should not be submitted with Vendor's Response.

Section C. Schedule of Events

The following RFP Schedule of Events represents the State's best estimate of the schedule that shall be followed. Except for the deadlines associated with the vendor question and answer periods and the proposal due date, the other dates provided in the schedule are estimates and will be impacted by the number of proposals received. The State reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. Notification of any adjustment to the Schedule of Events shall be posted on the RFP website at www.medicaid.alabama.gov.

EVENT	DATE
RFP Issued	3/12/14
Answers to Questions Posted As Available	3/12/14 - 3/21/14
Deadline for Vendor Questions	3/21/14
Final Posting of Questions and Answers	3/24/14
Proposals Due by 5 pm CDT	4/14/14
Evaluation Period	4/14/14 - 4/25/14
Contract Award Notification	5/01/14
**Contract Review Committee	6/05/14
**Official Contract Award/Begin Work	7/01/14

* *By State law, this contract must be reviewed by the Legislative Contract Review Oversight Committee. The Committee meets monthly and can, at its discretion, hold a contract for up to forty-five (45) days. The "Contract Review Committee" and the "Vendor Begins Work" dates above may be impacted by the timing of the contract submission to the Committee for review and/or by action of the Committee itself.

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I. Background

Title XIX of the Social Security Act (Act) authorizes Federal grants to States for Medicaid programs that provide medical assistance to low-income families, the elderly and persons with disabilities. Section 1902(a)(13)(A)(iv) of the Act requires that States make Medicaid payment adjustments for hospitals that serve a disproportionate share of low-income patients with special needs.

Section 1923 of the Act contains more specific requirements related to such disproportionate share hospital (DSH) payments, including aggregate annual state-specific limits on FFP under Section 1923(f), and hospital-specific limits on DSH payments under Section 1923(g). Under those hospital specific limits, a hospital's DSH payments may not exceed the costs incurred by that hospital in furnishing services during the year to Medicaid patients and the uninsured, less other Medicaid payments made to the hospital, and payments made by uninsured patients (“uncompensated care costs”). In addition, Section 1923(a)(2)(D) requires States to provide an annual report to the Secretary describing the payment adjustments made to each disproportionate share hospital.

In addition to these reporting requirements, under Section 1923(j) of the Act, Federal matching payments are contingent upon a State's submission of the annual DSH report and independent certified audit.

On December 19, 2008, CMS published a final rule in the Federal Register (73 Fed. Reg. 77904) implementing the reporting and auditing requirements for State DSH payments under State Medicaid programs. The final rule was effective on January 19, 2009 and is codified at 42 CFR 455.300, et seq.

This final rule sets forth the data elements necessary to comply with the requirements of Section 1923(j) of the Social Security Act (Act) related to auditing and reporting of disproportionate share hospital payments under State Medicaid programs. These requirements were added by Section 1001(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

The rule requires that in the audit report, the auditor must verify whether the State's method of computing the hospital-specific DSH limit and the DSH payments made to the hospital comply with the five items required by Section 1923(j)(2) of the Act.

The rule requires States to verify their methodology for computing the hospital specific DSH limit and the DSH payments made to hospitals. As required by Section 1923(j)(2) of the Act, these five items identified in statute would provide independent verification that State Medicaid DSH payments comply with the hospital-specific DSH limit in Section 1923(g) of the Act, and that such limits are accurately computed.

Definitions:

For the purpose of this document -

The term “independent” means that the Single State Audit Agency or any other CPA firm that operates independently from the Medicaid agency or subject hospitals is eligible to perform the DSH audit. The State’s contracted agent responsible for accumulating the documentation necessary for the State’s compliance with 42 CFR §447.299 reporting requirement is not eligible to respond to this RFP. States may not rely on non-CPA firms, fiscal intermediaries acting as Agents for a State's Medicaid program, independent certification programs currently in place to audit uncompensated care costs, nor expand hospital financial statements to obtain audit certification of the hospital-specific DSH limits.

The term “independent certified audit” means an audit that is conducted by an auditor that operates independently from the Medicaid agency or subject hospitals and is eligible to perform the DSH audit. Certification means that the independent auditor engaged by the State reviews the criteria of the Federal audit regulation and completes the verification, calculations and report under the professional rules and generally accepted standards of audit practice. This certification would include a review of the State's audit protocol to ensure that the Federal regulation is satisfied, an opinion for each verification detailed in the regulation, and a determination of whether or not the State made DSH payments that exceeded any hospital's specific DSH limit in the Medicaid State plan rate year under audit. The certification should also identify any data issues or other caveats that the auditor identified as impacting the results of the audit.

II. Scope of Work

The successful vendor under this RFP will develop an audit plan for completing the independent certified audits for the fiscal year 2011, 2012 and optional 2013,2014 and 2015; that meets the requirements set forth in Section 1923(j)(1)of the Act which includes:

- * Identification of each DSH facility that received a DSH payment under the State's Medicaid program in the preceding fiscal year and the amount of DSH payments paid to that hospital in the same year.
- * Such other information as the Secretary of Health and Human Services determines necessary to ensure the appropriateness of DSH payments.

The successful vendor under this RFP will conduct an independent certified audit for Medicaid State plan rate year ending September 30, 2011 of the Alabama Medicaid Program that provides Disproportionate Share Hospital Payments to Alabama hospitals eligible for such payments.

These independent certified audits will be submitted by the State, in accordance with Section 1923(j)(2) of the Act, to the Secretary of Health and Human Services. The certified independent audit must verify:

Each hospital that qualifies for a DSH payment in the State is allowed to retain that payment so that the payment is available to offset its uncompensated care costs for furnishing inpatient hospital and outpatient hospital services during the Medicaid State plan rate year to Medicaid eligible individuals and individuals with no source of third party coverage for the services in order to reflect the total amount of claimed DSH expenditures. (42 CFR § 455.304(d)(1))

DSH payments made to each qualifying hospital comply with the hospital-specific DSH payment limit. For each audited Medicaid State plan rate year, the DSH payments made in that audited Medicaid State plan rate year must be measured against the actual uncompensated care cost in that same audited Medicaid State plan rate year. (42 CFR § 455.304(d)(2))

Only uncompensated care costs of furnishing inpatient and outpatient hospital services to Medicaid eligible individuals and individuals with no third party coverage for the inpatient and outpatient hospital services they received as described in Section 1923(g)(1)(A) of the Act are eligible for inclusion in the calculation of the hospital-specific disproportionate share limit payment limit, as described in Section 1923(g)(1)(A) of the Act. (42 CFR § 455.304(d)(3))

For purposes of this hospital-specific limit calculation, any Medicaid payments (including regular Medicaid fee-for-service rate payments, supplemental/enhanced Medicaid payments, and Medicaid managed care organization payments) made to a disproportionate share hospital for furnishing inpatient hospital and outpatient hospital services to Medicaid eligible individuals, which are in excess of the Medicaid incurred costs of such services, are applied against the uncompensated care costs of furnishing inpatient hospital and outpatient hospital services to individuals with no source of third party coverage for such services. (42 CFR § 455.304(d)(4))

Any information and records of all of its inpatient and outpatient hospital service costs under the Medicaid program; claimed expenditures under the Medicaid program; uninsured inpatient and outpatient hospital service costs in determining payment adjustments under this Section; and any payments made on behalf of the uninsured from payment adjustments under this Section has been separately documented and retained by the State. (42 CFR § 455.304(d)(5))

The information supplied by the State includes a description of the methodology for calculating each hospital's payment limit under Section 1923(g)(1) of the Act. Included in the description of the methodology, the audit report must specify how the State defines incurred inpatient hospital and outpatient hospital costs for furnishing inpatient hospital and outpatient hospital services to Medicaid eligible individuals and individuals with no source of third party coverage for the inpatient hospital and outpatient hospital services they received. (42 CFR § 455.304(d)(6))

The successful vendor under this RFP will complete the independent certified audit of FY 2011 by September 30, 2014, and each succeeding audit by the corresponding September.

III. Pricing

Vendor's response should specify a firm and fixed price for completion of the work specified in this RFP. The Firm and Fixed Price of each year of the proposed contract must be separately stated in the RFP Cover Sheet on the first page of this document. The firm and fixed price must also be entered on Appendix B Pricing Form with a schedule of the price per audit.

IV. General Medicaid Information

The Alabama Medicaid Agency is responsible for the administration of the Alabama Medicaid Program under a federally approved State Plan for Medical Assistance. Through teamwork, the Agency strives to enhance and operate a cost efficient system of payment for health care services rendered to low income individuals through a partnership with health care providers and other health care insurers both public and private.

Medicaid's central office is located at 501 Dexter Avenue in Montgomery, Alabama. Central office personnel are responsible for data processing, program management, financial management, program integrity, general support services, professional services, and recipient eligibility services. For certain recipient categories, eligibility determination is made by Agency personnel located in ten (10) district offices throughout the state and by one hundred eighty (180) out-stationed workers in designated hospitals, health departments and clinics. Medicaid eligibility is also determined through established policies by the Alabama Department of Human Resources and the Social Security Administration. In FY 2008, more than 920,937 Alabama citizens were eligible for Medicaid benefits through a variety of programs.

Services covered by Medicaid include, but are not limited to, the following:

- Physician Services
- Inpatient and Outpatient Hospital Services
- Rural Health Clinic Services
- Laboratory and X-ray Services
- Nursing Home Services
- Early and Periodic Screening, Diagnosis and Treatment
- Dental for children ages zero (0) to twenty (20)
- Home Health Care Services and Durable Medical Equipment
- Family Planning Services
- Nurse-Midwife Services
- Federally Qualified Health Center Services
- Hospice Services
- Prescription Drugs
- Optometric Services
- Transportation Services
- Hearing Aids
- Intermediate Care Facilities for the Mentally Retarded and Mental Disease Services
- Prosthetic Devices
- Outpatient Surgical Services

- Renal Dialysis Services
- Home and Community Based Waiver Services
- Prenatal Clinic Services
- Mental Health Services

Additional program information can be found at www.medicaid.alabama.gov.

V. General

This document outlines the qualifications which must be met in order for an entity to serve as Contractor. It is imperative that potential Contractors describe, in detail, how they intend to approach the Scope of Work specified in Section II of the RFP. The ability to perform these services must be carefully documented, even if the Contractor has been or is currently participating in a Medicaid Program. Proposals will be evaluated based on the written information that is presented in the response. This requirement underscores the importance and the necessity of providing in-depth information in the proposal with all supporting documentation necessary.

The Vendor must demonstrate in the proposal a thorough working knowledge of program policy requirements as described, herein, including but not limited to the applicable Operational Manuals, State Plan for Medical Assistance, Administrative Code and Code of Federal Regulations (CFR) requirements

Entities that are currently excluded under federal and/or state laws from participation in Medicare/Medicaid or any State's health care programs are prohibited from submitting bids.

VI. Corporate Background and References

Entities submitting proposals must:

- a. Provide evidence that the Vendor possesses the qualifications required in this RFP.
- b. The proposal must include a detailed description of the how the deliverables will be met.
- c. Provide a description of the Vendor's organization, including
 1. Date established.
 2. Ownership (public company, partnership, subsidiary, etc.). Include an organizational chart depicting the Vendor's organization in relation to any parent, subsidiary or related organization.
 3. Number of employees and resources.
 4. Names and resumes of Senior Managers, Partners and other staff in regards to this contract.
 5. A list of all similar projects the Vendor has completed within the last three years.
 6. A list of references for which the Vendor has performed similar work.
 7. Evidence that the Vendor is financially stable and that it has the necessary infrastructure to complete this contract as described in the Vendor's Proposal. The

Vendor must provide audited financial statements for the last three years, or similar evidence of financial stability for the last three years.

8. Vendor's acknowledgment that the State will not reimburse the Contractor until: (a) the Project Director has approved the invoice; and (b) the Agency has received and approved all deliverables covered by the invoice.
9. Details of any pertinent judgment, criminal conviction, investigation or litigation pending against the Vendor or any of its officers, directors, employees, agents or subcontractors of which the Vendor has knowledge, or a statement that there are none. The Agency reserves the right to reject a proposal solely on the basis of this information.

d. Have all necessary business licenses, registrations and professional certifications at the time of the contracting to be able to do business in Alabama. Alabama law provides that a foreign corporation (an out-of-state company/firm) may not transact business in the state of Alabama until it obtains a Certificate of Authority from the Secretary of State, Section 10-2B-15.01, et seq., Code of Alabama 1975. To obtain forms for a Certificate of Authority, contact the Secretary of State, Corporations Division, (334) 242-5324, www.sos.state.al.us. The Certificate of Authority or a letter/form showing application has been made for a Certificate of Authority must be submitted with the bid.

The State reserves the right to use any information or additional references deemed necessary to establish the ability of the Vendor to perform the conditions of the contract.

VII. Submission Requirements

A. Authority

This RFP is issued under the authority of Section 41-16-72 of the Alabama Code and 45 CFR 74.40 through 74.48. The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. No other evaluation criteria, other than as outlined in the RFP, will be used.

In accordance with 45 CFR 74.43, the State encourages free and open competition among Vendors. Whenever possible, the State will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the State's need to procure technically sound, cost-effective services and supplies.

B. Single Point of Contact

From the date this RFP is issued until a Vendor is selected and the selection is announced by the Project Director, all communication must be directed to the Project Director in charge of this solicitation. **Vendors or their representatives must not communicate with any State staff or officials regarding this procurement with the exception of the Project Director.** Any unauthorized contact may disqualify the Vendor from further consideration. Contact information for the single point of contact is as follows:

Project Director: Keith Boswell, CPA
Director, Provider Audit/Reimbursement Division
Address: Alabama Medicaid Agency
Lurleen B. Wallace Bldg.
501 Dexter Avenue
PO Box 5624
Montgomery, Alabama 36103-5624
Telephone Number: (334) 242-2311
E-Mail Address: keith.boswell@medicaid.alabama.gov

C. RFP Documentation

All documents and updates to the RFP including, but not limited to, the actual RFP, questions and answers, addenda, etc., will be posted to the Agency's website at www.medicaid.alabama.gov.

D. Questions Regarding the RFP

Vendors with questions requiring clarification or interpretation of any section within this RFP must submit questions and receive formal, written replies from the State. Each question must be submitted to the Project Director via email. Questions and answers will be posted on the website as available.

E. Acceptance of Standard Terms and Conditions

Vendor must submit a statement stating that the Vendor has an understanding of and will comply with the terms and conditions as set out in this RFP. Additions or exceptions to the standard terms and conditions are not allowed.

F. Adherence to Specifications and Requirements

Vendor must submit a statement stating that the Vendor has an understanding of and will comply with the specifications and requirements described in this RFP.

G. Order of Precedence

In the event of inconsistencies or contradictions between language contained in the RFP and a Vendor's response, the language contained in the RFP will prevail. Should the State issue addenda to the original RFP, then said addenda, being more recently issued, would prevail against both the original RFP and the Vendor's proposal in the event of an inconsistency, ambiguity, or conflict.

H. Vendor's Signature

The proposal must be accompanied by the RFP Cover Sheet signed in ink by an individual authorized to legally bind the Vendor. The Vendor's signature on a proposal in response to this RFP guarantees that the offer has been established without collusion and without effort to preclude the State from obtaining the best possible supply or service. Proof of authority of the person signing the RFP response must be furnished upon request.

I. Offer in Effect for 90 Days

A proposal may not be modified, withdrawn or canceled by the Vendor for a 90-day period following the deadline for proposal submission as defined in the Schedule of Events, or receipt of best and final offer, if required, and Vendor so agrees in submitting the proposal.

J. State Not Responsible for Preparation Costs

The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the Vendor. The State is not liable for any expense incurred by the Vendor in the preparation and presentation of their proposal or any other costs incurred by the Vendor prior to execution of a contract.

K. State's Rights Reserved

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP;
- Reject any or all of the proposals submitted in response to this RFP;
- Change its decision with respect to the selection and to select another proposal;
- Waive any minor irregularity in an otherwise valid proposal which would not jeopardize the overall program and to award a contract on the basis of such a waiver (minor irregularities are those which will not have a significant adverse effect on overall project cost or performance);
- Negotiate with any Vendor whose proposal is within the competitive range with respect to technical plan and cost;
- Adopt to its use all, or any part, of a Vendor's proposal and to use any idea or all ideas presented in a proposal;
- Amend the RFP (amendments to the RFP will be made by written addendum issued by the State and will be posted on the RFP website);
- Not award any contract.

L. Price

Vendors must respond to this RFP by utilizing the RFP Cover Sheet and Appendix B Pricing Form to indicate the firm and fixed price to complete the scope of work specified in the contract.

M. Submission of Proposals

Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to 2014-DSHA-01. Proposals must be sent to the attention of the Project Director and received at the Agency as specified in the Schedule of Events. It is the responsibility of the Vendor to ensure receipt of the Proposal by the deadline specified in the Schedule of Events.

N. Copies Required

Vendors must submit one original Proposal with original signatures in ink, three (3) additional hard copies in binder form, plus one electronic (Word format) copy of the Proposal on CD, jump drive, or disc clearly labeled with the Vendor name which must be a complete version of the Vendor's response. A second redacted electronic version clearly identified as the redacted version may be submitted if the Vendor considers any information confidential or proprietary. Vendor must identify the original hard copy clearly on the outside of the proposal.

O. Late Proposals

Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the Vendor's sole risk to assure delivery at the Agency by the designated deadline. Late proposals will not be opened and may be returned to the Vendor at the expense of the Vendor or destroyed if requested.

VIII. Evaluation and Selection Process

A. Initial Classification of Proposals as Responsive or Non-responsive

All proposals will initially be classified as either "responsive" or "non-responsive." Proposals may be found non-responsive at any time during the evaluation process or contract negotiation if any of the required information is not provided; or the proposal is not within the plans and specifications described and required in the RFP. If a proposal is found to be non-responsive, it will not be considered further.

Proposals failing to demonstrate that the Vendor meets the mandatory requirements listed in Appendix A will be deemed non-responsive and not considered further in the evaluation process (and thereby rejected).

B. Determination of Responsibility

The Project Director will determine whether a Vendor has met the standards of responsibility. In determining responsibility, the Project Director may consider factors such as, but not limited to, the vendor's specialized expertise, ability to perform the work, experience and past performance. Such a determination may be made at any time during the evaluation process and through contract negotiation if information surfaces that would result in a determination of non-responsibility. If a Vendor is found non-responsible, a written determination will be made a part of the procurement file and mailed to the affected Vendor.

C. Opportunity for Additional Information

The State reserves the right to contact any Vendor submitting a proposal for the purpose of clarifying issues in that Vendor's proposal. Vendors should clearly designate in their proposal a point-of-contact for questions or issues that arise in the State's review of a Vendor's proposal.

D. Evaluation Committee

An Evaluation Committee appointed by the Project Director will read the proposals, conduct corporate and personal reference checks, score the proposals, and make a written recommendation to the Commissioner of the Alabama Medicaid Agency. The State may change the size or composition of the committee during the review in response to exigent circumstances.

E. Scoring

The Evaluation Committee will score the proposals using the scoring system shown in the table below. The highest score that can be awarded to any proposal is 100 points.

Evaluation Factor	Highest Possible Score
Adherence to Mandatory Requirements	Pass/Fail
Experience & Qualifications of the Vendor and its staff	25
References	25
Cost	50

F. Determination of Successful Proposal

The Vendor whose proposal is determined to be in the best interest of the State will be recommended as the successful Contractor. The Project Director will forward this Vendor's proposal through the supervisory chain to the Commissioner, with documentation to justify the Committee's recommendation.

When the final approval is received, the State will notify the selected Vendor. If the State rejects all proposals, it will notify all Vendors. The State will post the award on the Agency website at www.medicaid.alabama.gov. The award will be posted under the applicable RFP number.

IX. General Terms and Conditions

A. General

This RFP and Contractor's response thereto shall be incorporated into a contract by the execution of a formal agreement. The contract and amendments, if any, are subject to approval by the Governor of the State of Alabama.

The contract shall include the following:

1. Executed contract,
2. RFP, attachments, and any amendments thereto,
3. Contractor's response to the RFP, and shall be construed in accordance with and in the order of the applicable provisions of:
 - Title XIX of the Social Security Act, as amended and regulations promulgated hereunder by HHS and any other applicable federal statutes and regulations
 - The statutory and case law of the State of Alabama
 - The Alabama State Plan for Medical Assistance under Title XIX of the Social Security Act, as amended
 - The Medicaid Administrative Code
 - Medicaid's written response to prospective Vendor questions

B. Compliance with State and Federal Regulations

Contractor shall perform all services under the contract in accordance with applicable federal and state statutes and regulations. Medicaid retains full operational and administrative authority and responsibility over the Alabama Medicaid Program in accordance with the requirements of the federal statutes and regulations as the same may be amended from time to time.

C. Term of Contract

The initial contract term shall be for two years effective July 1, 2014, through June 30, 2016. Medicaid shall have three one-year options for extending this contract for Contractor to perform the

2011 through 2015 certified independent audits of the Disproportionate Share Hospital Payment program for the same price and under the same terms and conditions as the initial contract term. At the end of the initial contract period Medicaid may at its discretion, exercise the extension option.

Contractor acknowledges and understands that this contract is not effective until it has received all requisite state government approvals and Contractor shall not begin performing work under this contract until notified to do so by Medicaid. Contractor is entitled to no compensation for work performed prior to the effective date of this contract.

D. Contract Amendments

No alteration or variation of the terms of the contract shall be valid unless made in writing and duly signed by the parties thereto. The contract may be amended by written agreement duly executed by the parties. Every such amendment shall specify the date its provisions shall be effective as agreed to by the parties.

The contract shall be deemed to include all applicable provisions of the State Plan and of all state and federal laws and regulations applicable to the Alabama Medicaid Program, as they may be amended. In the event of any substantial change in such Plan, laws, or regulations, that materially affects the operation of the Alabama Medicaid Program or the costs of administering such Program, either party, after written notice and before performance of any related work, may apply in writing to the other for an equitable adjustment in compensation caused by such substantial change.

E. Confidentiality

Contractor shall treat all information, and in particular information relating to individuals that is obtained by or through its performance under the contract, as confidential information to the extent confidential treatment is provided under State and Federal laws including 45 CFR §160.101 – 164.534. Contractor shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and rights under this contract.

Contractor shall ensure safeguards that restrict the use or disclosure of information concerning individuals to purposes directly connected with the administration of the Plan in accordance with 42 CFR Part 431, Subpart F, as specified in 42 CFR § 434.6(a)(8). Purposes directly related to the Plan administration include:

1. Establishing eligibility;
2. Determining the amount of medical assistance;
3. Providing services for recipients; and
4. Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the Plan.

Pursuant to requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Public Law 104-191), the successful Contractor shall sign and comply with the terms of a Business Associate agreement with the Agency (Appendix C, Attachment B).

F. Security and Release of Information

Contractor shall take all reasonable precautions to ensure the safety and security of all information, data, procedures, methods, and funds involved in the performance under the contract, and shall require the same from all employees so involved. Contractor shall not release any data or other information relating to the Alabama Medicaid Program without prior written consent of Medicaid. This provision covers both general summary data as well as detailed, specific data. Contractor shall not be entitled to use of Alabama Medicaid Program data in its other business dealings without prior written consent of Medicaid. All requests for program data shall be referred to Medicaid for response by the Commissioner only.

G. Federal Nondisclosure Requirements

Each officer or employee of any person to whom Social Security information is or may be disclosed shall be notified in writing by such person that Social Security information disclosed to such officer or employee can be only used for authorized purposes and to that extent and any other unauthorized use herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the cost of prosecution. Such person shall also notify each such officer or employee that any such unauthorized further disclosure of Social Security information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n).

Additionally, it is incumbent upon the contractor to inform its officers and employees of penalties for improper disclosure implied by the Privacy Act of 1974, 5 USC 552a. Specifically, 5 USC 552a (i) (1), which is made applicable to contractors by 5 USC 552a (m) (1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established there under, and who knowing that disclosure of the specific material is prohibited, willfully discloses that material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

H. Contract a Public Record

Upon signing of this contract by all parties, the terms of the contract become available to the public pursuant to Alabama law. Contractor agrees to allow public access to all documents, papers, letters, or other materials subject to the current Alabama law on disclosure. It is expressly understood that substantial evidence of Contractor's refusal to comply with this provision shall constitute a material breach of contract.

I. Termination for Bankruptcy

The filing of a petition for voluntary or involuntary bankruptcy of a company or corporate reorganization pursuant to the Bankruptcy Act shall, at the option of Medicaid, constitute default by Contractor effective the date of such filing. Contractor shall inform Medicaid in writing of any such action(s) immediately upon occurrence by the most expeditious means possible. Medicaid may, at its option, declare default and notify Contractor in writing that performance under the contract is terminated and proceed to seek appropriate relief from Contractor.

J. Termination for Default

Medicaid may, by written notice, terminate performance under the contract, in whole or in part, for failure of Contractor to perform any of the contract provisions. In the event Contractor defaults in the performance of any of Contractor's material duties and obligations, written notice shall be given to Contractor specifying default. Contractor shall have 10 calendar days, or such additional time as agreed to in writing by Medicaid, after the mailing of such notice to cure any default. In the event Contractor does not cure a default within 10 calendar days, or such additional time allowed by Medicaid, Medicaid may, at its option, notify Contractor in writing that performance under the contract is terminated and proceed to seek appropriate relief from Contractor.

K. Termination for Unavailability of Funds

Performance by the State of Alabama of any of its obligations under the contract is subject to and contingent upon the availability of state and federal monies lawfully applicable for such purposes. If Medicaid, in its sole discretion, deems at any time during the term of the contract that monies lawfully applicable to this agreement shall not be available for the remainder of the term, Medicaid shall promptly notify Contractor to that effect, whereupon the obligations of the parties hereto shall end as of the date of the receipt of such notice and the contract shall at such time be cancelled without penalty to Medicaid, State or Federal Government.

In the event of proration of the funds from which payment under this contract is to be made, this contract will be subject to termination

L. Termination for Convenience

Medicaid may terminate performance of work under the Contract in whole or in part whenever, for any reason, Medicaid, in its sole discretion determines that such termination is in the best interest of the State. In the event that Medicaid elects to terminate the contract pursuant to this provision, it shall so notify the Contractor by certified or registered mail, return receipt requested. The termination shall be effective as of the date specified in the notice. In such event, Contractor will be entitled only to payment for all work satisfactorily completed and for reasonable, documented costs incurred in good faith for work in progress. The Contractor will not be entitled to payment for uncompleted work, or for anticipated profit, unabsorbed overhead, or any other costs.

M. Force Majeure

Contractor shall be excused from performance hereunder for any period Contractor is prevented from performing any services pursuant hereto in whole or in part as a result of an act of God, war, civil disturbance, epidemic, or court order; such nonperformance shall not be a ground for termination for default.

N. Nondiscriminatory Compliance

Contractor shall comply with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order No. 11246, as amended by Executive Order No. 11375, both issued by the President of the United States, the Americans with Disabilities Act of 1990, and with all applicable federal and state laws, rules and regulations implementing the foregoing statutes with respect to nondiscrimination in employment.

O. Small and Minority Business Enterprise Utilization

In accordance with the provisions of 45 CFR Part 74 and paragraph 9 of OMB Circular A-102, affirmative steps shall be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services.

P. Worker’s Compensation

Contractor shall take out and maintain, during the life of this contract, Worker’s Compensation Insurance for all of its employees under the contract or any subcontract thereof, if required by state law.

Q. Employment of State Staff

Contractor shall not knowingly engage on a full-time, part-time, or other basis during the period of the contract any professional or technical personnel, who are or have been in the employment of Medicaid during the previous twelve (12) months, except retired employees or contractual consultants, without the written consent of Medicaid. Certain Medicaid employees may be subject to more stringent employment restrictions under the Alabama Code of Ethics, §36-25-1 et seq., Code of Alabama 1975.

R. Employment of Unauthorized Aliens

Contractor will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Contractor will document that the Contractor is enrolled in the E-Verify Program. During the performance of the contract, the contractor shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. Contractor further agrees that, should it employ or contract with any subcontractor(s) in connection with the performance of the services pursuant to this contract, that the Contractor will secure from such subcontractor(s) documentation that subcontractor is enrolled in the E-Verify program prior to performing any work on the project. The subcontractor shall verify every employee that is required to be verified according to the applicable federal rules and regulations. This subsection shall only apply to subcontractors performing work on a project subject to the provisions of this section and not to collateral persons or business entities hired by the subcontractor. Contractor shall maintain the subcontractor documentation that shall be available upon request by the Alabama Medicaid Agency.

Pursuant to Ala. Code §31-13-9(k), by signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Failure to comply with these requirements may result in termination of the agreement or subcontract.

S. Share of Contract

No official or employee of the State of Alabama shall be admitted to any share of the contract or to any benefit that may arise there from.

T. Waivers

No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract shall be waived except by written agreement of the parties.

U. Warranties Against Broker's Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission percentage, brokerage, or contingency fee excepting bona fide employees. For breach of this warranty, Medicaid shall have the right to terminate the contract without liability.

V. Novation

In the event of a change in the corporate or company ownership of Contractor, Medicaid shall retain the right to continue the contract with the new owner or terminate the contract. The new corporate or company entity must agree to the terms of the original contract and any amendments thereto. During the interim between legal recognition of the new entity and Medicaid execution of the novation agreement, a valid contract shall continue to exist between Medicaid and the original Contractor. When, to Medicaid's satisfaction, sufficient evidence has been presented of the new owner's ability to perform under the terms of the contract, Medicaid may approve the new owner and a novation agreement shall be executed.

W. Employment Basis

It is expressly understood and agreed that Medicaid enters into this agreement with Contractor and any subcontractor as authorized under the provisions of this contract as an independent Contractor on a purchase of service basis and not on an employer-employee basis and not subject to State Merit System law.

X. Disputes and Litigation

Except in those cases where the proposal response exceeds the requirements of the RFP, any conflict between the response of Contractor and the RFP shall be controlled by the provisions of the RFP. Any dispute concerning a question of fact arising under the contract which is not disposed of by agreement shall be decided by the Commissioner of Medicaid.

The Contractor's sole remedy for the settlement of any and all disputes arising under the terms of this contract shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama. Pending a final decision of a dispute hereunder, the Contractor must proceed diligently with the performance of the contract in accordance with the disputed decision.

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation.

Any litigation brought by Medicaid or Contractor regarding any provision of the contract shall be brought in either the Circuit Court of Montgomery County, Alabama, or the United States District Court for the Middle District of Alabama, Northern Division, according to the jurisdictions of these

courts. This provision shall not be deemed an attempt to confer any jurisdiction on these courts which they do not by law have, but is a stipulation and agreement as to forum and venue only.

Y. Records Retention and Storage

Contractor shall maintain financial records, supporting documents, statistical records, and all other records pertinent to the Alabama Medicaid Program for a period of three years from the date of the final payment made by Medicaid to Contractor under the contract. However, if audit, litigation, or other legal action by or on behalf of the State or Federal Government has begun but is not completed at the end of the three- year period, or if audit findings, litigation, or other legal action have not been resolved at the end of the three year period, the records shall be retained until resolution.

Z. Inspection of Records

Contractor agrees that representatives of the Comptroller General, HHS, the General Accounting Office, the Alabama Department of Examiners of Public Accounts, and Medicaid and their authorized representatives shall have the right during business hours to inspect and copy Contractor’s books and records pertaining to contract performance and costs thereof. Contractor shall cooperate fully with requests from any of the agencies listed above and shall furnish free of charge copies of all requested records. Contractor may require that a receipt be given for any original record removed from Contractor’s premises.

AA. Use of Federal Cost Principles

For any terms of the contract which allow reimbursement for the cost of procuring goods, materials, supplies, equipment, or services, such procurement shall be made on a competitive basis (including the use of competitive bidding procedures) where practicable, and reimbursement for such cost under the contract shall be in accordance with 48 CFR, Chapter 1, Part 31. Further, if such reimbursement is to be made with funds derived wholly or partially from federal sources, such reimbursement shall be subject to Contractor’s compliance with applicable federal procurement requirements, and the determination of costs shall be governed by federal cost principles.

BB. Payment

Contractor shall submit to Medicaid a detailed invoice for compensation for the deliverable and/or work performed. Invoice should be submitted to the Project Director. Payment is dependent upon successful completion and acceptance of described work and delivery of required documentation.

CC. Notice to Parties

Any notice to Medicaid under the contract shall be sufficient when mailed to the Project Director. Any notice to Contractor shall be sufficient when mailed to Contractor at the address given on the return receipt from this RFP or on the contract after signing. Notice shall be given by certified mail, return receipt requested.

DD. Disclosure Statement

The successful Vendor shall be required to complete a financial disclosure statement with the executed contract.

EE. Debarment

Contractor hereby certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency.

FF. Not to Constitute a Debt of the State

Under no circumstances shall any commitments by Medicaid constitute a debt of the State of Alabama as prohibited by Article XI, Section 213, Constitution of Alabama of 1901, as amended by Amendment 26. It is further agreed that if any provision of this contract shall contravene any statute or Constitutional provision or amendment, whether now in effect or which may, during the course of this Contract, be enacted, then that conflicting provision in the contract shall be deemed null and void. The Contractor's sole remedy for the settlement of any and all disputes arising under the terms of this agreement shall be limited to the filing of a claim against Medicaid with the Board of Adjustment for the State of Alabama.

GG. Qualification to do Business in Alabama

Should a foreign corporation be selected to provide professional services in accordance with this RFP, it must be qualified to transact business in the State of Alabama in accordance with Section 10-2B-15.01, et seq., Code of Alabama (1975), and possess a Certificate of Authority issued by the Secretary of State at the time a professional services contract is executed. To obtain forms for a Certificate of Authority, contact the Secretary of State, Corporations Division, (334) 242-5324, www.sos.state.al.us. The Certificate of Authority or a letter/form showing application has been made for a Certificate of Authority must be submitted with the proposal.

HH. Choice of Law

The construction, interpretation, and enforcement of this contract shall be governed by the substantive contract law of the State of Alabama without regard to its conflict of laws provisions. In the event any provision of this contract is unenforceable as a matter of law, the remaining provisions will remain in full force and effect.

II. Alabama interChange Interface Standards

Contractor hereby certifies that any exchange of MMIS data with the Agency's fiscal agent will be accomplished by following the Alabama interChange Interface Standards Document, which is contained in the RFP library.

JJ. Performance Bond

The Contractor will be required to provide a performance guarantee in the amount of 10% of the yearly price. The performance guarantee must be submitted by the contractor at least ten calendar days prior to the contract start date. The form of security guarantee shall be one of the following:

- (1) Cashier's check (personal or company checks are not acceptable);
- (2) Other type of bank certified check;
- (3) Money order;
- (4) An irrevocable letter of credit;
- (5) Surety bond issued by a company authorized to do business within the State of Alabama.

This bond shall be in force from the start date through the completion of the original term and 90 calendar days beyond and shall be conditioned on faithful performance of all contractual obligations. Failure of the Contractor to perform satisfactorily shall cause the performance bond to become due and payable to the State of Alabama. The Chief Financial Officer of Medicaid or his designee shall be custodian of the performance bond. Said bond shall be extended in the event the AGENCY exercises its option to extend the operational contract and shall be maintained through the completion of that and each subsequent option.

Appendix A: Proposal Compliance Checklist

NOTICE TO VENDOR:

It is highly encouraged that the following checklist be used to verify completeness of Proposal content. It is not required to submit this checklist with your proposal.

Vendor Name

Project Director

Review Date

Proposals for which ALL applicable items are marked by the Project Director are determined to be compliant for responsive proposals.

<input checked="" type="checkbox"/> IF CORRECT	BASIC PROPOSAL REQUIREMENTS
<input type="checkbox"/>	1. Vendor's original proposal received on time at correct location.
<input type="checkbox"/>	2. Vendor submitted the specified copies of proposal and in electronic format.
<input type="checkbox"/>	3. The Proposal includes a completed and signed RFP Cover Sheet.
<input type="checkbox"/>	4. The Proposal is a complete and independent document, with no references to external documents or resources.
<input type="checkbox"/>	5. Vendor submitted signed acknowledgement of any and all addenda to RFP.
<input type="checkbox"/>	6. The Proposal includes written confirmation that the Vendor understands and shall comply with all of the provisions of the RFP.
<input type="checkbox"/>	7. The Proposal includes required client references (with all identifying information in specified format and order).
<input type="checkbox"/>	8. The Proposal includes a corporate background.
<input type="checkbox"/>	9. The Proposal includes a detailed description of the how the deliverables will be met, including staffing.
<input type="checkbox"/>	10. The response includes (if applicable) a Certificate of Authority or letter/form showing application has been made with the Secretary of State for a Certificate of Authority.

Appendix B: Pricing Form

Deliverables

Independent Auditors' Report 2011	\$
Independent Auditors' Report 2012	\$
And Optional Independent Auditors' Report 2013	\$
And Optional Independent Auditors' Report 2014	\$
And Optional Independent Auditors' Report 2015	\$
Total	\$

Appendix C: Contract and Attachments

The following are the documents that must be signed **AFTER** contract award and prior to the meeting of the Legislative Contract Oversight Committee Meeting.

Attachment A: Sample contract

Attachment B: Business Associate Addendum

Attachment C: Contract Review Report for Submission to Oversight Committee

Attachment D: Immigration Status

Attachment E: Disclosure Statement

Attachment F: Letter Regarding Reporting to Ethics Commission

Attachment G: Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Attachment H: Beason-Hammon Certificate of Compliance

Attachment I: 42 CFR 455.304 “Condition for Federal Financial Participation”

SAMPLE
CONTRACT
BETWEEN
THE ALABAMA MEDICAID AGENCY
AND

KNOW ALL MEN BY THESE PRESENTS, that the Alabama Medicaid Agency, an Agency of the State of Alabama, and _____, Contractor, agree as follows:

Contractor shall furnish all labor, equipment, and materials and perform all of the work required under the Request for Proposal (RFP) Number _____, dated _____, strictly in accordance with the requirements thereof and Contractor’s response thereto.

Contractor shall be compensated for performance under this contract in accordance with the provisions of the RFP and the price provided on the RFP Cover Sheet response, in an amount not to exceed _____.

Contractor and the Alabama Medicaid Agency agree that the initial term of the contract is ____to _____.

This contract specifically incorporates by reference the RFP, any amendments thereto, and Contractor’s response, including all attachments.

CONTRACTOR

ALABAMA MEDICAID AGENCY
This contract has been reviewed for and is approved as to content.

Contractor’s name here

Stephanie McGee Azar
Acting Commissioner

Date signed

Date signed

Printed Name

This contract has been reviewed for legal form and complies with all applicable laws, rules, and regulations of the State of Alabama governing these matters.

Tax ID: _____

APPROVED:

General Counsel

Governor, State of Alabama

**ALABAMA MEDICAID AGENCY
BUSINESS ASSOCIATE ADDENDUM**

This Business Associate Addendum (this "Agreement") is made effective the _____ day of _____, 20____, by and between the Alabama Medicaid Agency ("Covered Entity"), an agency of the State of Alabama, and _____ ("Business Associate") (collectively the "Parties").

1. BACKGROUND

- a. Covered Entity and Business Associate are parties to a contract entitled _____ (the "Contract"), whereby Business Associate agrees to perform certain services for or on behalf of Covered Entity.
- b. The relationship between Covered Entity and Business Associate is such that the Parties believe Business Associate is or may be a "business associate" within the meaning of the HIPAA Privacy Rule (as defined below).
- c. The Parties enter into this Business Associate Addendum to the Contract with the intention of complying with the HIPAA Privacy Rule provision that a covered entity may disclose protected health information to a business associate, and may allow a business associate to create or receive protected health information on its behalf, if the covered entity obtains satisfactory assurances that the business associate will appropriately safeguard the information.

2. DEFINITIONS

Unless otherwise clearly indicated by the context, the following terms shall have the following meaning in this Agreement:

- a. "Breach" shall have the meaning set forth in 45 C.F.R. § 164.402.
- b. "Electronic Health Record" shall mean an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- c. "Electronic Protected Health Information" means Protected Health Information that is transmitted by Electronic Media (as defined in the Security and Privacy Rule) or maintained in Electronic Media.
- d. "HIPAA" means the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- e. "Individual" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

- f. “Personal Health Record” shall mean an electronic record of identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared and controlled by or primarily for the individual.
- g. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- h. “Protected Health Information” (PHI) shall have the same meaning as the term “protected health information” in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- i. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.103.
- j. “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his designee.
- k. “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- l. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 162, and Parts 164, Subparts A and C. The application of Security provisions Sections 164.308; 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity.
- m. Unless otherwise defined in this Agreement, capitalized terms used herein shall have the same meaning as those terms have in the Privacy Rule.
- n. “Unsecured Protected Health Information” is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by the Secretary of Health and Human Services in the guidance issued under section 13402(h)(2) of Public Law 111–5 on the HHS Web site.

3. OBLIGATIONS OF BUSINESS ASSOCIATE

- a. Use and Disclosure of PHI. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.
- b. Appropriate Safeguards. Business Associate agrees to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI other than as provided for by this Agreement. The Business Associate agrees to take steps to safeguard, implement and maintain PHI in accordance with the HIPAA Privacy Rule.
- c. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- d. Report Unauthorized Use or Disclosure. Business Associate agrees to promptly report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware.

- e. **Applicability to Business Associate's Agents.** In accordance with 45CFR 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate shall ensure that any subcontractors or agents that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information. The Business Associate agrees to have HIPAA-compliant Business Associate Agreements or equivalent contractual agreements with agents to whom the Business Associate discloses Covered Entity PHI.
- f. **Access.** Upon receipt of a written request from Covered Entity, Business Associate agrees to provide Covered Entity, in order to allow Covered Entity to meet its requirements under 45 CFR 164.524, access to PHI maintained by Business Associate in a Designated Record Set within thirty (30) business days.
- g. **Amendments to PHI.** Business Associate agrees to make any amendment(s) to PHI maintained by Business Associate in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR 164.526 at the request of Covered Entity, within thirty (30) calendar days after receiving a written request for amendment from Covered Entity.
- h. **Availability of Documents.** Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, Covered Entity, available to Covered Entity or to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules, within five business days after receipt of written notice.
- i. **Documentation of PHI Disclosures.** Business Associate agrees to keep records of disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
- j. **Accounting of Disclosures.** The Business Associate agrees to provide to Covered Entity, within 30 days of receipt of a written request from Covered Entity, information collected in accordance with the documentation of PHI disclosure of this Agreement, to permit Covered Entity to respond to a request by an Individual or an authorized representative for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
- k. **The Business Associate shall maintain a comprehensive security program appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities as defined in the Security Rule.**
- l. **The Business Associate shall notify the Covered Entity within 5 business days following the discovery of a breach of Protected Health Information (PHI).**
- m. **The Business Associate shall provide the Covered Entity the following information when a breach of unsecured protected health information is discovered:**
 - 1. **The number of recipient records involved in the breach.**
 - 2. **A description of what happened, including the date of the breach and the date of the discovery of the breach if known.**
 - 3. **A description of the types of unsecure protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home**

address, account number, diagnosis, disability code, or other type information were involved).

4. Any steps the individuals should take to protect themselves from potential harm resulting from the breach.
 5. A description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches.
 6. Contact procedures for individuals to ask questions or learn additional information, which shall include the Business Associate's toll-free number, email address, Web site, or postal address.
 7. A proposed media release developed by the Business Associate.
- n. The Business Associate shall obtain Covered Entity approval prior to reporting any breach required by 45 CFR Part 164, Subpart D.
 - o. The Business Associate shall, after receiving Covered Entity approval, provide the necessary notices to the recipient, prominent media outlet, or the Secretary of Health and Human Services (HHS) to report Business Associate breaches as required by 45 CFR Part 164, Subpart D.
 - p. Covered Entity will coordinate with the Business Associate in the determination of additional specific actions that will be required of the Business Associate for mitigation of the breach.
 - q. If the Business Associate is a vendor of personal health records, notification of the breach will need to be made with the Federal Trade Commission.
 - r. The Business Associate shall be responsible for any and all costs associated with the notification and mitigation of a breach that has occurred because of the negligence of the Business Associate.
 - s. The Business Associate shall pay all fines or penalties imposed by HHS under 45 CFR Part 160 HIPAA Administrative Simplification: Enforcement rule for breaches made by any employee, officer, or agent of the Business Associate.
 - t. The Business Associate shall be subject to prosecution by the Department of Justice for criminal violations of HIPAA if the Business Associate obtains, accesses or discloses individually identifiable health information without authorization, and shall be responsible for any and all costs associated with prosecution.

4. PERMITTED USES AND DISCLOSURES

- a. Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure would not violate the Subpart E of 45 CFR Part 164 if done by Covered Entity;
- b. Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- c. Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that:
 - 1. disclosures are Required By Law; or
 - 2. Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- d. Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- e. Business Associate may not use or disclose PHI if the use or disclosure would violate any term of the Contract.

5. REPORTING IMPROPER USE OR DISCLOSURE

- a. The Business Associate shall report to the Covered Entity any use or disclosure of PHI not provided for by this agreement immediately from the time the Business Associate becomes aware of the use or disclosure.
- b. The Business Associate shall report to the Covered Entity any Security Incident and/or breach immediately from the time the Business Associate becomes aware of the use or disclosure.

6. OBLIGATIONS OF COVERED ENTITY

- a. Covered Entity shall notify the Business Associate of any limitation(s) in its notice of privacy practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect Alabama Medicaid's use or disclosure of PHI.
- b. Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect the Business Associate's use or disclosure of PHI.
- c. Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- d. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.
- e. Covered Entity shall provide Business Associate with only that PHI which is minimally necessary for Business Associate to provide the services.

7. TERM AND TERMINATION

- a. **Term.** The Term of this Agreement shall be effective as of the effective date stated above and shall terminate when the Contract terminates.
- b. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option:

1. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
2. Immediately terminate this Agreement; or
3. If neither termination nor cure is feasible, report the violation to the Secretary as provided in the Privacy Rule.

c. Effect of Termination.

1. Except as provided in paragraph (2) of this section or in the Contract, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
2. In the event that Business Associate determines that the PHI is needed for its own management and administration or to carry out legal responsibilities and returning or destroying the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible. Business Associate shall:
 - a. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
 - b. Return to covered entity or, if agreed to by covered entity, destroy the remaining protected health information that the business associate still maintains in any form;
 - c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
 - d. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 4, "Permitted Uses and Disclosures" which applied prior to termination; and
 - e. Return to covered entity or, if agreed to by covered entity, destroy the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

d. Survival

The obligations of business associate under this Section shall survive the termination of this Agreement.

8. GENERAL TERMS AND CONDITIONS

- a. This Agreement amends and is part of the Contract.
- b. Except as provided in this Agreement, all terms and conditions of the Contract shall remain in force and shall apply to this Agreement as if set forth fully herein.
- c. In the event of a conflict in terms between this Agreement and the Contract, the interpretation that is in accordance with the Privacy Rule shall prevail. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- d. A breach of this Agreement by Business Associate shall be considered sufficient basis for Covered Entity to terminate the Contract for cause.
- e. The Parties agree to take such action as is necessary to amend this Agreement from time to time for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

IN WITNESS WHEREOF, Covered Entity and Business Associate have executed this Agreement effective on the date as stated above.

ALABAMA MEDICAID AGENCY

Signature: _____

Printed Name: Clay Gaddis

Title: Privacy Officer

Date: _____

BUSINESS ASSOCIATE

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Contract Review Permanent Legislative Oversight Committee
Alabama State House
Montgomery, Alabama 36130

CONTRACT REVIEW REPORT
(Separate review report required for each contract)

Name of State Agency: Alabama Medicaid Agency

Name of Contractor: _____

Contractor's Physical Street Address(No. P.O. Box) _____ City _____ State _____

* Is Contractor organized as an Alabama Entity in Alabama? Yes _____ NO _____
* If not, has it qualified with the Alabama Secretary of State to do business in Alabama? Yes _____ NO _____

Is Act 2001-955 Disclosure Form Included with this Contract? YES _____ NO _____
Does Contractor have current member of Legislature or family member of Legislator employed? Yes _____ NO _____
Was a Lobbyist/Consultant used to secure this contract OR affiliated with this contractor? YES _____ NO _____
If Yes, Give Name: _____

Contract Number: _____

Contract/Amendment Total: \$ _____ (estimate if necessary)
% of State Funds: _____ % of Federal Funds: _____ % Other Funds: _____

**Please Specify source of Other Funds (Fees, Grants, etc.) _____

Date Contract Effective: _____ Date Contract Ends: _____

Type of Contract: NEW: _____ RENEWAL: _____ AMENDMENT: _____
If renewal, was it originally Bid? Yes _____ No _____

If AMENDMENT, Complete A through C:

[A] Original contract total \$ _____
[B] Amended total prior to this amendment \$ _____
[C] Amended total after this amendment \$ _____

Was Contract secured through Bid Process? Yes _____ No _____ Was lowest Bid accepted? Yes _____ No _____

Was Contract secured through RFP Process? Yes _____ No _____ Date RFP was awarded _____

Posted to Statewide RFP Database at <http://rfp.alabama.gov/Login.aspx> Yes _____ No _____

If no, please give a brief explanation:
Summary of Contract Services to be Provided: _____

Why Contract Necessary AND why this service cannot be performed by merit employee: _____

I certify that the above information is correct.

Signature of Agency Head

Signature of Contractor

Printed Name

Printed Name

Agency Contact: Stephanie Lindsay

Phone: (334) 242-5833

Revised: 02/20/2013

IMMIGRATION STATUS

I hereby attest that all workers on this project are either citizens of the United States or are in a proper and legal immigration status that authorizes them to be employed for pay within the United States.

Signature of Contractor

Witness



State of Alabama Disclosure Statement

(Required by Act 2001-955)

ENTITY COMPLETING FORM

ADDRESS

CITY, STATE, ZIP TELEPHONE NUMBER

STATE AGENCY/DEPARTMENT THAT WILL RECEIVE GOODS, SERVICES, OR IS RESPONSIBLE FOR GRANT AWARD

Alabama Medicaid Agency

ADDRESS

501 Dexter Avenue, Post Office Box 5624

CITY, STATE, ZIP TELEPHONE NUMBER

Montgomery, Alabama 36103-5624 (334) 242-5833

This form is provided with:

- Contract
- Proposal
- Request for Proposal
- Invitation to Bid
- Grant Proposal

Have you or any of your partners, divisions, or any related business units previously performed work or provided goods to any State Agency/Department in the current or last fiscal year?

- Yes
- No

If yes, identify below the State Agency/Department that received the goods or services, the type(s) of goods or services previously provided, and the amount received for the provision of such goods or services.

STATE AGENCY/DEPARTMENT RECEIVED	TYPE OF GOODS/SERVICES	AMOUNT
----------------------------------	------------------------	--------

Have you or any of your partners, divisions, or any related business units previously applied and received any grants from any State Agency/Department in the current or last fiscal year?

- Yes
- No

If yes, identify the State Agency/Department that awarded the grant, the date such grant was awarded, and the amount of the grant.

STATE AGENCY/DEPARTMENT GRANT	DATE GRANT AWARDED	AMOUNT OF
-------------------------------	--------------------	-----------

- List below the name(s) and address(es) of all public officials/public employees with whom you, members of your immediate family, or any of your employees have a family relationship and who may directly personally benefit financially from the proposed transaction. Identify the State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

NAME OF PUBLIC OFFICIAL/EMPLOYEE DEPARTMENT/AGENCY	ADDRESS	STATE
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2. List below the name(s) and address(es) of all family members of public officials/public employees with whom you, members of your immediate family, or any of your employees have a family relationship and who may directly personally benefit financially from the proposed transaction. Identify the public officials/public employees and State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

NAME OF DEPARTMENT/ FAMILY MEMBER EMPLOYED	ADDRESS	NAME OF PUBLIC OFFICIAL/ PUBLIC EMPLOYEE	STATE AGENCY WHERE
---	---------	---	-----------------------

If you identified individuals in items one and/or two above, describe in detail below the direct financial benefit to be gained by the public officials, public employees, and/or their family members as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

Describe in detail below any indirect financial benefits to be gained by any public official, public employee, and/or family members of the public official or public employee as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

List below the name(s) and address(es) of all paid consultants and/or lobbyists utilized to obtain the contract, proposal, request for proposal, invitation to bid, or grant proposal:

NAME OF PAID CONSULTANT/LOBBYIST	ADDRESS
----------------------------------	---------

By signing below, I certify under oath and penalty of perjury that all statements on or attached to this form are true and correct to the best of my knowledge. I further understand that a civil penalty of ten percent (10%) of the amount of the transaction, not to exceed \$10,000.00, is applied for knowingly providing incorrect or misleading information.

Signature _____ Date _____

Notary's Signature _____ Date _____ Date Notary Expires _____

Act 2001-955 requires the disclosure statement to be completed and filed with all proposals, bids, contracts, or grant proposals to the State of Alabama in excess of \$5,000.

ALABAMA MEDICAID AGENCY

MEMORANDUM

TO: All Persons Under Contract With the Agency and All Agency Staff

SUBJECT: Reporting to Ethics Commission by Persons Related to Agency Employees

Section 36-25-16(b) Code of Alabama (1975) provides that anyone who enters into a contract with a state agency for the sale of goods or services exceeding \$7500 shall report to the State Ethics Commission the names of any adult child, parent, spouse, brother or sister employed by the agency.

Please review your situation for applicability of this statute. The address of the Alabama Ethics Commission is:

100 North Union Street
RSA Union Bldg.
Montgomery, Alabama 36104

A copy of the statute is reproduced below for your information. If you have any questions, please feel free to contact Stephanie Azar, Agency General Counsel, at 242-5126.

Section 36-25-16. Reports by persons who are related to public officials or public employees and who represent persons before regulatory body or contract with state.

- (a) When any citizen of the state or business with which he or she is associated represents for a fee any person before a regulatory body of the executive branch, he or she shall report to the commission the name of any adult child, parent, spouse, brother, or sister who is a public official or a public employee of that regulatory body of the executive branch.
- (b) When any citizen of the State or business with which the person is associated enters into a contract for the sale of goods or services to the State of Alabama or any of its agencies or any county or municipality and any of their respective agencies in amounts exceeding seven thousand five hundred dollars (\$7500) he or she shall report to the commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made.
- (c) This section shall not apply to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding.
- (d) Each regulatory body of the executive branch, or any agency of the State of Alabama shall be responsible for notifying citizens affected by this chapter of the requirements of this section. (Acts 1973, No. 1056, p. 1699, §15; Acts 1975, No. 130, §1; Acts 1995, No. 95-194, p. 269, §1.)

**Instructions for Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion**

(Derived from Appendix B to 45 CFR Part 76--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions)

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

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

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

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

5. The prospective lower tier participant agrees by submitting this contract that, should the contract be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this contract that it will include this certification clause without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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

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

9. Except for transactions authorized under 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 proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Agency may pursue available remedies, including suspension and/or debarment.

State of _____)

County of _____)

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject): _____ by and between _____
_____ (Contractor/Grantee) and Alabama Medicaid Agency (State Agency or Department or other Public Entity)

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.
BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:
 - a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
 - b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

_____(a) The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

_____(b) The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20____.

Name of Contractor/Grantee/Recipient

By: _____

Its _____

The above Certification was signed in my presence by the person whose name appears above, on

this _____ day of _____ 20____.

WITNESS: _____

Print Name of Witness

42 U.S. Code § 1302 - Rules and regulations; impact analyses of Medicare and Medicaid rules and regulations on small rural hospitals

Subpart D—Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments

SOURCE: 73 FR 77951, Dec. 19, 2008, unless otherwise noted.

§455.300 Purpose.

This subpart implements Section 1923(j)(2) of the Act.

§455.301 Definitions.

For the purposes of this subpart—

Independent certified audit means an audit that is conducted by an auditor that operates independently from the Medicaid agency or subject hospitals and is eligible to perform the DSH audit. Certification means that the independent auditor engaged by the State reviews the criteria of the Federal audit regulation and completes the verification, calculations and report under the professional rules and generally accepted standards of audit practice. This certification would include a review of the State's audit protocol to ensure that the Federal regulation is satisfied, an opinion for each verification detailed in the regulation, and a determination of whether or not the State made DSH payments that exceeded any hospital's specific DSH limit in the Medicaid State plan rate year under audit. The certification should also identify any data issues or other caveats that the auditor identified as impacting the results of the audit.

Medicaid State Plan Rate Year means the 12-month period defined by a State's approved Medicaid State plan in which the State estimates eligible uncompensated care costs and determines corresponding disproportionate share hospital payments as well as all other Medicaid payment rates. The period usually corresponds with the State's fiscal year or the Federal fiscal year but can correspond to any 12-month period defined by the State as the Medicaid State plan rate year.

§455.304 Condition for Federal financial participation (FFP).

(a) General rule. (1) The State must submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with the requirements in this subpart, to receive Federal payments under Section 1903(a)(1) of the Act based on State expenditures for disproportionate share hospital (DSH) payments for Medicaid State plan rate years subsequent to the date the audit is due, except as provided in paragraph (e) of this section. (2) FFP is not available in expenditures for DSH payments that are found in the independent certified audit to exceed the hospital-specific eligible uncompensated care cost limit, except as provided in paragraph (e) of this section.

(b) Timing. For Medicaid State plan rate years 2005 and 2006, a State must submit to CMS an independent certified audit report no later than the last day of calendar year 2009. Each subsequent audit beginning with Medicaid State plan rate year 2007 must be completed by the last day of the Federal fiscal year ending three years from the end of the Medicaid State plan rate year under audit. Completed audit reports must be submitted to CMS no later than 90 days after completion. Post-audit adjustments based on claims for the Medicaid State plan rate year paid subsequent to the audit date, if any, must be submitted in the quarter the claim was paid.

(c) Documentation. In order to complete the independent certified audit, States must use the following data sources:

- (1) Approved Medicaid State plan for the Medicaid State plan rate year under audit.
- (2) Payment and utilization information from the State's Medicaid Management Information System.
- (3) The Medicare 2552-96 hospital cost report(s) applicable to the Medicaid State plan rate year under audit. If the Medicare 2552-96 is superseded by an alternate Medicare developed cost reporting tool during an audit year, that tool must be used for the Medicaid State plan rate year under audit.
- (4) Audited hospital financial statements and hospital accounting records.

(d) Specific requirements. The independent certified audit report must verify the following:

- (1) *Verification 1:* Each hospital that qualifies for a DSH payment in the State is allowed to retain that payment so that the payment is available to offset its uncompensated care costs for furnishing inpatient hospital and outpatient hospital services during the Medicaid State plan rate year to Medicaid eligible individuals and individuals with no source of third party coverage for the services in order to reflect the total amount of claimed DSH expenditures.
- (2) *Verification 2:* DSH payments made to each qualifying hospital comply with the hospital-specific DSH payment limit. For each audited Medicaid State plan rate year, the DSH payments made in that audited Medicaid State plan rate year must be measured against the actual uncompensated care cost in that same audited Medicaid State plan rate year.
- (3) *Verification 3:* Only uncompensated care costs of furnishing inpatient and outpatient hospital services to Medicaid eligible individuals and individuals with no third party coverage for the inpatient and outpatient hospital services they received as described in Section 1923(g)(1)(A) of the Act are eligible for inclusion in the calculation of the hospital-specific disproportionate share limit payment limit, as described in Section 1923(g)(1)(A) of the Act.
- (4) *Verification 4:* For purposes of this hospital-specific limit calculation, any Medicaid payments (including regular Medicaid fee-for-service rate payments, supplemental/enhanced Medicaid payments, and Medicaid managed care organization payments) made to a disproportionate share hospital for furnishing inpatient hospital and outpatient hospital services to Medicaid eligible individuals, which are in excess of the Medicaid incurred costs of such services, are applied against the uncompensated care costs of furnishing inpatient hospital and outpatient hospital services to individuals with no source of third party coverage for such services.
- (5) *Verification 5:* Any information and records of all of its inpatient and outpatient hospital service costs under the Medicaid program; claimed expenditures under the Medicaid

program; uninsured inpatient and outpatient hospital service costs in determining payment adjustments under this Section; and any payments made on behalf of the uninsured from payment adjustments under this Section has been separately documented and retained by the State.

- (6) *Verification 6:* The information specified in paragraph (d)(5) of this Section includes a description of the methodology for calculating each hospital's payment limit under Section 1923(g)(1) of the Act. Included in the description of the methodology, the audit report must specify how the State defines incurred inpatient hospital and outpatient hospital costs for furnishing inpatient hospital and outpatient hospital services to Medicaid eligible individuals and individuals with no source of third party coverage for the inpatient hospital and outpatient hospital services they received.

(e) *Transition Provisions:* To ensure a period for developing and refining reporting and auditing techniques, findings of State reports and audits for Medicaid State Plan years 2005-2010 will not be given weight except to the extent that the findings draw into question the reasonableness of State uncompensated care cost estimates used for calculations of prospective DSH payments for Medicaid State plan year 2011 and thereafter.

Questions and Answers for

RFP 2014-DSHA-01 - Independent DSH Audit

1. Does Alabama Medicaid Agency currently anticipate that the State's contracted agent responsible for accumulating the necessary documentation (Myers & Stauffer) will continue in their same role for the foreseeable future, including the full 5 year term of this RFP?

We anticipate no changes in the future.

2. Should there be any future change in the State's contracted agent responsible for accumulating the necessary documentation, would it be more likely that a new, third-party firm would be engaged to meet these responsibilities, or would the firm chosen under this RFP assume those responsibilities? If the latter, this would clearly be a substantial increase in the scope of the engagement. Would the terms and pricing of this contract then be renegotiated or a new RFP issued?

This RFP will cover the same scope of work for the entire length of the contract. If there is a change in scope a new RFP will be issued with the expanded scope explained.

3. Does Alabama Medicaid Agency or its contracted agent anticipate any changes will be necessary to the overall scope of the "Independent DSH Audit" now that the "transitional provisions" (see 73 FR 77951) limiting the impact of findings in MSP years 2005-2010 have expired?

The scope of the independent DSH audit is the responsibility of the independent auditor. CMS has stated that the following: [I]n order to certify to the verifications, the auditors should follow generally accepted auditing practices and requirements to assure a thorough and complete audit has been conducted. The auditor must develop sufficient confidence in the data to certify the results for the State plan rate year subject to the audit. The final rule does not eliminate any flexibility that independent auditors might have in using accepted professional methodologies to conduct the audit and to certify to the verifications. However, the independent certified audits required to be submitted must be performed in compliance with section 1923(j) and implementing regulations as a condition for receiving Federal payments under section 1903(a)(1) and 1923 of the Act. [Additional Information on the DSH Reporting and Audit Requirements published by CMS]

The State does not anticipate major changes in data gathering for the DSH audit versus previous audits.

4. Page 2 of the RFP indicates that the audit for FY 2011, and each succeeding year, must be completed by September 30. Please indicate the expected timeline for gathering the information from the participating DSH hospitals and anticipated deadlines to be imposed on the hospitals. These timelines / deadlines (and the resulting DSH hospital response rate) are pivotal in the audit firm's ability to complete the engagement by September 30.

The due date for the DSH Hospitals to submit data for the 2011 Audit is at the end of April.

5. Other than the report that will serve for the certified independent audit, does Alabama Medicaid Agency anticipate any additional reporting requirements and/or presentations, educational events, etc. that a responding firm should consider in the scope of the proposal?

No reporting requirements in addition to what is required are anticipated. No presentations or educational events are expected to be performed by a responding firm.

Wed 3/19/2014 11:20 AM

**Questions and Answers for
RFP 2014-DSHA-01 - Independent DSH Audit**

1. Who will the auditor address data questions to throughout the audit process – the contracted agent or the individual hospitals?

The contracted agent serves as the data repository for the Alabama Medicaid Agency for data used to calculate the hospital specific DSH limit for each hospital during a given fiscal year. A protocol will be established with the awarded firm between the Alabama Medicaid Agency, the contracted agent and the Alabama Hospital Association regarding the best method for questions to be answered in a timely manner for the independent auditor.

2. Who is the contracted agent that is responsible for accumulating the documentation necessary for the State's compliance?

Myers & Stauffer PLLC is the contracted agent responsible for the preparation of the DSH reporting form and maintaining the documentation to support the reporting form.

3. What level of testing / assurance is expected in regard to third-party insurance coverage?

The level of testing/assurance needed to certify the verifications within the independent DSH audit is the responsibility of the independent auditor. CMS has stated that the following:

[I]n order to certify to the verifications, the auditors should follow generally accepted auditing practices and requirements to assure a thorough and complete audit has been conducted. The auditor must develop sufficient confidence in the data to certify the results for the State plan rate year subject to the audit. The final rule does not eliminate any flexibility that independent auditors might have in using accepted professional methodologies to conduct the audit and to certify to the verifications. However, the independent certified audits required to be submitted must be performed in compliance with section 1923(j) and implementing regulations as a condition for receiving Federal payments under section 1903(a)(1) and 1923 of the Act. [[Additional Information on the DSH Reporting and Audit Requirements published by CMS](#)]

4. Describe the appeal process for any audit findings, including whether the contracted agent or the independent auditor will communicate directly with the provider.

A protocol will be established with the awarded firm between the Alabama Medicaid Agency, the contracted agent and the Alabama Hospital Association regarding the communication of audit findings to specific hospitals and the time frame that will be established to allow the hospitals to respond to the findings.

5. How many Alabama DSH hospitals received payments in 2011 and 2012, and also the number of hospitals with September 30 year ends versus other fiscal years?

The Alabama Medicaid Agency pays privately owned and operated hospitals a DSH payment, as well as State Mental Hospitals that provide services for adolescent care. For State owned and operated hospitals and non-State government owned and operated hospitals, the Alabama Medicaid Agency claims certified public expenditures representing the amount of DSH payments to these hospitals. The number of hospitals for which the Alabama Medicaid Agency claimed federal funds is as follows: 2012 96 facilities were paid DSH with 98 in 2012. 37 of the facilities had a September 30 Year ends.

6. Will the independent auditor be able to rely on the accuracy of the cost reports submitted in connection with supporting documents?

The level of testing/assurance needed to certify the verifications within the independent DSH audit is the responsibility of the independent auditor. Throughout the Final Rule published on December 19, 2008, CMS stated "[w]e expect that reports and audits will be based on the best available information. If audited Medicare cost reports are not available, the DSH report and audit may need to be based on Medicare cost reports as filed." The contracting agent for the Alabama Medicaid Agency has developed data collection procedures which place the Agency in compliance with the General DSH Audit and Reporting Protocol developed by CMS.

7. Please confirm Medicaid paid claims data is readily available and will be provided to the contractor immediately following award. If not, how much time should the contractor allow in its project timeline for receiving the data?

The contracting agent for the Alabama Medicaid Agency has developed data collection procedures which place the Agency in compliance with the General DSH Audit and Reporting Protocol developed by CMS. One key component of this data collection is the Medicaid paid claims data. All data that has been gathered in determining the hospital specific DSH limit for each hospital will be made available to the awarded independent auditor.

8. Do hospitals currently provide the Department claims level details to support the uninsured services they provide each year, or will the contractor be responsible for collection of uninsured service data directly from the hospitals as part of the DSH audit?

The contracting agent for the Alabama Medicaid Agency has developed data collection procedures which place the Agency in compliance with the General DSH Audit and Reporting Protocol developed by CMS. All data that has been gathered in determining the hospital specific DSH limit for each hospital will be made available to the awarded independent auditor. A protocol will be established with the awarded independent auditor between the Alabama Medicaid Agency, the contracted agent and the Alabama Hospital Association regarding the best method for additional data requests to hospitals in order for

the independent auditor to receive the information in a timely manner to complete the audit.

9. Please provide the DSH audit fee and / or similar information the Department paid for completion of the 2010 Medicaid DSH audit.

The previous DSH Audit RFP Price was \$87,750 plus expenses not to exceed \$4,500.

3/21/2014 10:22 AM