

**Issue Date: March 31, 2015**

**REQUEST FOR PROPOSALS**  
**FOR**  
**HIPAA PRIVACY AND SECURITY RISK ANALYSIS**  
**RFP #Y15-501-ZM**

The Orange County Board of County Commissioners, Orange County, Florida, invites interested parties to submit proposals **no later than 2:00 PM, Tuesday, April 28, 2015**, for providing a HIPAA Privacy and Security Risk Analysis to the Board of County Commissioners.

Sealed proposals will be accepted at and copies of the Request for Proposals may be obtained from: Orange County Procurement Division, Internal Operations Centre II, 400 E. South Street, 2nd Floor, Orlando, FL 32801.

Copies may be requested by phoning (407) 836-5635. Solicitations are also available for downloading from the Internet at: <http://apps.ocfl.net/orangebids/bidopen.asp> .

Johnny Richardson, CPPO, CFCM  
Manager, Procurement Division

**NOTICE TO PROPOSERS**

To ensure that your proposal is responsive, you are urged to request clarification or guidance on any issues involving this solicitation before submission of your response. Your point-of-contact for this solicitation is Zulay Millan, Senior Purchasing Agent, at (407) 836-5640 whose email address is [Zulay.Millan@ocfl.net](mailto:Zulay.Millan@ocfl.net). **You may contact Zulay Millan at any time during this process, including during the Black-Out Period.**

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**REQUEST FOR PROPOSALS**  
**FOR**  
**HIPAA PRIVACY AND SECURITY RISK ANALYSIS**  
**RFP #Y15-501-ZM**

**PURPOSE**

The Orange County Board of County Commissioners, Orange County, Florida, is soliciting for a HIPAA Privacy and Security Risk Analysis.

**INSTRUCTIONS TO PROPOSERS**

Firms or companies desiring to provide services, as described in the Scope of Services, shall submit sealed proposals, one (1) original, eight (8) copies and one (1) electronic copy on CD or USB drive not later than **2:00 PM local time Tuesday, April 28, 2015**, to the Orange County Procurement Division, Internal Operations Centre II, 400 E. South Street, 2nd Floor, Orlando, Florida 32801, (407) 836-5635.

**Offers by e-mail, telephone, or fax shall not be accepted. An e-mailed or a faxed proposal shall be rejected as non-responsive regardless of where it is received.**

It is the sole responsibility of the proposer to ensure that their proposal reaches the Procurement Division. **Proposals received after the specified time and date shall be returned unopened.** The time/date stamp clock located in the Procurement Division shall serve as the official authority to determine lateness of any proposal. **The decision to refuse to consider a proposal that was received beyond the date/time established in the solicitation shall not be the basis for a protest pursuant to the Orange County Code (Procurement Ordinance).**

**Respondents are cautioned that they are responsible for delivery to the specific location cited above. If your proposal is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office shall not be responsible for deliveries made to any place other than the specified address.**

All proposals will be opened publicly and the names of all proposers shall be read aloud.

## **TERMS AND CONDITIONS**

### **1. ACCEPTANCE/REJECTION/CANCELLATION**

The County reserves the right to accept or reject any or all proposals, with or without cause, to waive technicalities, or to accept the proposal which, in its sole judgment best serves the interest of the County, or to award a contract to the next most qualified proposer if a successful proposer does not execute a contract within thirty (30) days after approval of the selection by the Board of County Commissioners or other competent authority. Orange County reserves the right, and the Manager of Procurement Division has absolute and sole discretion, to cancel a solicitation at any time prior to approval of the award by the Board of County Commissioners when such approval is required. The decision to cancel a solicitation cannot be the basis for a protest pursuant to the Orange County Code.

### **2. CLARIFICATION**

The County reserves the right to request clarification of information submitted and to request additional information of one or more proposers.

### **3. WITHDRAWAL OF PROPOSAL**

Any proposal may be withdrawn until the date and time set above for the submission of the proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide to the County the services set forth in this Request for Proposals, or until one or more of the proposals have been awarded.

### **4. SEALED PROPOSALS**

Proposals shall be delivered in a sealed envelope and proposers should label their proposal with the following:

- A. Request for Proposals Number
- B. Date of Opening
- C. Name of Proposer

### **5. PROPOSAL PREPARATION**

Costs of preparation of a response to this request for proposals are solely those of the Proposer. The County assumes no responsibility for any such costs incurred by the Proposer. The Proposer also agrees that the County bears no responsibility for any costs associated with any administrative or judicial proceedings resulting from the solicitation process.

### **6. INSURANCE**

Vendor/Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types

of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor/Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Vendor/Contractor under this contract. Vendor/Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

The Vendor/Contractor shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via [www.floir.com/companysearch/](http://www.floir.com/companysearch/) and A.M. Best Ratings are available at [www.ambest.com](http://www.ambest.com))

#### Required Coverage:

- Commercial General Liability - The Vendor/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$500,000 per occurrence. Vendor/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured(s). The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

#### Required Endorsements:

- Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.  
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations
- Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.  
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.
- Business Automobile Liability - The Vendor/Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event the Vendor/Contractor does not own automobiles the Vendor/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the

Commercial General Liability policy or separate Business Auto Liability policy.

- Workers' Compensation - The Vendor/Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Vendor/Contractor using an employee leasing company shall complete the Leased Employee Affidavit.

Required Endorsements:

- Waiver of Subrogation- WC 00 03 13 or its equivalent
- Professional Liability- with a limit of not less than \$1,000,000 per occurrence/claim

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/Contractor most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the Vendor/Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Vendor/Contractor agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Vendor/Contractor of the obligation to provide replacement coverage.

By entering into this contract Vendor/Contractor agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Prior to execution and commencement of any operations/services provided under this contract the Vendor/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Board of County Commissioners.

The certificate holder shall read:

Orange County Board of County Commissioners

c/o Procurement Division  
400 E. South Street, 2<sup>nd</sup> Floor  
Orlando, Florida 32801

**7. DRAFT CONTRACT**

The contract that the County intends to use for award is enclosed for reference. Any exceptions to this standard contract must be clearly indicated by return of the standard contract with the proposal, with exceptions clearly noted. The County has the right to require the selected respondent to sign the attached contract or to negotiate revisions to the contract language prior to execution of the contract, at its sole discretion.

Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

**8. ACCOUNTING SYSTEM**

The Contractor shall establish and maintain a reasonable accounting system, which enables ready identification of Contractor's cost of goods and use of funds. The accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this contract. The County or designee shall have access to books, records, subcontract(s), financial operations, and documents of the Contractor or its subcontractors, as required to comply with this section, for the purpose of inspection or audit anytime during normal business hours at the Contractor's place of business. This right to audit shall include the contractor's subcontractors used to procure goods or services under the contract with the County. Contractor shall ensure the County has these same rights with subcontractor(s) and suppliers.

**9. SHORTLISTS, PROTESTS and LOBBYING**

The recommended award will be posted for review by interested parties at the Procurement Division and at:

<http://apps.ocfl.net/OrangeBids/AwardsRec/default.asp> prior to submission through the appropriate approval process and will remain posted for a period of five (5) full business days.

- **Orange County Lobbyist Regulations General Information**  
<http://www.ocfl.net/Portals/0/Resources/Internet/govern/Lobbying/docs/200814.pdf>

A lobbying blackout period shall commence upon issuance of the solicitation until the Board selects the Contractor. For procurements that do not require Board approval, the blackout period commences upon solicitation issuance and concludes upon contract award.



The Board of County Commissioners may void any contract where the County Mayor, one or more County Commissioners, or a County staff person has been lobbied in violation of the black-out period restrictions of Ordinance No. 2002-15.

- **Orange County Protest Procedures**  
[http://www.orangecountyfl.net/Portals/0/Resources/Internet/DEPARTMENTS/County\\_Admin/docs/CodeCH17-313.pdf](http://www.orangecountyfl.net/Portals/0/Resources/Internet/DEPARTMENTS/County_Admin/docs/CodeCH17-313.pdf)

Failure to file a protest with the Procurement Manager by 5:00 PM on the fifth full business day, after posting, shall constitute a waiver of bid protest proceedings.

Information regarding Procurement Committee scheduling and Board approvals is available by calling the Procurement Reception Desk at (407) 836-5635.

#### **10. PUBLIC ENTITY CRIME**

Section 287.133(3)(d), Florida Statutes, provides that the Florida Department of Management Services shall maintain a list of the names and addresses of those who have been disqualified from participating in the public contracting process under this section.

[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/convicted\\_suspended\\_discriminatory\\_complaints\\_vendor\\_lists/convicted\\_vendor\\_list](http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/convicted_vendor_list)

A person or affiliate who has been placed on The Convicted Vendor list following a conviction for a public entity crime shall not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, shall not submit bids on leases of real property to a public entity, shall not be awarded or perform work as a contractor, supplier, subcontractor, or Contractor under a contract with a public entity, and shall not transact business with any public entity in excess of the threshold amount provided in Florida Statute Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on The Convicted Vendor List.

#### **11. AVAILABILITY OF FUNDS**

The County's performance and obligation to pay under this contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

#### **12. TOBACCO FREE CAMPUS**

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties

levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

**13. SCHEDULE OF SUBCONTRACTING**

Proposers shall list **all** proposed sub-contractors to be used, regardless of racial or gender grouping. Include names, addresses, phone numbers, type of work subcontracted (discipline, trade or commodity), proposed percentage of work, and the M/WBE or Majority designation (M/WBE or Non-M/WBE).

**14. EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the Contractor shall abide by the following provisions:

- A. The Contractor shall represent that the Contractor has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- B. The Contractor shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.

The provisions of the prime contract shall be incorporate by the Contractor into the contracts of any applicable subcontractors.

**15. QUESTIONS REGARDING THIS RFP**

Proposers shall not direct any queries or statements concerning their proposal to the Orange County Procurement Committee or County staff during the selection process, from the time of submission of a proposal until the execution of a contract.

Any proposer who initiates any discussions with staff in any manner other than that described below is subject to disqualification from this procurement.

All questions or concerns regarding this Request for Proposals must be submitted in writing, by email to [Zulay.Millan@ocfl.net](mailto:Zulay.Millan@ocfl.net) no later than 5:00 PM Friday, April 10, 2015 to the attention of Zulay Millan, Procurement Division, referencing the RFP number. When required the Procurement Division will issue an addendum to the Request for Proposals. The addendum will be available on

the Internet for access by potential proposers. Proposers are instructed not to contact the initiating division directly. No oral interpretation of this Request for Proposal shall be considered binding. The County shall be bound by information and statements only when such statements are written and executed under the authority of the Procurement Division Manager. **You may contact Zulay Millan at any time during this process, including during the Black-Out Period.**

This provision exists solely for the convenience and administrative efficiency of Orange County. No proposer or other third party gains any rights by virtue of this provision or the application thereof, nor shall any proposer or third party have any standing to sue or cause of action arising there from.

**17. DEBRIEFING OF PROPOSERS**

Not later than thirty (30) days after Board approval of a selection or shortlist, a proposer may submit a written request to the applicable contract administrator or purchasing agent for a debriefing on the evaluation of their proposal. The contract administrator/purchasing agent will schedule a meeting with the Proposer for the debriefing. However, at the Proposer's request, the debriefing may be conducted via telephone conference or the proposer may request a copy of the digital recording of the selection on CD for a \$30.00 fee per CD. The debriefing shall include the following minimum information:

- A. Key requirements of the solicitation.
- B. The overall ranking of all proposals.
- C. The significant weaknesses or deficiencies in the proposal in response to the requirements of the solicitation.
- D. If requested, an explanation of the score received for each evaluation criteria will be provided, including costs, if applicable.
- E. If applicable, a summary of the rationale for award.
- F. Responses to any relevant questions of the Proposer.

Untimely debriefing requests will also be considered.

**18. REFERENCE CHECKS**

The contact person listed as a reference shall be someone who has personal knowledge of the Proposer's performance during the referenced contract. Contact persons shall have been informed that they are being used as a reference and that the County may be contacting them. More than one person can be listed but all shall have knowledge of the project. DO NOT list principals or officers who will not be able to answer specific questions regarding the project.

Failure of references listed to respond to the County's inquiries may negatively impact the evaluation of the Proposal. The reference shall be the owner or a

representative of the owner.

19. **CONFIDENTIAL INFORMATION**

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State or Federal Law, all proposers should be aware that Request for Proposals or Invitation for Bids and the responses thereto are in the public domain. **Proposers must identify specifically** any information contained in their response which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, **citing specifically the applicable exempting law.** If a Proposer fails to cite the applicable exempting law, we will treat the information as public.

20. **BUSINESS ASSOCIATE AGREEMENT**

The Business Associate Agreement at Exhibit C shall govern all matters necessary to enforce the provisions of the HIPAA Privacy and Security 45 CFR Parts 160, 162, and 164 as applicable to this contract.

## **PROPOSAL FORMAT**

The County reserves the right to award a contract pursuant to this RFP without further discussion with proposers. Therefore, it is important that each proposal is complete, adheres to the format and instructions contained herein, and is submitted in the most favorable manner possible.

Proposers must respond in the format delineated below and tabbed as applicable.

Submit one (1) original, eight (8) copies and one (1) electronic copy on CD or USB drive for document management purposes. All responses and copies are to be submitted on 8 ½ x 11 inch paper, bound individually. If your response contains any information deemed confidential, in accordance with Chapter 119 of the Florida Statutes, provide an additional CD or USB drive with a redacted version of your response labeled REDACTED. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.

The following information shall be submitted with your proposal. Failure to submit this information in its entirety will negatively impact the evaluation of your proposal.

### **1. QUALIFICATION OF STAFF**

- A. Provide an organization chart that lists all staff to be assigned to provide the required services and resumes for each describing experience, training and education in the required consulting services. Identify staff experience working with governmental entities and list those projects.

The team assigned to this engagement shall only include credentialed professionals with extensive experience conducting HIPAA/HITECH assessments, developing policies and procedures and addressing remediation activities as required. Credentials shall include those related to privacy (CIPP/US, CHC, CHPC, and/or CHP), and security (Security+ and/or CISSP). Experience shall reflect at least 5 years directly related to HIPAA information security and 10 years of experience in general information security with relevant educational degrees.

### **2. QUALIFICATIONS OF FIRM**

- A. List at least five (5) references, with a minimum of two (2) from governmental entity experience, for which the Proposer has performed similar services including the contact name, address, email address, telephone number and date of the contract.

### **3. TECHNICAL APPROACH**

- A. Provide a brief description of the Proposer's approach to the project.
- B. Confirm the Proposer's agreement to meet the minimum requirements of this Request for Proposals:

#### 4. FEE SCHEDULE

Each proposer shall complete and submit the Fee Schedule included herein. **The hourly fees shall include ALL costs associated with performance of the contract including travel and out-of-pocket expenses.**

The following information (Items 5 through 11) should be submitted to insure that your proposal is adequately evaluated. Failure to provide this information will negatively impact the score of your proposal.

#### 5. MINORITY/WOMEN OWNED BUSINESS ENTERPRISE:

- A. Proposers must address how they intend to comply with the Orange County M/WBE Ordinance, No. 94-02 and amended by Ordinance No. 2009-21. The goal of 24% utilization of certified minority/women business enterprise is applicable to this project. The Ordinance also addresses minority/women group employment levels setting goals to encourage each Proposer to maintain 24% minority and women employee workforce levels in specific categories.
- B. M/WBE firms must be Orange County certified at time of submittal of the Proposal and must be certified in the area(s) for which they will be used. If a firm claims to be certified, but is not listed on the County's website, ocfl.net, the Proposer should obtain a copy of their Orange County certificate and/or contact the Business Development Division at 407-836-7317 for verification of certification. Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola Counties) are eligible for Orange County certification.
- C. Effective August 1, 2003, the County has implemented a graduation program whereby M/WBE firms designated as graduates can participate in the M/WBE program only on specified projects. A prime Contractor may only use a graduate M/WBE to satisfy M/WBE participation in the following:
- For Professional Services in which estimated the overall contractual fees to be awarded to the prime in excess of \$500,000.
  - Vertical construction projects in which the total prime contractor's estimate in excess of \$10,000,000.
  - Horizontal construction projects in which the total prime contractor's estimate in excess of \$7,000,000.
  - Other construction projects in which the total estimate is in excess \$7,000,000.

**It is the proposing firm's responsibility to insure that graduate M/WBE's are not listed in proposals to meet M/WBE participation requirements on projects in which they are not eligible to participate.**

- D. The County has established a credit program whereby Proposers are awarded credits to be applied toward meeting the M/WBE goals on certain County projects. Emphasis will be placed on credits for non-County utilization and first-time M/WBE utilization. Proposers are encouraged to contact the Business Development Division in advance of submittal of proposal for information on acquiring and applying credits.
- E. Proposers must submit signed Letter of Intent with their Proposal for all current Orange County certified M/WBE subcontractors identified on the **SCHEDULE OF SUBCONTRACTING - M/WBE PARTICIPATION FORM**. These Letters of Intent must indicate the scope of work to be performed by every M/WBE plus the percentage of the contract fees to be contracted to the listed subcontractor.
- F. The awarded prime Contractor's responsibilities and requirements are itemized below:
1. Incorporate a 72-hour prompt payment assurance provision and payment schedule in all contracts between the prime and sub-Contractors.
  2. File copies of all executed subcontractor agreement/contracts between the prime and all M/WBE subcontractors on the project to Orange County Business Development Division.
  3. The awarded prime Contractor shall furnish written documentation evidencing actual dollars paid to each subcontractor utilized by the prime Contractor on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the prime Contractor prior to the issuance of final payment.
  4. The prime Contractor shall submit an updated quarterly MWBE utilization report and the "Employment Data, Schedule of Minorities and Women" report for all professional service contracts. The required reports are to be submitted to the Business Development Division no later than the fifth day after end of reporting period.
  5. The awarded prime Contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization of the County, nor shall the prime reduce the scope of work or monetary value of a subcontractor without written authorization of the County. The prime Contractor shall notify the Business Development Division of any additional awards to the M/WBE firm on the prime Contractor's team and the addition of any new M/WBE firm to the prime Contractor's team on that project.
  6. The prime Contractor shall expeditiously advise all M/WBE's and

the Business Development Division of all change orders, contract modifications, additions and deletions to any and all contracts issued to the M/WBE firm on their team.

**Execution of the contract between Orange County and the Proposer shall be contingent upon the filing of executed contracts between the Proposer and the M/WBE subs listed on the SCHEDULE OF SUBCONTRACTING - M/WBE PARTICIPATION FORM with the Business Development Division.**

Proposers are expressly prohibited from substituting subcontractors projected to perform five percent (5%) or more of the overall work as stated in the written Proposal. Such substitution, for any reason, after opening of the Proposal, and prior to award by the County, shall result in disqualification of the Proposal from further consideration for award, except in extraordinary circumstances. Examples of such circumstances are the subcontractors' firm going out of business; death of the owner of the firm; or the inability of the sub-Contractor to perform the work specified. Should such an occurrence arise, it must be substantiated, and the sub- substitution approved, by the County prior to contact execution.

Requests for substitution of subcontractors who are cumulatively scheduled to perform less than five percent (5%) of the over-all scope of services may be considered only prior to final scoring of Proposals by the Procurement Committee. Such requests for substitution must be in writing accompanied by a written withdrawal from the originally listed subcontractor. Failure to comply with these requirements shall result in disqualification of the Proposal from further consideration for award. The Procurement Committee shall be the sole determinant regarding acceptance/rejection of requested substitutions.

The proposer understands that this RFP does not constitute an agreement or contract with the Proposers.

Any Proposers who submits a Proposal to the County with any information that is determined by the County, in its sole opinion, to be substantially inaccurate, misleading, exaggerated, or incorrect may be disqualified from consideration.

**6. LOCATION FORM**

The Location Form determining proximity to the project site shall be completed and submitted with your proposal in order to receive credit for proximity to worksite.

**7. CONFLICT OF INTEREST FORM**

The attached Conflict/Non-Conflict of Interest and Litigation Statement (with any applicable attachments) shall be completed and submitted with your proposal.

**8. ETHICS COMPLIANCE**



The following forms are included in this solicitation and shall be completed and submitted with your proposal as indicated below:

- A. **Orange County Specific Project Expenditure Report** -The purpose of this form is to document any expenses incurred by a lobbyist for the purposes described in Section 2-351, Orange County Code. This form shall be completed and submitted with any bid, proposal or other response to an Orange County solicitation. The Proposer shall not be awarded a contract unless this form has been completed and submitted.
- B. **Relationship Disclosure Form** – The purpose of this form is to document any relationships between a bidder, proposer or responder to an Orange County solicitation and the Mayor or any other member of the Orange County Board of County Commissioners. This form shall be completed and submitted with your proposal.

**No contract award will be made unless these forms have been completed and submitted.** Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning these forms is attached to each for your information.

**9. AUTHORIZED SIGNATORIES/NEGOTIATORS FORM**

The Authorized Signatories/Negotiators Form is attached and shall be completed and submitted with your proposal.

**10. DRUG-FREE WORKPLACE FORM**

The Drug-Free Workplace Form is attached and shall be completed and submitted with your proposal.

**11. VERIFICATION OF EMPLOYMENT STATUS**

Prior to the employment of any person under this contract, the Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the contract term, and an express requirement that Contractors include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. For more information on this process, please refer to United States Citizenship and Immigration Service site at:

<http://www.uscis.gov/portal/site/uscis>.

**Only those employees determined eligible to work within the United States shall be employed under the contract.**

Therefore, by submission of a proposal in response to this solicitation, the Contractor affirms that all employees in the above categories will undergo e-

verification before placement on this contract. The Contractor shall commit to comply with this requirement by completing the E- Verification certification, attached to this solicitation.

**12. BONUS POINTS FOR HIRING OF WELFARE TRANSITION AND DISLOCATED WORKERS**

Proposers may be awarded a maximum of five (5) bonus points for a commitment to hire welfare transition and dislocated workers residing in the Metropolitan Statistical Area (MSA) as fulltime employees. One point will be awarded for each new fulltime hire up to and including a maximum of five (5) points. To be eligible for bonus points, Proposers must complete the attached Form WR- Section I, listing the number of welfare recipients to be hired fulltime and submit with their proposal. Bonus points shall only be awarded once for any one individual hired. Individuals hired may be employed in any position within the firm but must be hired on a fulltime basis.

Within five (5) days after the contract award, the Proposer shall contact the Business Development Division (BDD) Liaison at (407) 836-7317 to assist with meeting this requirement.

**The failure of the Contractor to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.**

During performance of the contract, the Contractor shall take appropriate steps to ensure that individuals hired under this program are retained. However, if it becomes necessary to replace an employee, the Contractor shall contact the BDD Liaison. At its discretion, the County may periodically request submission of certified payrolls to confirm the employment status of program participants.

**13. BONUS POINTS FOR UTILIZING REGISTERED SERVICE-DISABLED VETERAN FIRMS**

Additional point consideration will be available for proposers who utilize registered Service-Disabled Veteran (SDV) business enterprises and will receive the following point allocation:

- A. Registered SDV business enterprise proposers competing as a prime contractor shall receive five (5) points;
- B. Registered SDV proposers with registered SDV business enterprise sub-Contractors on their team shall receive two points for each sub-Contractor up to a maximum of ten (10) points;
- C. Proposers with registered SDV business enterprise sub-Contractors on their team shall receive two points for each registered SDV sub-Contractor up to a maximum of 5 SDV sub-Contractors for a maximum of ten (10) points.
- D. All SDV firms must be Orange County registered at the time of submittal of

the proposal and must be registered in the area(s) for which they will be used. If a firm claims to be registered, but is not listed on the County's website, ocfl.net, the Proposer should obtain a copy of their Orange County registration and/or contact the Business Development Division at 407-836-7317 for verification of registration. Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola counties) are eligible for Orange County registration.

- E. Proposers shall submit signed Letters of Intent with their proposal. Proposers for all current Orange County registered subcontractors identified on the **SCHEDULE OF SUBCONTRACTING – SDV PARTICIPATION FORM**. These letters of Intent must indicate the scope of work to be performed by every registered SDV plus the percentage of the contract fees to be contracted to the listed subcontractor.
- F. The Contractor's responsibilities and requirements are itemized below:
1. Incorporate a 72-hour prompt payment assurance provision and payment schedule in all contracts between the prime and sub-Contractors.
  2. File copies of all executed subcontractor agreement/contracts between the prime and all SDV subcontractors on the project to Orange County Business Development Division.
  3. The Contractor shall furnish written documentation evidencing actual dollars paid to each subcontractor utilized by the prime Contractor on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the prime Contractor prior to the issuance of final payment.
  4. The Contractor shall submit an updated quarterly SDV utilization report and the "Employment Data, Schedule of Minorities and Women" report for all professional service contracts. The required reports are to be submitted to the Business Development Division no later than the fifth day after end of reporting period.
  5. The Contractor shall not substitute, replace or terminate any SDV firm without prior written authorization of the County, nor shall the Contractor reduce the scope of work or monetary value of a subcontractor without written authorization of the County. The Contractor shall notify the Business Development Division of any additional awards to the SDV firm on the Contractor's team and the addition of any new SDV firm to the Contractor's team on that project.
  6. The Contractor shall expeditiously advise all SDV's and the Business Development Division of all change orders, contract

modifications, additions and deletions to any and all contracts issued to the SDV firm(s) on their team.

**Execution of the contract between Orange County and the Proposer shall be contingent upon the filing of executed contracts between the Proposer and the SDV subs listed on the SCHEDULE OF SUBCONTRACTING - SDV PARTICIPATION FORM with the Business Development Division.**

Proposers are expressly prohibited from substituting subcontractors projected to perform five percent (5%) or more of the overall work as stated in the written Proposal. Such substitution, for any reason, after opening of the Proposal, and prior to award by the County, shall result in disqualification of the Proposal from further consideration for award, except in extraordinary circumstances. Examples of such circumstances are the subcontractors' firm going out of business; death of the owner of the firm; or the inability of the sub-Contractor to perform the work specified. Should such an occurrence arise, it must be substantiated, and the sub- substitution approved, by the County prior to contact execution.

Requests for substitution of subcontractors who are cumulatively scheduled to perform less than five percent (5%) of the over-all scope of services may be considered only prior to final scoring of Proposals by the Procurement Committee. Such requests for substitution must be in writing accompanied by a written withdrawal from the originally listed subcontractor. Failure to comply with these requirements shall result in disqualification of the Proposal from further consideration for award. The Procurement Committee shall be the sole determinant regarding acceptance/rejection of requested substitutions.

The proposer understands that this RFP does not constitute an agreement or contract with the Proposers.

Any Proposers who submits a Proposal to the County with any information that is determined by the County, in its sole opinion, to be substantially inaccurate, misleading, exaggerated, or incorrect may be disqualified from consideration.

When considering two (2) or more proposals, or replies for the procurement of goods or services, where at least one is from a registered SDV business enterprise but which are otherwise equal with respect to all relevant considerations, including price, quality, and service, the Procurement Division Manager shall award such procurement or contract to the registered SDV business enterprise.

If a registered SDV, entitled to the vendor preference and one (1) or more other M/WBE businesses also entitled to this preference, or another vendor preference provided by the Orange County Code, submits bids, proposals, or replies for the procurement of goods or services which are otherwise equal with respect to all relevant considerations, including price, quality and service, then the

Procurement Division Manager will award the procurement or contract to the business having the smallest net worth.

14. **SELECTION - CRITERIA**

<b><u>CRITERIA</u></b>	<b><u>WEIGHT</u></b>
Qualifications of Staff	20
Qualification of Firm	20
Technical Approach	15
M/WBE Utilization	10
Location	10
Fee Proposal	25
<b>TOTAL</b>	<b>100</b>
Welfare Transition and Dislocated Workers Hires	5 Bonus Points
Registered SDV SubContractor Hires	10 Bonus Points
Registered SDV Prime proposers	5 Bonus Points

## SCOPE OF SERVICES

### 1. **OVERVIEW**

The Consultant shall perform a thorough Privacy and Security Risk Analysis as required under the Health Insurance Portability and Accountability Act (HIPAA). Since Orange County has selected hybrid-status as a HIPAA Covered Entity, this project will encompass reviewing selected sites from the following areas:

- Animal Services
- Citizens' Commission for Children
- Community Action
- Corrections
- Corrections Health Services
- Drug-Free Office
- Emergency Medical Services (EMS)
- Family Services Fiscal and Operational Support
- Fire Rescue
- Head Start
- Health Services Department
- Human Resources
- Information Systems and Services (ISS)
- Medical Clinic
- Medical Examiner
- Mental Health and Homeless
- Parks & Recreation
- Risk Management
- Ryan White Program
- Youth & Family Services

### 2. **CLIENT (COUNTY) RESPONSIBILITIES**

The HIPAA Privacy Officer will serve as the County's single point of contact for this contract. Orange County Government will ensure a timely response to information requested, including requirement for additional documents or interviews that may need to be conducted on-site or over conference calls.

### 3. **OBJECTIVES**

#### A. **HIPAA/HITECH Privacy Assessment, Security Risk Analysis and Gap Analysis**

Gather detailed information about the County's business practices to address the mandates of the HIPAA Privacy Rule. This shall be done through examination of existing policies and procedures and any current HIPAA Privacy initiatives underway. Refer to Exhibit 1 for a summary of Security, Breach and Privacy Sections.

HIPAA Privacy Rule Compliance Review Phases:

- (1) Baseline Assessment
- (2) Gap Analysis Report

The information collected shall be mapped against the requirements defined in the HIPAA Privacy regulation. The result is a Gap Analysis that details and prioritizes all identified shortcomings.

This Assessment shall cover, but not be limited to:

- (1) Location of medical records
- (2) Privacy policies
- (3) Records storage
- (4) Record transmission
- (5) Computer systems and their usage and applications
- (6) Forms and paper-flow
- (7) Labs and diagnostic facilities
- (8) Patient privacy
- (9) Reception areas
- (10) Training and awareness material
- (11) Workforce Training and Awareness
- (12) Identification of Orange County Government Business Associates
- (13) Protected Health Information (PHI) mapping at client request

**4. KEY DELIVERABLES**

Full project timeframe shall not exceed 16 months from contract award, unless otherwise authorized by the County.

<u>ITEM</u>	<u>DEADLINE</u>	<u>SUBMIT TO</u>
-------------	-----------------	------------------



<p>A. Initial Privacy &amp; Security Risk Assessment, which shall include the following:</p> <p>(1) HIPAA/ HITECH Privacy Assessment and Gap Analysis</p> <p>(2) HIPAA/HITECH Security Risk Analysis and Gap Analysis</p>	<p>Shall commence no more than twenty (20) business days from contract award and shall take no longer than twelve (12) weeks to complete, unless otherwise authorized by the County.</p>	<p>HIPAA Privacy Officer</p>
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<p>B. Comprehensive Report including the following:</p> <ul style="list-style-type: none"> <li>(1) Executive Summary of Priority Observations and Recommendations</li> <li>(2) Assessments sorted by Risk and Compliance Level</li> <li>(3) Detailed breakdown of Key Findings, Concerns, and Recommendations for each of the Standards and Implementation Specifications</li> <li>(4) Corrective Action Plan</li> <li>(5) Recommendations to address the gaps and deficiencies identified over the next 90, 180 and 360 days.</li> <li>(6) HIPAA Privacy, HIPAA Security Policy Update or Development as appropriate.</li> </ul> <p>The report shall provide an exclusive and comprehensive summary of compliance status with each standard and implementation specification defined in the scope of services. A prioritized list of activities and a recommended timetable to achieve compliance shall be included, and an executive presentation of the findings.</p>	<p>Draft of Comprehensive Report shall be submitted to HIPAA Privacy Officer no later than 4 weeks after completion of Initial Privacy &amp; Security Risk Assessment. Report shall be finalized within ten (10) business days of the HIPAA Privacy Officer's acceptance, unless otherwise authorized by the County. The Final Comprehensive Report shall be submitted in three (3) hard copies and (1) electronic PDF document.</p>	<p>HIPAA Privacy Officer</p>
<p>C. Mitigation and Technical Assistance with Consultant on Retainer, shall be on-site/off-site at the convenience of the County.</p>	<p>Shall not exceed thirty-two (32) weeks unless otherwise authorized by the County.</p>	<p>HIPAA Privacy Officer</p>

<p>D. Second Privacy &amp; Security Risk Assessment, which shall include the following:</p> <p>(1) HIPAA/ HITECH Privacy Assessment and Gap Analysis</p> <p>(2) HIPAA/HITECH Security Risk Analysis and Gap Analysis</p>	<p>Shall commence at the conclusion of the Mitigation and Technical Assistance phase and shall take no longer than twelve (12) weeks to complete, unless otherwise authorized by the County.</p>	<p>HIPAA Privacy Officer</p>
<p>E. Final Report draft submitted to HIPAA Privacy Officer</p> <p>The final report shall address each item in the comprehensive report.</p>	<p>Draft of Final Report shall be submitted electronically to HIPAA Privacy Officer no later than 4 weeks after completion of Second Privacy &amp; Security Risk Assessment. Report shall be finalized within ten (10) business days of the HIPAA Privacy Officer's acceptance, unless otherwise authorized by the County. The Final Report shall be submitted in three (3) hard copies and (1) electronic PDF document.</p>	<p>HIPAA Privacy Officer</p>

**EXHIBIT B  
FEE SCHEDULE FORM  
RFP # Y15-501-ZM**

The Contractor shall provide all labor, equipment, manpower and other resources necessary to provide the services in strict accordance with the scope of services, defined in this solicitation for the amounts specified in this Fee Schedule Form.

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Fee</b>
1.	Initial HIPAA/HITECH Privacy Assessment, Security Risk Analysis and Gap Analysis	(1) Each	\$_____ /FIXED
2.	Mitigation and Technical Assistance with Consultant on Retainer	Est. 80 Hours \$_____/Per Hr.	\$_____ /EST.
	Second HIPAA/HITECH Privacy Assessment, Security Risk Analysis and Gap Analysis	(1) Each	\$_____ /FIXED
4.	Final Report	(1) Each	\$_____ /FIXED
<b>TOTAL ESTIMATED FEE (ITEMS 1-4)</b>			<b>\$_____</b>

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COMPANY NAME

EMERGENCY CONTACT

Emergency Contact Person: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Cell Phone Number: \_\_\_\_\_

Residence Telephone Number: \_\_\_\_\_

**ACKNOWLEDGEMENT OF ADDENDA**

The Proposer shall acknowledge receipt of any addenda issued to this solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the proposal. Failure to acknowledge an addendum that has a material impact on this solicitation may negatively impact the responsiveness of your proposal. Material impacts include but are not limited to changes to specifications, scope of services, delivery time, performance period, quantities, bonds, letters of credit, insurance, or qualifications.

Addendum No. \_\_\_\_\_, Date \_\_\_\_\_ Addendum No. \_\_\_\_\_, Date \_\_\_\_\_

Addendum No. \_\_\_\_\_, Date \_\_\_\_\_ Addendum No. \_\_\_\_\_, Date \_\_\_\_\_

**EMPLOYMENT DATA, SCHEDULE OF MINORITIES AND WOMEN (Rev. 1/99)**

**RFP Number & Title: RFP #Y15-501-ZM, HIPAA PRIVACY AND SECURITY RISK ANALYSIS**

Please provide the following data pertaining to your workforce. If you have an Orange County workforce, it should be shown. If you do not have an Orange County workforce, total permanent workforce should be shown. If this is a Joint Venture, employment data shall be furnished for each firm composing the joint venture. It is mandatory that you provide workforce data. Failure to provide this form with your proposals may be cause for rejection of your proposal.

JOB CATEGORIES	MAJORITY		MINORITY MALES				MINORITY FEMALES				TOTAL
	White Male	White Female	Black	Hispanic	American Indian	Asian American	Black	Hispanic	American Indian	Asian American	
Officials, Mgrs. Supervisors											
Professionals											
Technicians											
Sales Workers											
Office and Clerical											
Craftsman (Skilled)											
Operatives (Semi-Skilled)											
Laborers (Unskilled)											
Service Workers											
Apprentices											
Interns/Co-Ops											
Wages to Work Employees											
<b>TOTAL</b>											
Changes Since Last Report											

The above reflects (Check One): \_\_\_\_\_ Orange County Workforce \_\_\_\_\_ Total Permanent Workforce (Outside Orange County)  
 For Construction Projects Only: Do you intend to hire new employees for the project? \_\_\_ Yes \_\_\_ No If yes, how many approximately? \_\_\_

Name of Firm: \_\_\_\_\_ Period of Report: \_\_\_\_\_ No. of Years in Business in Orange County: \_\_\_\_\_

Form Completed By: \_\_\_\_\_  
 Name/Title (Printed or Typed) (Signature)

Form Approved By: \_\_\_\_\_

\_\_\_\_\_  
Name/Title (Printed or Typed)

\_\_\_\_\_  
(Signature)

**SCHEDULE OF SUB-CONTRACTING - M/WBE PARTICIPATION FORM**

**RFP Number & Title: RFP #Y15-501-ZM, HIPAA PRIVACY AND SECURITY RISK ANALYSIS**

Proposers shall list **all** subcontractors to be used regardless of racial or gender grouping. Include all names, addresses, telephone numbers, type of work subcontracted and percentage of participation and M/WBE designation or majority (non-M/WBE owned company.) Designations are: MBE-BM (Black Male); M/WBE-BF (Black Female); MBE-HM (Hispanic Male); M/WBE-HF (Hispanic Female); MBE-NAM (Native American Male); M/WBE-NAF (Native American Female); MBE-AM (Asian Male); M/WBE-AF (Asian Female); and WBE-WF (White Female). Provide **all** information requested. Use additional sheets if necessary.

Will your firm perform **all** the work with your own forces? Yes \_\_\_\_ No \_\_\_\_ (If no complete the form below)

Name of Subcontractor	Address	Type of Work to be Performed	Percent of Contract Amount to be Subcontracted	M/WBE Designation Or Majority Owner

NOTE: An authorized signature on this form constitutes a binding commitment of subcontract the percentage and type of work listed above.

Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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

**SCHEDULE OF SUB-CONTRACTING - SDV PARTICIPATION FORM**

**RFP Number & Title: RFP #Y15-501-ZM, HIPAA PRIVACY AND SECURITY RISK ANALYSIS**

**Additional points** will be available for proposers who subcontract with registered SDV business enterprises. List all Registered Service-Disabled Veterans subcontractors to be used. Include all names, addresses, telephone numbers, type of work subcontracted and percentage of participation. Provide all information requested. Use additional sheets if necessary.

<b>Name of Subcontractor</b>	<b>Address</b>	<b>Type of Work to be Performed</b>	<b>Percent of Contract Amount to be Subcontracted</b>

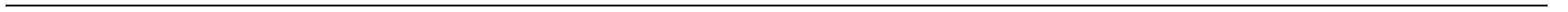
NOTE: An authorized signature on this form constitutes a binding commitment of subcontract the percentage and type of work listed above.

Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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





## LOCATION

Proposers shall complete and submit the information below to clearly identify the location and applicable percentage of the work to be performed at each location listed.

	<b><u>PRIME CONTRACTOR</u></b>	<b><u>PERCENTAGE OF WORK ASSIGNED</u></b>
1.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
2.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
3.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
4.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %

	<b><u>SUBCONTRACTOR / SUBCONTRACTOR</u></b>	
1.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
2.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
3.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
4.	Name: _____ Address: _____ City: _____ County: _____ State/Zip: _____	_____ %
	<b>Total Percentage (Must Equal 100%)</b> (Use additional pages if necessary)	_____ %



## CONFLICT/NON-CONFLICT OF INTEREST STATEMENT

### CHECK ONE

- To the best of our knowledge, the undersigned bidder has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

OR

- The undersigned bidder, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

## LITIGATION STATEMENT

### CHECK ONE

- The undersigned bidder has had no litigation and/or judgments entered against it by any local, state or federal entity and has had no litigation and/or judgments entered against such entities during the past ten (10) years.
- The undersigned bidder, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation and/or judgments entered by or against any local, state or federal entity, by any state or federal court, during the past ten (10) years.

---

COMPANY NAME

---

AUTHORIZED SIGNATURE

---

NAME (PRINT OR TYPE)

---

TITLE

Failure to check the appropriate blocks above may result in disqualification of your proposal. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation and/or judgments, may result in disqualification of your proposal.

## AUTHORIZED SIGNATORIES/NEGOTIATORS

The Proposer represents that the following **principals** are authorized to sign proposals, negotiate and/or sign contracts and related documents to which the proposer will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Name	Title	Telephone Number/Email

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name of Business)

The Proposer shall complete and submit the following information with the proposal:

### Type of Organization

Sole Proprietorship     Partnership     Non-Profit  
 Joint Venture     Corporation

State of Incorporation: \_\_\_\_\_

Principal Place of Business (Florida Statute Chapter 607): \_\_\_\_\_  
City/County/State

**THE PRINCIPAL PLACE OF BUSINESS SHALL BE THE ADDRESS OF THE PROPOSER'S PRINCIPAL OFFICE AS IDENTIFIED BY THE FLORIDA DIVISION OF CORPORATIONS.**

Federal I.D. number is \_\_\_\_\_

## DRUG-FREE WORKPLACE FORM

The undersigned Proposer, in accordance with Florida Statute 287.087 hereby certifies that \_\_\_\_\_ does:

Name of Business

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Florida Statute 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs 1 thru 5.

As the person authorized to sign this statement, I certify that this firm complies fully with above requirements.

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Date

**WELFARE TRANSITION AND/OR DISLOCATED WORKER**

**PROPOSED HIRING INFORMATION**

**Section I: To be Submitted with Proposal**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Number of Individuals to be Hired: \_\_\_\_\_

Signature of Authorized Representative of Above Firm: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**Section II: For CareerSource Central Florida Use Only (To be Completed After Contract Award)**

Verification: I certify that the below individual are eligible.

Individual Complete Name:

1. \_\_\_\_\_ 2. \_\_\_\_\_

3. \_\_\_\_\_ 4. \_\_\_\_\_

5. \_\_\_\_\_ 6. \_\_\_\_\_

**CareerSource Central Florida  
609 North Powers Drive, Suite 340  
Orlando, Florida 32818  
(407) 531-1223**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_



**LETTER OF INTENT**

**(VERIFICATION OF MWBE UTILIZATION)**

**\*INSTRUCTIONS\*** Proposers shall place the following on their letterhead, executed by their authorized agent. Signed Letters of Intent must be submitted with the Proposal for each M/WBE Sub-Contractor(s) listed by the Proposer on the schedule of Subcontracting-MWBE participation form. If percentages or dollar values listed on this agreement differ from percentages or dollar values listed on the schedule of Subcontracting-MWBE participation form of the proposal, the values listed on this Letter of Intent will supersede for RFP scoring/evaluation.

The subcontract will reflect a 72-hour prompt payment clause.

Failure to complete and submit these forms may result in finding of the submittals non-responsive.

M/WBE Sub-Contractor
Specific Scope(s) of Services
Subcontract Percentage/Amount

I understand that I shall not be allowed to substitute or change sub-Contractors without prior written approval of Orange County's Project Manager and the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's M/WBE requirements and goals contained in the Orange County Minority/Women Business Enterprise Ordinance, No. 94-02, as amended by Ordinance No. 98-25 and any subsequent amendments.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

Authorized Agent of Prime Contractor	Date	
Printed Name & Title		
Authorized Agent of M/WBE Sub-Contractor	Date	
Printed Name & Title		
M/WBE Address		
City	State	Zip Code
Phone Number	Fax Number	

## LETTER OF INTENT

### (VERIFICATION OF SERVICE-DISABLED VETERAN UTILIZATION)

**\*INSTRUCTIONS\*** Proposers shall place the following on their letterhead, executed by their authorized agent. Signed Letters of Intent must be submitted with the Proposal for each Service-Disabled Veteran Sub-Contractor(s) listed by the Proposer on the schedule of Subcontracting-Service-Disabled Veteran participation form. If percentages or dollar values listed on this agreement differ from percentages or dollar values listed on the schedule of Subcontracting-Service-Disabled Veteran Sub-Contractor participation form of the proposal, the values listed on this Letter of Intent will supersede for RFP scoring/evaluation.

The subcontract will reflect a 72-hour prompt payment clause.

Failure to complete and submit these forms may result in finding of the submittals non-responsive.

---

Service-Disabled Veteran Sub-Contractor

---

Specific Scope(s) of Services

---

Subcontract Percentage/Amount

I understand that I shall not be allowed to substitute or change sub-Contractors without prior written approval of Orange County's Project Manager and the Business Development Division. Such approval shall in no way relieve my obligations pursuant to Orange County's Service-Disabled Veteran Business requirements contained in the Orange County's Service-Disabled Veteran Business Ordinance, No. 2011-11 and any subsequent amendments.

Under penalty of perjury, I declare that I have read the foregoing and the facts stated in it are true. False statements may result in criminal prosecution for a felony of the third degree as provided for in Section 92.525(3), Florida Statutes.

---

Authorized Agent of Prime Contractor

Date

---

Printed Name & Title

---

Authorized Agent of Service-Disabled Veteran Sub-Contractor

Date

---

Printed Name & Title

---

Service-Disabled Veteran Address

---

City

State

Zip Code

---

Phone Number

Fax Number

## E VERIFICATION CERTIFICATION

### RFP #Y15-501-ZM, HIPAA PRIVACY AND SECURITY RISK ANALYSIS

I hereby certify that I will utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing the use of the system to confirm the employment eligibility of the individuals classified below. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida statutes.

All persons, including subcontractors and their workforce, who will perform work under **Contract No.Y15-**\_\_\_\_\_ - \_\_\_\_\_, \_\_\_\_\_, within the state of Florida.

NAME OF CONTRACTOR: \_\_\_\_\_

ADDRESS OF CONTRACTOR: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**RELATIONSHIP DISCLOSURE FORM  
FOR USE WITH PROCUREMENT ITEMS, EXCEPT THOSE WHERE THE COUNTY  
IS THE PRINCIPAL OR PRIMARY PROPOSER**

For procurement items that will come before the Board of County Commissioners for final approval, this form shall be completed by the Proposer and shall be submitted to the Procurement Division by the Proposer.

In the event any information provided on this form should change, the Proposer must file an amended form on or before the date the item is considered by the appropriate board or body.

**Part I**

**INFORMATION ON PROPOSER:**

Legal Name of Applicant:

\_\_\_\_\_

Business Address (Street/P.O. Box, City and Zip Code):

\_\_\_\_\_  
\_\_\_\_\_

Business Phone: (     ) \_\_\_\_\_

Facsimile: (     ) \_\_\_\_\_

**INFORMATION ON PROPOSER'S AUTHORIZED AGENT, IF APPLICABLE:  
(Agent Authorization Form also required to be attached)**

Name of Applicant's Authorized Agent:

\_\_\_\_\_

Business Address (Street/P.O. Box, City and Zip Code):

\_\_\_\_\_  
\_\_\_\_\_

Business Phone: (     ) \_\_\_\_\_

Facsimile: (     ) \_\_\_\_\_

**Part II**

IS THE PROPOSER A RELATIVE OF THE MAYOR OR ANY MEMBER OF THE BCC?

\_\_\_ YES \_\_\_ NO

IS THE MAYOR OR ANY MEMBER OF THE BCC THE PROPOSER'S EMPLOYEE?

\_\_\_ YES \_\_\_ NO

IS THE PROPOSER OR ANY PERSON WITH A DIRECT BENEFICIAL INTEREST IN THE OUTCOME OF THIS MATTER A BUSINESS ASSOCIATE OF THE MAYOR OR ANY MEMBER OF THE BCC?

\_\_\_ YES \_\_\_ NO

If you responded "YES" to any of the above questions, please state with whom and explain the relationship.

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(Use additional sheets of paper if necessary)

**Part III**

**ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED**

I hereby certify that information provided in this relationship disclosure form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

\_\_\_\_\_  
Signature of Bidder Date

Printed Name and Title of Person completing this form:

\_\_\_\_\_

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

I certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public  
Notary Public for the State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Staff signature and date of receipt of form

\_\_\_\_\_  
Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

**FREQUENTLY ASKED QUESTIONS (FAQ)**  
**ABOUT THE**  
**RELATIONSHIP DISCLOSURE FORM**

*Updated 6-28-11*

**WHAT IS THE RELATIONSHIP DISCLOSURE FORM?**

The Relationship Disclosure Form (form OC CE 2D and form OC CE 2P) is a form created pursuant to the County's Local Code of Ethics, codified at Article XIII of Chapter 2 of the Orange County Code, to ensure that all development-related items and procurement items presented to or filed with the County include information as to the relationship, if any, between the applicant and the County Mayor or any member of the Board of County Commissioners (BCC). The form will be a part of the backup information for the applicant's item.

**WHY ARE THERE TWO RELATIONSHIP DISCLOSURE FORMS?**

Form OC CE 2D is used only for development-related items, and form OC CE 2P is used only for procurement-related items. The applicant needs to complete and file the form that is applicable to his/her case.

**WHO NEEDS TO FILE THE RELATIONSHIP DISCLOSURE FORM?**

Form OC CE 2D should be completed and filed by the owner of record, contract purchaser, or authorized agent. Form OC CE 2P should be completed and filed by the bidder, offeror, quoter, or respondent, and, if applicable, their authorized agent. In all cases, the person completing the form must sign the form and warrant that the information provided on the form is true and correct.

**WHAT INFORMATION NEEDS TO BE DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM?**

The relationship disclosure form needs to disclose pertinent background information about the applicant and the relationship, if any, between, on the one hand, the applicant and, if applicable, any person involved with the item, and on the other hand, the Mayor or any member of the BCC.

In particular, the applicant needs to disclose whether any of the following relationships exist: (1) the applicant is a business associate of the Mayor or any member of the BCC; (2) any person involved with the approval of the item has a beneficial interest in the outcome of the matter *and* is a business associate of the Mayor or any member of the BCC; (3) the applicant is a relative of the Mayor or any member of the BCC; or (4) the Mayor or any member of the BCC is an employee of the applicant. (See Section 2-454, Orange County Code.)

**HOW ARE THE KEY RELEVANT TERMS DEFINED?**

Applicant means, for purposes of a development-related project, the owner, and, if applicable, the contract purchaser or owner's authorized agent. Applicant means, for purposes of a procurement item, the bidder, offeror, quoter, respondent, and, if applicable, the authorized agent of the bidder, offeror, quoter, or respondent.

Business associate means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any

national or regional stock exchange, or co-owner of property. In addition, the term includes any person or entity engaged in or carrying on a business enterprise, or otherwise engaging in common investment, with a public officer, public employee, or candidate as a partner, member, shareholder, owner, co-owner, joint venture partner, or other investor, whether directly or indirectly, whether through a Business Entity or through interlocking Parent Entities, Subsidiary Entities, or other business or investment scheme, structure, or venture of any nature. (See Section 112.312(4), Florida Statutes, and Section 2-452(b), Orange County Code.)

*Employee* means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors. (See Section 440.02(15), Florida Statutes.)

*Relative* means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. (See Section 112.312(21), Florida Statutes.)

#### **DOES THE RELATIONSHIP DISCLOSURE FORM NEED TO BE UPDATED IF INFORMATION CHANGES?**

Yes. It remains a continuing obligation of the applicant to update this form whenever any of the information provided on the initial form changes.

#### **WHERE DO THE RELATIONSHIP DISCLOSURE FORM AND ANY SUBSEQUENT UPDATES NEED TO BE FILED?**

For a development-related item, the Relationship Disclosure Form and any update need to be filed with the County Department or County Division where the applicant filed the application. For a procurement item, the Relationship Disclosure Form and any update need to be filed with the Procurement Division.

#### **WHEN DO THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES NEED TO BE FILED?**

In most cases, the initial form needs to be filed when the applicant files the initial development-related project application or initial procurement-related forms. However, with respect to a procurement item, a response to a bid will not be deemed unresponsive if this form is not included in the initial packet submitted to the Procurement Division.

If changes are made after the initial filing, the final, cumulative Relationship Disclosure Form needs to be filed with the appropriate County Department or County Division



processing the application not less than seven (7) days prior to the scheduled BCC agenda date so that it may be incorporated into the BCC agenda packet. When the matter is a discussion agenda item or is the subject of a public hearing, and an update has not been made at least 7 days prior to BCC meeting date or is not included in the BCC agenda packet, the applicant is obligated to verbally present such update to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

### **WHO WILL REVIEW THE INFORMATION DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES?**

The information disclosed on this form and any updates will be a public record as defined by Chapter 119, Florida Statutes, and may therefore be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This form and any updates will accompany the information for the applicant's project or item.

However, for development-related items, if an applicant discloses the existence of one or more of the relationships described above and the matter would normally receive final consideration by the Concurrency Review Committee or the Development Review Committee, the matter will be directed to the BCC for final consideration and action following committee review.

### **CONCLUSION:**

We hope you find this FAQ useful to your understanding of the Relationship Disclosure Form. Please be informed that if the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance or law governing relationship disclosures, the ordinance or law controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to an applicant or any other outside party. Accordingly, if the applicant or an outside party has any questions after reading this FAQ, he/she is encouraged to contact his/her own legal counsel.

### ORANGE COUNTY SPECIFIC PROJECT EXPENDITURE REPORT

This lobbying expenditure form shall be completed in full and filed with all application submittals. This form shall remain cumulative and shall be filed with the department processing your application. Forms signed by a principal's authorized agent shall include an executed Agent Authorization Form.

**This is the initial Form:** \_\_\_\_\_  
**This is a Subsequent Form:** \_\_\_\_\_

#### Part I

**Please complete all of the following:**

Name and Address of Principal (legal name of entity or owner per Orange County tax rolls): \_\_\_\_\_

\_\_\_\_\_

Name and Address of Principal's Authorized Agent, if applicable: \_\_\_\_\_

\_\_\_\_\_

**List the name and address of all lobbyists, Contractors, contractors, subcontractors, individuals or business entities who will assist with obtaining approval for this project. (Additional forms may be used as necessary.)**

1. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
2. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
3. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
4. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
5. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
6. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
7. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_
8. Name and address of individual or business entity: \_\_\_\_\_  
Are they registered Lobbyist? Yes \_\_\_ or No \_\_\_

**Part II**

**Expenditures:**

For this report, an "expenditure" means money or anything of value given by the principal and/or his/her lobbyist for the purpose of lobbying, as defined in section 2-351, Orange County Code. This may include public relations expenditures including, but not limited to, petitions, fliers, purchase of media time, cost of print and distribution of publications. However, the term "expenditure" **does not** include:

- Contributions or expenditures reported pursuant to chapter 106, Florida Statutes;
- Federal election law, campaign-related personal services provided without compensation by individuals volunteering their time;
- Any other contribution or expenditure made by or to a political party;
- Any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4), in accordance with s.112.3215, Florida Statutes; and/or
- Professional fees paid to registered lobbyists associated with the project or item.

The following is a complete list of all lobbying expenditures and activities (including those of lobbyists, contractors, Contractors, etc.) incurred by the principal or his/her authorized agent and expended in connection with the above-referenced project or issue. **You need not include de minimus costs (under \$50) for producing or reproducing graphics, aerial photographs, photocopies, surveys, studies or other documents related to this project.**

Date of Expenditure	Name of Party Incurring Expenditure	Description of Activity	Amount Paid
<b>TOTAL EXPENDED THIS REPORT</b>			\$

**Part III**

**Original signature and notarization required**

I hereby certify that information provided in this specific project expenditure report is true and correct based on my knowledge and belief. I acknowledge and agree to comply with the requirement of section 2-354, of the Orange County code, to amend this specific project expenditure report for any additional expenditure(s) incurred relating to this project prior to the scheduled Board of County Commissioner meeting. I further acknowledge and agree that failure to comply with these requirements to file the specific expenditure report and all associated amendments may result in the delay of approval by the Board of County Commissioners for my project or item, any associated costs for which I shall be held responsible. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of  Principal or  Principal's Authorized Agent  
(check appropriate box)

Printed Name and Title of Person completing this form:

\_\_\_\_\_

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

I certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public  
Notary Public for the State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Staff signature and date of receipt of form

\_\_\_\_\_  
Staff reviews as to form and does not attest to the accuracy or veracity of the information provided herein.

**FREQUENTLY ASKED QUESTIONS (FAQ)  
ABOUT THE  
SPECIFIC PROJECT EXPENDITURE REPORT**  
*Updated 3-1-11*

**WHAT IS A SPECIFIC PROJECT EXPENDITURE REPORT (SPR)?**

A Specific Project Expenditure Report (SPR) is a report required under Section 2-354(b) of the Orange County Lobbying Ordinance, codified at Article X of Chapter 2 of the Orange County Code, reflecting all lobbying expenditures incurred by a principal and their authorized agent(s) and the principal's lobbyist(s), contractor(s), subcontractor(s), and Contractor(s), if applicable, for certain projects or issues that will ultimately be decided by the Board of County Commissioners (BCC).

Matters specifically exempt from the SPR requirement are ministerial items, resolutions, agreements in settlement of litigation matters in which the County is a party, ordinances initiated by County staff, and some procurement items, as more fully described in 2.20 of the Administrative Regulations.

Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying need not be disclosed on this form. (See Section 2-354(b), Orange County Code.)

**WHO NEEDS TO FILE THE SPR?**

The principal or his/her authorized agent needs to complete and sign the SPR and warrant that the information provided on the SPR is true and correct.

A principal that is a governmental entity does not need to file an SPR.

**HOW ARE THE KEY RELEVANT TERMS DEFINED?**

*Expenditure* means "a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. This may include public relations expenditures (including but not limited to petitions, flyers, purchase of media time, cost of print and distribution of publications) but does not include contributions or expenditures reported pursuant to Chapter 106, Florida Statutes, or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4)." (See Section 112.3215, Florida Statutes.) Professional fees paid by the principal to his/her lobbyist for the purpose of lobbying are not deemed to be "expenditures." (See Section 2-354, Orange County Code.)

*Lobbying* means seeking "to encourage the approval, disapproval, adoption, repeal, rescission, passage, defeat or modification of any ordinance, resolution, agreement, development permit, other type of permit, franchise, vendor, Contractor, contractor, recommendation, decision or other foreseeable action of the [BCC]," and "include[s] all communications, regardless of whether initiated by the lobbyist or by the person being lobbied, and regardless of whether oral, written or electronic." (See Section 2-351, Orange County Code.) Furthermore, *lobbying* means communicating "directly with the

County Mayor, with any other member of the [BCC], or with any member of a procurement committee.” (See Section 2-351, Orange County Code.) *Lobbying* also means communicating “indirectly with the County Mayor or any other member of the [BCC]” by communicating with any staff member of the Mayor or any member of the BCC, the county administrator, any deputy or assistant county administrator, the county attorney, any county department director, or any county division manager. (See Section 2-351, Orange County Code.) *Lobbying* does not include the act of appearing before a Sunshine Committee, such as the Development Review Committee or the Roadway Agreement Committee other than the BCC.

*Principal* means “the person, partnership, joint venture, trust, association, corporation, governmental entity or other entity which has contracted for, employed, retained, or otherwise engaged the services of a lobbyist.” *Principal* may also include a person, partnership, joint venture, trust, association, corporation, limited liability corporation, or other entity where it or its employees do not qualify as a lobbyist under the definition set forth in Section 2-351 of the Orange County Code but do perform lobbying activities on behalf of a business in which it has a personal interest.

#### **DOES THE SPR NEED TO BE UPDATED IF INFORMATION CHANGES?**

Yes. It remains a continuing obligation of the principal or his/her authorized agent to update the SPR whenever any of the information provided on the initial form changes.

#### **WHERE DO THE SPR AND ANY UPDATES NEED TO BE FILED?**

The SPR needs to be filed with the County Department or County Division processing the application or matter. If and when an additional expenditure is incurred subsequent to the initial filing of the SPR, an amended SPR needs to be filed with the County Department or County Division where the original application, including the initial SPR, was filed.

#### **WHEN DO THE SPR AND ANY UPDATES NEED TO BE FILED?**

In most cases, the initial SPR needs to be filed with the other application forms. The SPR and any update must be filed with the appropriate County Department or County Division not less than seven (7) days prior to the BCC hearing date so that they may be incorporated into the BCC agenda packet. (See Section 2-354(b), Orange County Code.) When the matter is a discussion agenda item or is the subject of a public hearing, and any additional expenditure occurs less than 7 days prior to BCC meeting date or updated information is not included in the BCC agenda packet, the principal or his/her authorized agent is obligated to verbally present the updated information to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

#### **WHO WILL BE MADE AWARE OF THE INFORMATION DISCLOSED ON THE SPR AND ANY UPDATES?**

The information disclosed on the SPR and any updates will be a public record as defined by Chapter 119, Florida Statutes, and therefore may be inspected by any interested person. Also, the information will be made available to the Mayor and the

BCC members. This information will accompany the other information for the principal's project or item.

**CONCLUSION:**

We hope you find this FAQ useful to your understanding of the SPR. Please be informed that in the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance governing specific project expenditure reports, the ordinance controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to a principal, his/her authorized agent, or any other outside party. Accordingly, if after reading this FAQ the principal, his/her authorized agent or an outside party has any questions, he/she is encouraged to contact his/her own legal counsel.

**AGENT AUTHORIZATION FORM**

I/We, (Print Bidder name) \_\_\_\_\_, Do hereby authorize (print agent's name), \_\_\_\_\_, to act as my/our agent to execute any petitions or other documents necessary to affect the CONTRACT approval PROCESS more specifically described as follows, (IFB/RFP NUMBER AND TITLE) \_\_\_\_\_, and to appear on my/our behalf before any administrative or legislative body in the county considering this CONTRACT and to act in all respects as our agent in matters pertaining TO THIS CONTRACT.

\_\_\_\_\_

\_\_\_\_\_

Signature of Bidder

Date

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

I certify that the foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public  
Notary Public for the State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**EXHIBIT A**

**LEASED EMPLOYEE AFFIDAVIT**

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: \_\_\_\_\_

Workers' Compensation Carrier: \_\_\_\_\_

A.M. Best Rating of Carrier: \_\_\_\_\_

Inception Date of Leasing Arrangement: \_\_\_\_\_

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: \_\_\_\_\_

Signature of Owner/Officer: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_



## ORANGE COUNTY CERTIFICATE OF INSURANCE REVIEW GUIDE

- 1. PRODUCER:** Agent's name and address must be shown along with contact name phone, fax, and email address.
- 2. INSURED:** Legal name and address of the entity entering into the contract or agreement
- 3. INSURERS AFFORDING COVERAGE & NAIC #:** Name of the insurance company that is insuring the line of coverage. The INSURER and applicable letter will be used throughout the certificate to indicate the lines of coverage placed with a particular insurance company. A letter must be shown in the INSUR L TR section for each coverage line listed on the certificate.
- 4. ADDL INSR:** Signifies whether coverage includes additional insured status. Very few agents use this section. Additional insured status is usually discussed in the Description of Operations/Locations/Vehicles section.
- 5. SUBR WVD:** Signifies that a waiver of subrogation is in valid for each line of coverage as indicated.
- 6. POLICY NUMBER:** A policy number should be listed for each line of coverage for which commercial insurance is being provided.
- 7. POLICY EFFECTIVE/EXPIRATION DATES:** Effective and expiration dates should fall within the time frame of the inception of the contract or agreement.
- 8. LIMITS:** As required in the written agreement. The general aggregate should be at least twice the per occurrence limit for all continuing service contracts. If the aggregate limit applies separately then the PROJECT box should be marked.
- 9. AUTOMOBILE LIABILITY:** The ANY AUTO box is preferable however; some organizations do not own vehicles so the other boxes may be marked.
- 10. WORKERS' COMPENSATION:** Look closely to see if any proprietor, partner, or executive officer is excluded. If so, please contact Risk Management for waiver approval. The WC STATUTORY LIMITS box must be selected.
- 11. OTHER:** This section is used for other coverage such as professional liability and employee dishonesty. The same rules apply with regards to policy numbers, effective and expiration dates and limits.
- 12. DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES:** This section typically contains any special or qualifying language such as additional insured status or waivers of subrogation. If additional space is needed an ACORD 101 should be attached. Please note that these certificates are for information only and do not confer any rights upon the certificate holder. This is why we also ask for the specific policy language or endorsement specifying that these provisions are in place.
- 13. CERTIFICATE HOLDER:** Orange County Board of County Commissioners should be listed as the certificate holder. Individual departments and divisions should not be listed as the primary certificate holder.
- 14. AUTHORIZED REPRESENTATIVE:** This section should contain the signature of the person authorized to issue the certificate on behalf of the insurance company.

**EXHIBIT B**

COMMERCIAL GENERAL LIABILITY  
CG 20 26 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
<b><i>The following are additional insured under the Professional Liability section of this policy (already included under the GL by form #86571).</i></b>
YOUR MEDICAL DIRECTORS AND ADMINISTRATORS, INCLUDING PROFESSIONAL PERSONS, BUT ONLY WHILE ACTING WITHIN THE SCOPE OF THEIR DUTIES FOR THE NAMED INSURED AS MEDICAL DIRECTORS AND ADMINISTRATORS;
AN INDEPENDENT CONTRACTOR IS AN INSURED ONLY FOR THE CONDUCT OF YOUR BUSINESS AND SOLELY WHILE PERFORMING SERVICES FOR A CLIENT OF THE NAMED INSURED, BUT SOLELY WITHIN THE SCOPE OF SERVICES CONTEMPLATED BY THE NAMED INSURED;
STUDENTS IN TRAINING WHILE PREFORMING DUTIES AS INSTRUCTED BY THE NAMED INSURED;
ANY ENTITY YOU ARE REQUIRED IN A WRITTEN CONTRACT (HEREINAFTER CALLED ADDITIONAL INSURED) TO NAME AS AN INSURED IS AN INSURED BUT ONLY WITH RESPECT TO LIABILITY ARISING OUT OF YOUR PREMISES OR OPERATIONS:
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily Injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of you ongoing operations; or
- B. In connection with your premises owned by or rented to you.

**EXHIBIT C**

POLICY NUMBER: \_\_\_\_\_ COMMERCIAL GENERAL LIABILITY  
**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS ATTN: PROCUREMENT DIVISION 400 E. SOUTH STREET, 2 <sup>nd</sup> FLOOR ORLANDO, FL 32801
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily Injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

## EXHIBIT D

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WORKERS COMPENSTION AND EMPLOYEES LIABILITY  
INSURANCE POLICY WC 00 03 13

2<sup>ND</sup> Reprint

*Effective April 1, 1984*

Advisory

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### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

#### Schedule

**Name of Person or Organization:**

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS  
ATTN: PROCUREMENT DIVISION  
400 E. SOUTH STREET, 2<sup>nd</sup> FLOOR  
ORLANDO, FL 32801

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## EXHIBIT E

POLICY NUMBER:

**COMMERCIAL GENERAL LIABILITY  
CG 24 04 10 93**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

### **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

#### **Name of Person or Organization:**

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS  
ATTN: PROCUREMENT DIVISION  
400 E. SOUTH STREET, 2<sup>nd</sup> FLOOR  
ORLANDO, FL 32801

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right to recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “Products-completed operations hazard”. This waiver applies only to the person or organization shown in the Schedule above.

**Contract # Y15-501-ZM**

This Contract is made as of the \_\_\_\_ day of \_\_\_\_\_, 2015 by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and \_\_\_\_\_ [ ] an individual, [ ] a partnership, [ ] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. or Social Security number is \_\_\_\_\_.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

**ARTICLE 1 - SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide professional/consultation services in the area of **HIPAA Privacy and Security Risk Analysis**, as more specifically set forth in the Scope of Services detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be \_\_\_\_\_, telephone no. \_\_\_\_\_.

**ARTICLE 2 - SCHEDULE**

The CONTRACTOR shall commence services on \_\_\_\_\_ and complete all services by \_\_\_\_\_.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

**ARTICLE 3 - PAYMENTS TO CONTRACTOR**

- A. The total amount to be paid by the COUNTY under this Contract for services, shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The CONTRACTOR will notify the COUNTY, in writing, when 90% of the estimated contract amount has been reached. The CONTRACTOR will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Work. Where incremental billing for partially completed items is permitted, the total incremental billings shall not exceed the percentage of estimated completion as of the billing date.
- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the initiating County Department, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices must reference this contract number. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.
- C. Final Invoice: In order for both parties herein to close their books and records,



the CONTRACTOR will clearly state “final invoice” on the CONTRACTOR’S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONTRACTOR.

#### **ARTICLE 4 - TRUTH IN NEGOTIATION CERTIFICATE**

Signature of this Contract by the CONTRACTOR shall act as the execution of the truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONTRACTOR’S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside Contractors. The COUNTY shall exercise its right under this “Certificate” within one (1) year following final payment.

#### **ARTICLE 5 - TERMINATION**

##### **A. Termination for Default:**

The COUNTY may, by written notice to the CONTRACTOR, terminate this contract for default in whole or in part (delivery orders, if applicable) if the CONTRACTOR fails to:

1. Provide products or services that comply with the specifications herein or fails to meet the COUNTY’S performance standards
2. Deliver the supplies or to perform the services within the time specified in this contract or any extension.
3. Make progress so as to endanger performance of this contract
4. Perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONTRACTOR through the Manager, Procurement, affording them the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONTRACTOR in accordance with the County’s Procurement Ordinance. The CONTRACTOR and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONTRACTOR’S default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONTRACTOR will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONTRACTOR shall:

1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4. Continue and complete all parts of that work that have not been terminated.

Neither CONTRACTOR nor COUNTY shall be liable, nor may cancel this contract for default, when delays arise out of causes beyond the control of CONTRACTOR or COUNTY. Such causes may include but are not restricted to acts of God, acts of COUNTY in sovereign capacity, fires, floods, lightning strikes, epidemics, quarantine restrictions, strikes, freight embargoes, wars, civil disturbances, work stoppage, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof, and unusually severe weather. In every case, the delay must be beyond the control of the claiming party. If CONTRACTOR is delayed in its performance as a result of the above causes, COUNTY, shall upon written request of CONTRACTOR, agree to equitably adjust the provisions of this contract, including price and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit COUNTY'S right to terminate for convenience.

**B. Termination for Convenience**

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the County's interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the CONTRACTOR thirty (30) days prior notice before it becomes effective. **A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.**

**ARTICLE 6 - PERSONNEL**

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereafter shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully

qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. The COUNTY may require, in writing, that the CONTRACTOR remove from this contract any employee the COUNTY deems incompetent, careless, or otherwise objectionable.

#### **ARTICLE 7 – SUBCONTRACTING AND MINORITY/WOMEN EMPLOYMENT PARTICIPATION**

- A. The CONTRACTOR shall be responsible for reporting Minority/Women Business Enterprise (M/WBE) sub-CONTRACTOR contract dollar amount(s) for the M/WBE sub-Contractor(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the COUNTY. Quarterly updated M/WBE utilization reports and Employment Data, Schedule of Minorities and Women reports are to be submitted every quarter during the term of the contract. Additionally, the CONTRACTOR shall ensure that the M/WBE participation percentage proposed in the Contractor's Proposal submitted for this Contract is accomplished.
- B. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.
- C. The CONTRACTOR shall be responsible for reporting local minority/women employment percentage levels within the firm and the minority/women employment percentage levels that the firm anticipates utilizing to fulfill the obligations of this Contract. The report(s) shall be submitted to the Business Development Division, on a quarterly basis during the life of the Contract.
- D. The awarded prime CONTRACTOR shall furnish written documentation evidencing actual dollars paid to **all sub-Contractors** utilized by the prime CONTRACTOR on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual MWBE participation achieved by the prime CONTRACTOR prior to the issuance of final payment.
- E. In the event a certified M/WBE sub-Contractor's subcontract is terminated for convenience, the CONTRACTOR shall submit a letter to the Business

Development Division from the terminated sub-Contractor evidencing their concurrence with the termination. In the event a certified M/WBE sub-Contractor's subcontract is terminated for cause, the CONTRACTOR shall justify the replacement of that sub-Contractor, in writing to the Business Development Division, accompanied by the Project Manager's recommendation or consent to termination.

- F. It is the intent of the COUNTY to insure prompt payment of all sub-Contractors working on COUNTY projects. The CONTRACTOR shall:
1. Submit copies of executed contracts between the CONTRACTOR and all of its M/WBE sub-Contractors to the Business Development Division.
  2. The COUNTY may at its discretion require copies of subcontracts/purchase orders for the non-M/WBE's listed on **SCHEDULE OF SUBCONTRACTING - M/WBE PARTICIPATION FORM** and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-M/WBE sub-Contractors certifying that a prompt payment clause has been included in that contract or purchase order.
  3. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONTRACTOR and sub-Contractors (including those with non-M/WBE's) stating that payment will be made to the sub-CONTRACTOR within 72 hours of receipt of payment from the COUNTY. The CONTRACTOR shall pay each sub-CONTRACTOR for all work covered under an invoice within the 72 hour time frame.
- G. By entering into this contract, the CONTRACTOR affirmatively commits to comply with the M/WBE subcontracting requirements submitted with his/her Proposal. The failure of the CONTRACTOR/CONTRACROR to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

The COUNTY may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement.

## **ARTICLE 8 – SERVICE-DISABLED VETERAN (SDV) REPORTING**

The prime CONTRACTOR/CONTRACTOR shall be responsible for reporting (SDV) sub-Contractor contract dollar amount(s) for the SDV firms(s) listed in the document by submitting appropriate documents evidencing contract award of work to the Business Development Division (BDD). The report(s) shall be submitted in the (BDD) with a copy to the representative within ten (10) days after issuance of individual assignments or task authorizations-

- A. The CONTRACTOR shall be responsible for reporting SDV sub-CONTRACTOR contract dollar amount(s) for the SDV sub-Contractor(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the BDD. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the COUNTY. Quarterly updated utilization report shall be submitted every quarter during the term of the contract.
- B. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the BDD, with a copy to the COUNTY'S designated representative, within ten (10) calendar days after COUNTY'S execution.

The awarded prime CONTRACTOR shall furnish written documentation evidencing actual dollars paid to **all sub-Contractors** utilized by the CONTRACTOR on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual SDV participation achieved by the CONTRACTOR prior to the issuance of final payment.

- C. In the event a registered SDV sub-Contractor's subcontract is terminated for convenience, the CONTRACTOR shall call and submit a letter to the BDD from the terminated sub-Contractor evidencing their concurrence with the termination. In the event a registered SDV sub-Contractor's subcontract is terminated for cause, the CONTRACTOR shall justify the replacement of that sub-Contractor, in writing to the BDD, accompanied by the Project Manager's recommendation or consent to termination.
- D. It is the intent of the COUNTY to insure prompt payment of all sub-Contractors working on COUNTY projects. The CONTRACTOR shall:
  - 1. Submit copies of executed contracts between the CONTRACTOR and all of its SDV sub-Contractors to the BDD.
  - 2. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONTRACTOR and SDV sub-Contractors (stating that payment will be made to the sub-CONTRACTOR within 72 hours of receipt of payment from the COUNTY. The CONTRACTOR shall pay each sub-CONTRACTOR for all work covered under an invoice within

the 72 hour time frame.

- E. By entering into this contract, the CONTRACTOR affirmatively commits to comply with the SDV requirements submitted with his/her Proposal. The failure of the CONTRACTOR/CONTRACTOR to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

#### **ARTICLE 9 - FEDERAL AND STATE TAX**

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Contract.

#### **ARTICLE 10 - AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

#### **ARTICLE 11 - INSURANCE REQUIREMENTS:**

Vendor/Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor/Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Vendor/Contractor under this contract. Vendor/Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

The Vendor/Contractor shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

*(Note: State licenses can be checked via [www.floir.com/companysearch/](http://www.floir.com/companysearch/) and A.M. Best Ratings are available at [www.ambest.com](http://www.ambest.com))*

Required Coverage:

- Commercial General Liability - The Vendor/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$500,000 per occurrence. Vendor/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

Required Endorsements:

- Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.  
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations
- Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.  
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.
- Business Automobile Liability - The Vendor/Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event the Vendor/Contractor does not own automobiles the Vendor/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- Workers' Compensation - The Vendor/Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Vendor/Contractor using an employee leasing company shall complete the Leased Employee Affidavit.

Required Endorsements:

- Waiver of Subrogation- WC 00 03 13 or its equivalent
- Professional Liability- with a limit of not less than \$1,000,000 per occurrence/claim

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/Contractor most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the Vendor/Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Vendor/Contractor

agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Vendor/Contractor of the obligation to provide replacement coverage.

By entering into this contract Vendor/Contractor agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Prior to execution and commencement of any operations/services provided under this contract the Vendor/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Board of County Commissioners.

The certificate holder shall read:

Orange County Board of County Commissioners  
c/o Procurement Division  
400 E. South Street, 2<sup>nd</sup> Floor  
Orlando, Florida 32801

## **ARTICLE 12 - INDEMNIFICATION**

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONTRACTOR or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

## **ARTICLE 13 - SUCCESSORS AND ASSIGNS**

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.



## **ARTICLE 14 - REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be the Circuit Court in and for Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## **ARTICLE 15 - CONFLICT OF INTEREST**

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of the notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

## **ARTICLE 16 - EXCUSABLE DELAYS**

The CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONTRACTOR or its sub-Contractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONTRACTOR'S failure to perform was without it or its sub-Contractor's fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all work at any time.

## **ARTICLE 17 - ARREARS**

The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

## **ARTICLE 18 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment or any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the COUNTY, or at its expense, will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

## **ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than as specifically provided for in this Agreement.

## **ARTICLE 20 - CONTINGENT FEES**

The CONTRACTOR warrants that it has not employed or retrained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

## **ARTICLE 21 - ACCESS AND AUDITS**

The CONTRACTOR shall establish and maintain a reasonable accounting system, which enables ready identification of CONTRACTOR'S cost of goods and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this contract. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the CONTRACTOR or its sub-Contractors as required to comply with this section for the purpose of inspection or audit anytime during normal business hours at the CONTRACTOR'S place of business. This right to audit shall include the CONTRACTOR'S sub-Contractors used to procure goods or services under the contract with the COUNTY. CONTRACTOR shall ensure the COUNTY has these same rights with sub-Contractor(s) and suppliers.

## **ARTICLE 22 – EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONTRACTOR shall abide by the following provisions:

- A. The CONTRACTOR shall represent that the CONTRACTOR has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- B. The CONTRACTOR shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.
- C. The provisions of the prime contract shall be incorporate by the CONTRACTOR into the contracts of any applicable subcontractors.

## **ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

## **ARTICLE 24 - ENFORCEMENT COSTS**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## **ARTICLE 25 - AUTHORITY TO PRACTICE**

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to, conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY upon request.

## **ARTICLE 26 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

## **ARTICLE 27 - MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall (1) if requested by COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY in writing if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONTRACTOR shall suspend work on that portion of the work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall issue a Contract

Amendment or Change Order and the CONTRACTOR shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the parties.

## **ARTICLE 28 – WELFARE TRANSITION AND/OR DISLOCATED WORKERS**

CONTRACTOR has committed to hire \_\_\_\_\_ ( ) CareerSource Central Florida participants residing in the Orlando MSA. Therefore, within five (5) days after contract award,

CONTRACTOR shall contact the Orange County Business Development Liaison (BDD) at (407) 836-7317 to assist with meeting this requirement. The BDD Liaison will work with the CareerSource Central Florida staff and the CONTRACTOR to ensure that the process is properly adhered until all requirements have been met. CareerSource Central Florida participants may be employed in any position within the firm but must be hired on a fulltime basis.

The failure of the CONTRACTOR to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.

During performance of the contract, the CONTRACTOR will take appropriate steps to ensure that individuals hired under this program are retained. However, if it becomes necessary to replace an employee, the CONTRACTOR shall contact the BDD Liaison. At its discretion, COUNTY may periodically request submission of certified payrolls to confirm the employment status of program participants.

## **ARTICLE 29 - CONTRACT CLAIMS**

“Claim” as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Contractor/Contractor against the County relating to a particular contract shall be submitted to the Procurement Manager in writing clearly labeled “Contract Claim” requesting a final decision. The Contractor also shall provide with the claim a certification as follows: “I certify that the claim is made in good faith;

that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor/Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor/Contractor.”

**Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.**

The decision of the Procurement Manager shall be issued in writing and shall be furnished to the Contractor/Contractor. The decision shall state the reasons for the decision reached. The Procurement Manager shall render the final decision within sixty (60) days after receipt of Contractor’s/Contractor’s written request for a final decision. The Procurement Manager’s decision shall be final and conclusive.

The Contractor/Contractor shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of Procurement.

### **ARTICLE 30 - TOBACCO FREE CAMPUS**

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

### **ARTICLE 31 – VERIFICATION OF EMPLOYMENT STATUS**

Prior to the employment of any person under this contract, the contractor shall utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of (a) all persons employed during the contract term by the contractor to perform employment duties within Florida and (b) all persons, including subcontractors, assigned by the contractor to perform work pursuant to the contract with Orange County. Please refer to USCIS.gov for more information on this process.

### **Only those employees determined eligible to work within the United States shall be employed under the contract.**

Therefore, by submission of a bid or proposal in response to this solicitation, the contractor confirms that all employees in the above categories will undergo e-verification before placement on this contract. The contractor further confirms his commitment to comply with this requirement by completing the E- Verification certification.

### **ARTICLE 32 – LAWS AND REGULATIONS**

All applicable Federal and State laws, municipal and County ordinances shall apply to the solicitation and Contract.

### **ARTICLE 33 – ADDENDA**

All requirements contained in any addenda to the solicitation for this procurement are part of and hereby incorporated into this contract.

### **ARTICLE 34 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and if sent to the CONTRACTOR shall be mailed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN WITNESS WHEREOF**, the Board of County Commissioners of Orange County, Florida has made and executed this Contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

CONTRACTOR:

ORANGE COUNTY, FLORIDA:

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Johnny Richardson, CPPO, CFCM  
Procurement Division Manager

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## EXHIBIT C

### BUSINESS ASSOCIATE AGREEMENT RECITALS

**WHEREAS**, Orange County meets the definitions of a Covered Entity 45 CFR § 164.103.

**WHEREAS**, Orange County has been designated as a Hybrid Entity under the HIPAA Privacy and Security Rules 45 CFR § 164.105.

**WHEREAS**, Orange County, as a Covered Entity, pursuant to 45 CFR § 164.105(a)(2)(iii)(D) has documented that Orange County's Health Services Department is a health care component of the County and as such will be treated as a "Covered Entity."

**WHEREAS**, in connection with providing services to the Covered Entity ("Services") by the Business Associate, the Covered Entity discloses to the Business Associate certain Protected Health Information ("PHI") that is subject to protection under the HIPAA Privacy and Security Rules 45 CFR Parts 160,162, and 164.

**WHEREAS**, the HIPAA Privacy and Security Rules requires that Covered Entity receive adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received in the course of providing Services to or on behalf of Covered Entity; and

**WHEREAS**, the purpose of this Agreement is to comply with the requirements of the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, § 501.171, Florida Statutes.

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, agreements and obligations herein stated, the Parties agree as follows:

### INCORPORATION OF RECITALS

**Recitals Incorporated.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement.

**HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, Section 501.171, Florida Statutes. Incorporated.**

The parties hereby incorporated into the Agreement, the requirements and obligations imposed upon them by the HIPAA Privacy and Security Rules 45 CFR Parts 160,162, and 164, and the Florida Information Protection Act, § 501.171, Florida Statutes. To the extent that the Agreement imposed more stringent requirements than those contained in HIPAA Privacy and Security Rules 45 CFR Parts 160,162, and 164, and the Florida Information Protection Act, § 501.171, Florida Statutes, those more stringent requirements of the Agreement will control.

### DEFINITIONS

- **Terms.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103, 162,103, 164.103, 164.402, and 164.501, and § 501.171, Florida Statutes.



- **Breach.** Breach shall have the meaning given to such term as found in 45 CFR § 164.402, and the Florida Information Protection Act, § 501.171, Florida Statutes.
- **Designated Record Set.** A group of records maintained by or for a covered entity that is: A group of records maintained by or for a covered entity that is: (A) The medical records and billing records about individuals maintained by or for a covered health care provider; (B) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (C) Used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.
- **Disclosure.** The release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
- **Florida Information Protection Act.** Florida Information Protection Act (“FIPA”) codified at Section 501.171, Florida Statutes.
- **HIPAA Privacy and Security Rules.** Standards for Privacy, Security, Breach, Notification, and Enforcement at 45 CFR Parts 160, 162 and 164.
- **Individual.** The person who is the subject of PHI, and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- **Individually Identifiable Health Information.** Information that is a subset of health information, including demographic information collected from an individual, and: (A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- **Party or Parties.** Are the terms the Covered Entity and Business Associate may be referred to in this Agreement, individually or collectively.
- and the Business Associate may be referred to herein, individually or collectively.
- **Privacy Officer.** The individual designated by the County or Covered Entity, pursuant to 45 CFR § 164.530, who is responsible for the development and implementation of the Covered Entity’s policies and procedures as they related to the HIPAA Privacy and Security Rules.
- **Personal Information.** Personal Information (“PI”) means either of the following:

- An individual’s first name or first initial and last name in combination with any one or more of the following data elements for that individual:
  - A social security number;
  - A driver’s license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
  - A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account;
  - Any information regarding an individual’s medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
  - An individual’s health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - A user name or e-mail address in combination with a password or security question and answer that would permit access to an online account.
  - The term does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
  
- **Protected Health Information.** Protected Health Information (“PHI”) is individual identifiable health information that is or has been created, received, transmitted or maintained in any form or medium, on or behalf of the Covered Entity, with the exception of education records covered by the Family Educational Rights and Privacy Act, as amend, 20 U.S.C. 1232g, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student’s request.
  
- **Required by law.** Required by law shall have the same meaning as the term “required by law” in 45 CFR § 164.103.

- **Secretary of HHS.** Secretary of Health and Human Services or any other officer or employee of Health and Human Services (“HHS”) to whom the authority involved has been delegated.
- **Security Incident or Incident.** Security Incident or Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI contained in any form or interference with system operations in an information system that contains PHI or PI.
- **Use.** Use shall mean the sharing, employment, application, utilization, examination, or analysis of PI or PHI within an entity that maintains such information.

## SCOPE OF AGREEMENT

- **INDEPENDENT STATUS OF PARTIES.** The Parties agree that they are and shall be independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security Rules and FIPA as it may be amended from time to time. The Parties further agree that they are and shall be responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. The Parties agree that they are and shall independently maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, the County, including costs and attorneys' fees, resulting from the breach by Business Associate of the confidentiality requirements of this Agreement.

## PRIVACY OF PROTECTED HEALTH INFORMATION AND CONFIDENTIALITY OF PERSONAL INFORMATION.

- **Permitted Uses and Disclosures of PHI and PI by Business Associate.** Business Associate may use or disclosure PHI and PI received from Covered Entity to its officers and employees. Business Associate may disclose PHI and PI to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PI on its behalf if the Business Associate obtains satisfactory assurances in accordance with 45 CFR §164.504(e)(1)(i) and § 501.171(2) that the subcontractor will appropriately safeguard the information. All other uses or disclosures not authorized by this Agreement or otherwise governed by law are prohibited.
- **Responsibilities of Business Associate.** Regarding the use or disclosure of PHI and PI, Business Associate agrees to:
  - Only use or further disclose the PHI and PI as allowable under this Agreement or applicable law.

- Only use or further disclosure PHI and PI in a manner that would not violate the HIPAA Privacy and Security Rules or FIPA if done so by the Covered Entity.
- Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PI for mitigating to the greatest extents possible under the circumstances any deleterious effects from any improper access, use, or disclosure of PHI and PI that Business Associate reports to Covered Entity. Safeguards shall include, but are not limited to, the implementation and use of electronic security measures to safeguard electronic data, requiring employees to agree to access, use, or disclose PHI and PI only as permitted or required by this Agreement and taking related disciplinary action for inappropriate access, use or disclosure as necessary.
- Report to Covered Entity's Privacy Officer, in writing, any suspected or confirmed access, use or disclosure of PHI or PI, regardless of form, not permitted or required by this Agreement of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such unauthorized use or disclosure.
- Ensure that Business Associate's subcontractors or agents to whom Business Associate provides PHI or PI, received from, created, or received by the Business Associate on behalf of the Covered Entity, agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PI, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PI that it creates receives, maintains, or transmits on behalf of Covered Entity.
- In order to determine compliance with HIPAA Privacy and Security Rules and FIPA, the Business Associate must make its records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the Covered Entity's compliance with the HIPAA Privacy and Security Rules, and also, with the State of Florida, Department of Legal Affairs to determine the Covered Entity's compliance with FIPA.
- Use or disclosure to its subcontractors, agents, other third parties, and Covered Entity, only the minimum PHI and PI necessary to perform or fulfill a specific function required or permitted hereunder.
- Provide information to Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from Covered Entity, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.

- At the request, of, and in the time and manner designated by Covered Entity, provide access to the PHI and PI maintained by Business Associate to Covered Entity or individual, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.
- At the request, of and in the time and manner designated by Covered Entity, make any amendment(s) to the PHI and PI when directed by Covered Entity, if Business Associate maintains a Designated Record Set on behalf of Covered Entity.
- Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI and PI Business Associate creates, receives, maintains or transmits on behalf of Covered Entity.
- Report to Covered Entity any Security Incident involving PHI and PI that Business Associate discovers.
- **Compliance with Covered Entity's Policies.** Business Associate hereby agrees to abide by Covered Entity's policies and practices relating to the confidentiality, privacy, and security of PHI and PI.
- **Use of PHI and PI for Management and Administration or Legal Responsibilities of Business Associate.** The Business Associate may use PHI and PI received by the Covered Entity pursuant to this Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

However, Business Associate will only be allowed to use PHI and PI for the aforementioned uses if (A) the disclosure is required by law; or (b) the Business Associate obtains reasonable assurances from the person to whom the PHI and PI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI or PI.

- **Data Aggregation Services.** With respect to PHI and PI created or received by the Business Associate in its capacity as the Business Associate of the Covered Entity, Business Associate may combine such PHI and PI it has received from the Covered Entity with the PHI and PI received by the Business Associate in its capacity as a Business Associate of another Covered Entity to permit data analysis that relate to the health care operation of the respective Covered Entity, if data analyses is part of the Services that Business Associate is to provide to Covered Entity.
- **Compliance.** Business Associate agrees to keep all PHI and PI confidential and secure in compliance with the provisions of this Agreement and according to current state and federal laws.

## CONFIDENTIALITY

In the course of performing under this Agreement, each Party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential ("Confidential Information") of the other Party.

For purposes of this Agreement, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Agreement. The Parties including their employees, agents, or representatives shall (A) not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Agreement, (B) only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under this Agreement, and (c) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.

This provision shall not apply to Confidential Information: (A) after it becomes publically available through **no fault** of either Party; (B) which is later publically released by either Party in writing; (C) which is lawfully obtained from third parties without restrictions; or (D) which can be shown to be previously known or developed by either Party independently of the other Party.

## SECURITY

### **Security of Electronic Protected Health Information and Personal Information.**

Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI (as defined in 45 C.F.R. §160.103) and PI (as defined by § 501.171, Florida Statutes) that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity consistent with the HIPAA Privacy and Security Rules and FIPA.

**Reporting Security Incidents.** Business Associate will report to the Covered Entity and County's Privacy Officer any Incident of which Business Associate becomes aware that is (1) a successful unauthorized access, use or disclosure of Electronic PHI or PI; or (2) (a) modification or destruction of Electronic PHI or PI or (b) interference with system operations in an information system containing Electronic PHI or PI.

## REPORTING REQUIREMENTS

**Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Agreement.

**To Covered Entity.** The Business Associate will report to the Covered Entity and the County's Privacy Officer, within (2) business days of discovery, any use or

disclosure of PHI or PI not provided for in this Agreement of which the Business Associate is aware. The Business Associate will report to the Covered Entity and the County's Privacy Officer within twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware. A violation of this paragraph shall be a material violation of this Agreement. Such notice shall include the identification of each individual whose unsecured PHI and PI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.

Title: Orange County's Privacy Officer,  
Health Services Department  
Telephone: (407) 836-9214  
Fax: (407) 246-5342  
Address: 2002 A. E. Michigan Street, Orlando, FL 32806  
E-Mail: [privacy.officer@ocfl.net](mailto:privacy.officer@ocfl.net)

Reports of Security Incidents shall include a detailed description of each Incident, at a minimum to include the date of the Incident, the nature of the Incident, the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc., and the identities of the individual(s) and their relationship to the Business Associate, a description of the Business's response to each Incident, and the name and title of the individual the Covered Entity should contact for additional information.

Business Associate will conduct such further investigation as is reasonably required by the Covered Entity and promptly advise the Covered Entity of additional information pertinent to the Incident.

Business Associate will cooperate with Covered Entity in conducting any required risk analysis related to such Security Incident(s).

Business Associate will cooperate with Covered Entity in complying with any applicable notification requirements pursuant to the Breach Notification Rule and/or pursuant to Florida law (including but not limited to §§ 501.171 and 817.5681, Florida Statutes), and in taking steps determined by Covered Entity to be necessary to mitigate any potential harm caused by a Security Incident. Business Associate will pay and/or reimburse Covered Entity for any reasonable expenses Covered Entity incurs in notifying individuals of, and /or mitigating potential harm caused by a Security Incident caused by Business Associate and/or its subcontractors or agents.

**To Individuals.** In the case of a breach of PHI or PI discovered by the Business Associate, the Business Associate shall first notify the Covered Entity and the County's Privacy Officer of the pertinent details of the breach and upon prior approval of the County's Privacy Officer shall notify each individual whose unsecured PHI or PI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or

the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the web site of the Business Associate involved or notice in major print or broadcast media, including major media in the geographic areas where the individuals affected by the breach likely reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI or PI, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

**To Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PI or more than five thousand (5000) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the Covered Entity, the Business Associate shall provide notice to prominent media outlets serving the State or relevant portion of the State involved.

**To HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the Covered Entity to provide notice to the Secretary of HHS, of unsecured PHI and to the State of Florida, Department of Legal Affairs of unsecured PI, that has been acquired or disclosed in a breach. If the breach was with respect to five hundred (500) or more individuals, such notice must be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate may maintain a log of such breach occurring and annually submit such log to the Covered Entity so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.

**Content of Notices.** All notices required under this Attachment shall include the content set forth 45 C.F.R § 164.404 and FIPA. Notification to individuals except that references therein to a "covered entity" shall be read as references to the Business Associate.

Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following: (1) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; (2) a description of the types of unsecured PHI and PI that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code); (3) the steps individuals should take to protect themselves from potential harm resulting from the breach; (4) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; (5) contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.



**Notice to Credit Reporting Agencies.** In the case of a breach of PI discovered by the Business Associate where the unsecured PI of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the Covered Entity, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of § 501.171(5).

**Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required by this Section.

**Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effects that is known to the Business Associate of use or disclosure of PHI or PI in violation of this Agreement, the HIPAA Privacy and Rules, and FIPA.

## TERMINATION

**Automatic Termination.** Covered Entity is authorized to automatically terminate this Agreement, if it determines that the Business Associate has violated a material term of the Agreement.

**Opportunity to Cure or Terminate.** At the Covered Entity's sole discretion, Covered Entity may either (a) provide notice of breach and an opportunity for Business Associate to reasonably and promptly 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 reasonable time specified by Covered Entity, or (b) immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible.

**Effects of Termination.** Termination of this Agreement shall not affect any claim or rights that arise based on the acts or omissions of the parties prior to the effective date of termination.

### **Duties of Business Associate Upon Termination.**

When this Agreement is terminated, the PHI and PI that Business Associate received from, created, or received on behalf of Covered Entity must be destroyed or returned to Covered Entity, at the Business Associate's expense, including all PHI and PI in the possession of Business Associate's subcontractors or agents. However, if Business Associate determines that returning or destroying PHI and PI is not feasible, Business Associate must maintain the privacy protections under this Agreement and according to applicable law for as long as Business Associate retains the PHI and PI, and Business Associate may only use or disclose the PHI and PI for specific uses or disclosures that make it necessary for Business Associate to retain the PHI and PI.

If Business Associate determines that it is not feasible for Business Associate to return PHI or PI in the subcontractor's or agent's possession, Business Associate must provide a written explanation to Covered

Entity of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractor's or agent's use or disclosure of any PHI and PI retained after the termination of this Agreement, and to limit any further uses or disclosures for the purposes that make the return or destruction of the PHI or PI not feasible.

## MISCELLANEOUS

**Agreement Subject to All Applicable Laws.** The Parties recognize and agree that this Agreement and their activities are governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security Rules, FIPA, and their accompanying regulations. The parties further recognize and agree that this Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Agreement accordingly.

**No Third party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties any rights, remedies, obligations, or liabilities whatsoever.

**Survival.** The rights and obligations of the Parties in Articles IV, V, VI, VII, and Sections 8.4, 9.6, 9.8, 9.9 shall survive termination of this Agreement indefinitely.

**Amendment.** This Agreement may be revoked, amended, changed, or modified only by a written amended executed by both Parties.

**Assignment.** This Agreement, including each and every right and obligation referenced herein, shall not be assigned by the Business Associate without the express prior written consent of the County.

**Enforcement Costs.** If any legal action or other proceedings, including arbitration, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, the successful or prevailing Party or Parties shall be entitled to recover reasonable court costs and all expenses, if not taxable as court costs, incurred in that action or proceeding, including all appeals, in addition to any other relief to which such Party or Parties may be entitled. Such enforcement costs shall not be dischargeable in bankruptcy.

**Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules.

**Indemnification.** Business Associate agrees to defend, indemnify and hold harmless Covered Entity, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees)

attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of § 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

**Execution/Authority.** Each signatory to this Agreement represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.

**Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.

**Notice.** All notices and other communications under this Agreement shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the Parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other Party(ies)

**Health Services Department**

Director, Health Services/EMS  
2002 A E Michigan St  
Orlando, FL 32806  
(407) 836-7611

Copy to:  
Orange County Administrator  
Administration Building, 5th Floor  
201 S Rosalind Avenue  
Orlando, FL 32801

**Business Associate**

Name  
Address  
City, State, ZIP

**Severability.** If any provision of this Agreement or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention

of the Parties that if any provision of this Agreement were capable of two constructions, one that rendered the provision void and one that renders the provision valid, then the provision shall have the meaning that renders it valid.

**Successors and Assigns.** Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

**Venue.** Any action or proceeding seeking to enforce any provision, or based on any right arising out of this Agreement shall be brought against any of the Parties in the courts of the State of Florida, County of Orange and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Process in any action or proceeding referred to in the proceeding sentence may be served on any Party anywhere.

**Waiver and Breach.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other Party with any of the provisions of this Agreement if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

**Entire Agreement.** The original Contract executed by the Parties known as Contract YXX-XXX, this Agreement, and any addenda or attachments thereto shall construe the entire understanding between the Parties as to the rights, obligations, duties, and services to be performed hereunder.

**Exhibit 1**  
**HIPAA Summary**

**§164.308 - §164.530**

**Security, Breach, and Privacy**  
**Sections**

## **Introduction to HIPAA Summary**

Orange County Government Board of County Commissioners (OCGBCC) will use this document as a statement of verification and supplemental instruction for following the rules and guidelines laid out in the HIPAA Security and Privacy sections. The following document is laid out in a three-part form separating the Security Policies and Procedures, the Breach Policies and Procedures, and the Privacy Policies and Procedures. These parts are included and follow the layout and ordering of the HIPAA Security and Privacy sections and can be used for a procedural and concise documentation for further review and/or audit procedures. For further documentation or explanation of the policies and procedures mentioned, refer to the HIPAA Security and Privacy Sections.

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	Authentication Method for User Access
	Strength and Cost of Authentication Method
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	Test, Upgrade, Document Changes
<b>Moving ePHI Data</b>	Transmission Security
<b>Plans and Procedures during a Breach</b>	List of Possible Harm
	Outline the Process of Notifying Individuals
	Multiple Methods of Contacting Individuals

## Security Summary for HIPAA §164.308 - §164.312

### **Risk Management:** § 164.308 (a) (1)

Review the ability of Orange County to conduct an accurate risk assessment by completing the following:

- Ensure that a catalog exists of systems that contain, process, or transmit ePHI
- Address the plans for future assessments

Review Orange County's policies and procedures for complying with the General HIPAA Security Rule to ensure the reduction of risk, for sections §164.306 (a) and (b).

Review the policies and procedures of Orange County to manage system activity relating to ePHI, such as audit logs, access reports, and security incident tracking reports.

- Obtain evidence for a sample of instances showing implementation
- Ensure the current state of such policies are routinely updated/managed

Verify the existence of policies and procedures from Orange County to manage risk and vulnerabilities of their current implementations. Inquire into the ability of Orange County to sustain a level of security to be able to reduce risk to appropriate levels to achieve compliance. Review the policies of moving data internally or externally for the risks associated. Ensure the current state of such policies are routinely updated/managed.

### **HIPAA Officer:** §164.308 (a) (2)

Review the policies and procedures of Orange County's compliance with assigning a HIPAA Officer, whose duties will include the following: the oversight of development, implementation, and monitoring communication of security policies and procedures in relation to HIPAA. Ensure the existence of assigned responsibility (e.g., job description).

Survey the applied responsibility for security to a specific individual in Orange County to provide organization, focus, and security. Insure that the roles and responsibilities are communicated to the workforce of Orange County. Obtain and review the job description and evaluate the content in relativity to the General HIPAA Security Rule.



## **Employee Access and Management: §164.308 (a) (3) and (4)**

Inquire Orange County as to whether the level of authorization and/or supervision of workforce members has been established. Obtain and review the organizational chart, which clearly states the existence of chains of command and lines of authority.

Ensure that Orange County keeps clear job descriptions and responsibilities that are active and relevant to the workforce. Ensure that policies exist that establish the appropriate level of access to ePHI relevant to a job description.

Ensure the ability of staff members in Orange County to possess the necessary knowledge, skills, and abilities to fulfill their particular roles by completing the following:

- Obtain and review formal documentation demonstrating that management verified the required experience/qualifications of the staff (per their management policy)
- Review the policies for confirming the applicant against the job description

Acquire the workforce clearance procedure upon hire, to ensure its existence. Establish that the policies mentioned allow for the preventative access to members who should not have clearance and availability of access to members of the workforce that do have sufficient/necessary clearance.

Verify the policies and procedures implemented by Orange County relating to the termination of employees. Specifically, how the members of the workforce's security and access are removed and/or recovered from the individual upon termination. This should be accomplished by verifying that Orange County has policies regarding the following:

- Recovering access control devices
- Deactivating computer access
- Reviewing the recent monitoring
- Completion in a timely manner
- A standard set of procedures for termination

Inquire the management of Orange County as to their policies and procedures for setting up access for new hires/workforce members that need the sufficient clearance to perform their job description. Determine if Orange County has policies to allow their IT system the capacity to set access controls. Ensure the current state of such policies are routinely updated/managed.

The policies and procedures for access to the healthcare clearinghouse should be reviewed. Review Orange County's ability to isolate the necessary access of the clearinghouse to provide an increased level of security. Ensure the current state of such policies are routinely updated/managed.

Evaluate Orange County's ability to set necessary security measures for access controls. The policy for authorizing access to ePHI that are consistent with the applicable requirements of each individual. Ensure the current states of such policies are routinely updated/managed.

## **Employee Training and Awareness:** §164.308 (a) (5)

Obtain and review a list of security awareness and training programs and evaluate the content to be relative to the current implementation. Determine if the specific HIPAA policies are addressed in these courses. Determine if the security awareness and training programs are provided to the entire organization.

Obtain and review a sample of security awareness and training programs and evaluate the content to be relative to the current implementation. Determine if security awareness and training programs have been reviewed and approved.

Inquire as to whether employees receive all required training. Obtain and review a list of required training. Determine if required training courses are designed to help employees fulfill their security responsibilities. Determine if training courses are provided to employees to fulfill their security responsibilities.

Review Orange County's policies and procedures for updating security features periodically. Obtain and review security policies and procedures. Determine if they are approved and updated on a periodic basis.

Inquire as to whether training is conducted whenever there are changes in the technology and/or practices. Obtain and review security awareness and training programs and evaluate the content in relation to the current implementation. Determine if training materials are updated with new technology and/or practices.

## **Security Implementations:** §164.308 (a) (5)

Inquire of the management as to the relevant policies pertaining to the following criteria:

- Guarding against, detecting, and reporting malicious software
- Monitoring log-in attempts and reporting discrepancies
- Creating, changing, and safeguarding passwords

Obtain and review the policies of Orange County relating to the procedures for informing employees of the importance of protecting against malicious software. Determine if the policies of Orange County have been approved and updated as needed.

**Policy for Security Incidents:** §164.308 (a) (6)

Review Orange County's policies and/or procedures in place for identifying, responding to, reporting, and mitigating security incidents. Obtain and review the policies and determine if incident response procedures are in place. Insure that the incident response procedures are updated on a periodic basis based on changing organizational needs. Obtain the documentation to ensure that the information has been communicated to the appropriate personal of Orange County. Determine that the results of post-incident analysis are used to update and revise security policies or controls.

Inquire as to whether policies or procedures cover the identification, documentation, and retention of security incidents.

Inquire as to whether a formal contingency plan with defined objectives exists. Inquire as to the process in place for identifying critical applications, data, operations, and manual and automated processes involving ePHI. Review the contingency plan and evaluate the content relevant to the current implementation. Determine if the plan defines the overall objectives, framework, roles, and responsibilities of the organization. Determine if the plan is approved and updated on a periodic basis.

## **Contingency Plans for Incidents or Emergencies: §164.308 (a) (6)**

Review the formal contingency plan of Orange County and insure that it contains the defined objectives during a contingency.

- Inquire as to the process in place for identifying critical applications, data, operations, and manual and automated processes involving ePHI.
- Obtain and review the contingency plan and evaluate the content to be relevant to the current implementation. Insure that the contingency plan defines the overall objectives, framework, roles, and responsibilities of the organization.
- Determine if the plan has been approved and updated on a periodic basis.
- Obtain and review the process used to identify:
  - Critical applications
  - Data
  - Operations
  - Manual and automated processes

Review any processes involving ePHI to determine if it incorporates the recommended performance criteria. Determine if the process has been approved and updated on a periodic basis.

Inquire as to whether disaster recovery and data backup plans exist to restore any lost data. Obtain and review disaster recovery and data backup plans and evaluate the content in relation to the current implementation. Determine if disaster recovery and data backup plans have been approved and updated on a periodic basis.

Inquire of management as to whether policies and procedures exist to enable to continuation of critical business processes that protect the security of ePHI while operating emergency mode. Determine if the policies and procedures have been approved and updated on a periodic basis.

Inquire of management as to whether policy and procedures exist for periodic testing and revision of contingency plans and evaluate the content in relation to the current implementation. Determine if the policies and procedures have been approved and updated on a periodic basis.

Review Orange County's preventative measures and how they are identified and deemed practical/feasible in the organization's given environment. Obtain and review a list of preventive measures and evaluate the content to be relative to their current implementation.

Determine if policies/procedures exists for recovering documents from emergency or disastrous events. Obtain and review procedures and evaluate the content in relation to their current implementation. Determine if the procedures have been approved and updated on a periodic basis.

Inquire as to whether written procedures exist to create and maintain exact copies of ePHI. Obtain and review procedures and evaluate the content to be relative to their current implementation. Determine if the procedure has been approved and updated on a periodic basis.

## **Evaluations:** §164.308 (a) (8)

Determine whether internal staff or external consultants conduct evaluations. Obtain and review a sample of evaluations conducted within the audit period to determine whether internal staff or external consultants conducted them.

- External consultant evaluation
  - Determine if an agreement or contract exists and if it includes verification for consultants' credentials and experience.
- Internal evaluations
  - Determine if the documentations covers elements from their current implementations

Inquire of management as to whether policies/procedures exist to ensure an evaluation considers all elements of the HIPAA Security Rule. Obtain and review the policies and procedures used and evaluate the content in relation to their current implementation. Determine if the process has been approved and updated on a periodic basis.

Inquire of management as to whether policies/procedures exist to ensure all necessary information needed to conduct an evaluation is obtained and documented in advance. Obtain and review the evaluation process. Determine if the policy and procedures have been approved and updated on a periodic basis.

Inquire of management as to whether formal or informal policy and procedures exist to document the following:

- Findings
- Remediation options and recommendations
- Remediation decisions

Obtain and review formal or informal policy and procedures used to document the evaluation of findings, remediation options and recommendations, and remediation decisions in relation to their current implementation. Determine if written reports of findings are reviewed and approved.

Review the schedules of Orange County to repeat the evaluations whenever environmental and operational changes are made and that affect the security of ePHI. Obtain and review the entity's formal or informal security policies and procedures and evaluate the content in relation to their current implementations. Determine that the security policies and procedures are reviewed on a periodic basis.

## **Business Associate Contracts:** §164.308 (b) and §164.314

Inquire Orange County as to whether a process exists to ensure contracts or agreements include security requirements to address the following:

- Confidentiality of ePHI
- Integrity of ePHI
- Availability of ePHI

Obtain and review the documentation of the process used to ensure contracts or arrangements include security requirements to address confidentiality, integrity, and availability of ePHI and evaluate the content in relation to their current implementations. Determine if the contracts or arrangements are reviewed to ensure applicable requirements are addressed.

Inquire of Orange County as to whether a process exists to identify federal, state, or local government business associates. Obtain and review the process used to identify federal, state, or local government business associates and evaluate the content in relation to their current implementations.

## **Facility Access Controls:** §164.310 (a) (2)

Review Orange County's policies and procedures regarding access to and use of facilities and equipment that house ePHI. Obtain and review formal or informal policies and procedures and evaluate the content in relation to the relevant specified performance criteria regarding access to and use of facilities and equipment that house ePHI. Determine if formal or informal policies and procedures have been approved and updated on a periodic basis.

Inquire of the policies and procedures that exist of the following:

- Unauthorized physical access, tampering, and theft
- Controlling access of staff, contractors, visitors, and probationary employees
- Facility access for the restoration of lost data under the Disaster Recovery Plan and the Emergency Mode Operations Plan

Insure that all of these policies and procedures are relevant to Orange County's current implementations and are periodically reviewed and updated.

## **Workstation Security:** §164.310 (b) and (c)

Inquire Orange County as to whether a process exists for identifying workstations by type and location. Determine if each workstation is classified based on the capabilities, connection, and allowable activities.

Review Orange County's policies and procedures that exist related to the proper use and performance of workstations. Determine if the policies and procedures are approved and updated on a periodic basis.

Inquire of Orange County as to their policies and procedures that exist to prevent or preclude unauthorized access to an unattended workstation, limit the ability of unauthorized persons to view sensitive information, and dispose of sensitive information as needed. Determine if the policies and procedures are approved and updated on a periodic basis.

Inquire as to how workstations are physically restricted to limit access to only authorized personnel. Obtain and review Orange County's policies and procedures on the following:

- The inventory of the types and locations of workstations
  - Determine if an inventory exists
  - Determine when it was last updated
  - Determine if there is a documented process for updating the information
- Observation of the workstations and the location of workstations to determine if they are located in secure areas and protected with physical security controls such as, cable locks and privacy screens.
- Observation of the premises to determine if doors have locks, cameras are in place, security guards are in place, etc.

Inquire the management of Orange County as to what physical security measures are in place to prevent unauthorized access to restricted information. Observe the workstations and the locations of workstations to determine if they are located in secure areas, if laptops are used, if system timeouts are used, and if workstations are protected by password or some alternative authentication. Obtain and review a list of employees. For a selection of employees, determine how the Physical Security Policy is communicated and how the user acknowledges the information contained within. Observe the premises to determine if doors have locks, cameras are in place, security guards are in place, etc.

## **Protection of ePHI Data:** §164.310 (d) (1) and §164.312 (a) (1)

Inquire Orange County as to how the location and movement of media and hardware containing ePHI is tracked. Obtain and review policies and procedures and evaluate the content relative to the specified criteria regarding tracking the location of ePHI media and hardware.

Inquire the management of Orange County as to the procedures established over the backup and restoration of ePHI data. Obtain and review their documentations and evaluate the content to identify where ePHI data is stored.

- On site storage
  - Observe the facility to determine if the location is secure and protected from the elements, e.g., the location is equipped with a fire suppression system, a fireproof safe, etc.
- Off-site storage
  - Obtain and review documentation and evaluate the content relative to the criteria specified to determine if the data is stored in a secure location, e.g., a content relative service provider, a SSAE16 report over the controls in place if the service is a third-party provider, etc.
- Off-site managed by Orange County
  - Observations are required that are similar to the ones listed above may need to be performed. For a selection of days, obtain and review evidence that backups over ePHI data were performed successfully. Obtain and the review the policies and procedures to evaluate how often restoration tests are to be completed.

Inquire of the management of Orange County as to the process established to remove ePHI before reusing electronic media and who has the responsibility for the oversight of those processes. Obtain and review the policies and procedures and evaluate the content to be specified for the removal of ePHI from electronic media before they are issued for reuse.

Inquire as to whether an encryption mechanism is in place to protect ePHI. Obtain and review Orange County's policies and procedures to determine that encryption standard exist to protect ePHI. And evaluate the content to be relative to the specified criteria to. Based on the complexity of Orange County's implementations elements to consider including but are not limited to the type of encryption, how encryption keys are protected, access to modify or create keys is restricted, and how keys are managed.



## **Access Control:** §164.312 (a) (1) and (2)

Inquire of the management of Orange County the following topics relating to access control and relative to their current implementations.

- How workloads and operation are analyzed to determine the access needs of all users within Orange County.
- How technical access control capabilities are defined. Obtain and review evidence for in-scope systems. Obtain and review screenshots to determine whether technical access capabilities are defined, i.e., read-only, modify full-access.
- How users are assigned unique user IDs. For selected days, obtain and review user access lists for each in-scope application to determine if users are assigned a unique ID.
- Determine if there is an access control policy in place.
- What access control procedures are in place. Obtain a list of new hires within the audit period. For a selection of new hires, obtain and review user access authorization forms for evidence of approval and evaluate the content of the forms in relation to the current implementation.
- How generic and system IDs are implemented. Obtain and review policies and/or procedures and review the user access listings to determine how many generic and/or system IDs are in use.
- Inquire of management as to who has access to add, modify, or delete user access. Obtain and review a list of users with privileged access to determine their access is appropriate based on policy in place.
- How users access to systems and applications is reviewed on a periodic basis. How Orange County enforces the policies and procedures as a matter of ongoing operations, determining whether changes are needed based on periodic review; and establishing and updating access.
- Whether an emergency access procedure is in place for obtaining necessary ePHI during an emergency.
- How access to initiate the emergency access process is limited to appropriate personnel. Obtain and review a list of individuals with access to initiate the emergency access procedures and obtain evidence indicating whether a selection of the individuals has the qualifications and training over ePHI, per management's policy or process.
- Whether automatic logoff occurs after a predetermined time of inactivity. Obtain and review screenshots to determine that automatic logoff settings are implemented and conform to the established policies and/or procedures. Obtain and review screenshots of the encryption configuration over ePHI.
- How user access is removed upon termination or change of position on a timely basis. Obtain and review a list of terminations and job transfers within the audit period from Human Resources. Obtain and review a list of active users within each system and application to determine the terminated users/transfers access was removed from each application to which they had access. Obtain and review the user termination forms to determine their access was removed on a timely basis.

### **Auditing ePHI Systems:** §164.312 (b)

Inquire as to whether audit controls have been implemented over information systems that contain or user ePHI.

Inquire as to whether system and applications have been evaluated to determine whether upgrades are necessary to implement audit capabilities.

Inquire as to whether an audit policy is in place to communicate the details of Orange County's audits and reviews to the work force. Obtain and review an email, or some form of communication, showing that the audit policy is communicated to the workforce. Alternatively, a screenshot of the audit policy located on the entity's intranet would suffice.

Inquire as to whether procedures are in place on the systems and applications to be audited and how they will be audited.

### **Person or Entity Authentication:** §164.312 (c) and (d)

Inquire as to whether all users who should have access to ePHI have been identified.

Inquire as to whether access control procedures are in place. Obtain and review a list of new hires within the audit period. For a selection of new hires, obtain and review user access authorization forms to determine that access is approved per management's requirements.

Inquire as to whether electronic mechanism are in place to authenticate ePHI. Obtain and review screenshots of the technology in place to determine whether a solution has been implemented and is in effect.

Inquire as to the authentication methods that have been identified for Orange County's systems and applications.

Inquire as to how authentication methods have been evaluated for the entity's systems and application to assess strengths and weaknesses and the cost to benefit ratio of differ net types of authentication in order to establish an appropriate level of authentication. Obtain and review documentation related to the determination of strength and weaknesses and cost to benefit ratio, to determine whether the authentication methods have been evaluated for Orange County's systems and applications, and evaluate the content in relation to their current implementation.

Inquire as to whether a formal authentication policy is in place for systems and applications. Obtain and review documentation and evaluate the content in relation to the specified criteria to determine whether a formal authentication policy is in place for the entity's systems and application that include the minimum requirements for the chosen authentication types and how to use each authentication method. Obtain and review screenshots of the availability of the authentication policy to the workforce to determine if the policy is readily available.

Inquire as to how the authentication system is periodically tested and upgraded when upgrades are available. Obtain and review a log of testing results and upgrades to determine if testing is performed and upgrades are applied.

**Moving ePHI Data:** §164.312 (e) (1)

Inquire as to the formal ePHI data transmission policy in place for the entity. Obtain and review the formal ePHI data transmission policy in place for the entity and evaluate the content in relation to the specified criteria. Ensure that it guards against unauthorized access to electronic protected health information that is being transmitted over an electronic communications network.

## Breach Summary for HIPAA §164.308 - §164.312

### Plans and Procedures during a Breach: §164.402 and §164.404

Inquire of the management of Orange County as to whether there are policies and procedures in place to satisfy the following topics:

- A risk assessment process to determine significant harm in a breach
- A process for notifying individuals within the required time period
- A process for notifying individuals next of kin of a breach
- A process and method for notifying individuals and compare it to the establish performance criteria

Obtain and review key documents that outline the process for notifying individuals of breaches. Verify if any breaches have occurred, that individuals were notified within 60 days. Insure that the methods of notification are not out-of-date or insufficient to cope with the lack of contact, or the next of kin contact in situation of a deceased client.

### Plans and Procedures during a Breach (continued): §164.404 (c), §164.406 (a), and §164.408 (a)

Determine if Orange County has a standard template or form letter for breach notification. Verify that, if any breaches have occurred, the notification to the individuals included the required elements listed as follows.

- A. A brief Description of what happened, including the date of the breach and the date of the discovery of the breach, if known
- B. A description of the types of unsecured 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 types of information were involved)
- C. Any steps the individual should take to protect themselves from potential harm resulting from the breach
- D. A brief description of what Orange County is doing to investigate the breach, to mitigate harm to individuals, and to protect against further breaches
- E. Contact procedures for the individuals to ask question or learn additional information, which should include a toll-free number, and email address, website, or postal address.

Inquire Orange County as to whether a process exists for notifying media outlets for breaches of more than 500 individuals' PHI and compare it to establish performance criteria. Verify if any breaches of unsecured PHI have involved more than 500 individuals and have required notification of media outlets.

**Plans and Procedures during a Breach:** §164.410 (a), §164.412, and §164.414

Inquire Orange County as to whether there have been any breaches of unsecured PHI and verify that the Secretary was notified. Verify if any breaches of unsecured PHI have involved more than 500 individuals and have required contemporaneous notification to the Secretary. Verify if any breaches of unsecured PHI have involved less than 500 individuals and have required annual notification through the HHS website.

Inquire as to whether there have been any breaches of unsecured PHI for a business associate and verify that the covered entity was notified. Obtain the standard business associate agreement to verify that the breach and notification elements are included in the agreement.

Inquire how notifications are delayed in the case of law enforcement requests. Obtain and review documentation of the process to delay notifications in the case of law enforcement requests.

Inquire of management as to whether a risk assessment process exists to determine significant harm in a breach. Inquire of Orange County as to whether a process exists to ensure that all notifications were made as required or that the impermissible use or disclosure did not constitute a breach. Obtain and review documentation of uses or disclosures that were not determined to be breaches and the corresponding risk assessment documentation.

## Privacy Summary for HIPAA §164.502 - §164.530

### Protection of Use/Disclosure or Access to Personal Health Information: §164.502 - §164.504

Inquire as to whether the following topics are addressed in policies or procedures in Orange County:

- The respective requirements of a deceased person are being met on the order of their PHI
- The respective requirements of personal representatives are met
- The uses and disclosures of PHI are consistent with the notice to the individual
- A process to permit disclosures of PHI by whistleblowers and the condition under which whistleblowers may disclose PHI
- A process to permit certain disclosures of PHI by workforce members who are victims of a crime and the conditions under which they may disclose PHI
- A process to ensure the entity complies with confidential communication requirements

Obtain and review the following topics for the documentation and the verification that the actions are completed, maintained, and reviewed.

- The process of respecting a deceased person
- The process and evaluation of insurance compliance when contacting a personal representative
- The process to allow uses and disclosures with notice to the individual
- The process on how Orange County evaluates whether disclosures of PHI are due to whistleblowers
- The process on how Orange County ensures disclosures of PHI are due to victims of a crime
- The process to ensure that Orange County complies with confidential communication requirements

The disclosure of PHI for the proper management and administration of the business associate, under their associated contract. Policies and procedures to evaluate the content of the disclosures and whether a business associate agreement for disclosure is required. Verify whether the agreement limits uses and disclosures to those that are permitted by the standard. Obtain and review a business associate agreement and evaluate the content relative to the specified criteria.

Inquire of Orange County as to whether the plan documents restrict the use and disclosure of PHI by plan sponsor. Obtain and review a sample of plan documents. Verify if the use and disclosure of PHI by the plan sponsor is restricted. Verify what information the sponsor does obtain and how it used.

## **Protection of Use/Disclosure or Access to Personal Health Information**

**(continued):** §164.504 (g) - §164.508 (b) (4)

Inquire of Orange County as to whether a process exists for the use or disclosure of PHI for treatment, payment, or health care operations provided and whether such use or disclosure is consistent with other applicable requirements.

Obtain and review the process and evaluate the content for the use or disclosure of PHI for treatment, payment, or health care operations provided to determine whether such use or disclosure is consistent with the other applicable requirements. Obtain and review a sample of training programs and evaluate the content for use or disclosure of PHI for treatment payment, or health care operations provided is consistent with other applicable requirements.

Inquire of Orange County as to whether that determining the individual's consent is necessary. Obtain and review Policies and Procedures that relate to the specified criteria. Confirm that a consent is not used in place of a valid authorization for uses and disclosures that would require an authorization.

Inquire of Orange County as to whether a process exists to determine when authorization is required. Obtain and review a sample of instances where authorization is required to determine if a valid authorization was obtained: evidence that an authorization was valid. Obtain and review all patient intake forms for both inpatient and outpatient services, including consent and authorization forms, if any.

Inquire of Orange County as to when the entity can condition the provision to an individual of treatment, payment, enrollment in the health plan, or eligibility for benefits. Obtain and review privacy practices and evaluate the content in relation to the specified criteria to determine if treatment, payment, enrollment, or eligibility is a condition in the documents: Evidence of Provider/Payer Health Plan Conditions.

## **Disclosure Being Present/Not Present: §164.510 (a) and (b)**

Determine if a process exists for disclosing only information relevant to the person's involvement with the individual's health care. Obtain and review the process for evidence of covered entity process. Obtain evidence that staff have been trained to carry out this standard.

Inquire of Orange County as to whether a process exists to use or disclose PHI to family members, relatives, close personal friends or other persons identified by the individual. Obtain and review applicable policies and procedures for such disclosures.

Determine how Orange County discloses PHI to persons involved in the individual's care when the individual is present, and whether the entity can disclose PHI with the individual present. Obtain and review the process for disclosure to determine its appropriateness: Evidence of Provider/Payer Process.

**Facility Disclosure:** §164.510 (a) (1) and (3) (i)

Inquire as to whether Orange County maintains a directory of individuals in its facility. Obtain and review a directory of individuals in Orange County's facilities and evaluate the content to determine the disclosure and purpose of such information is appropriate, evidence or provider/payer directory. Determine if provider/payer directory is updated on a periodic basis.

Inquire of management as to whether a process exists to use or disclose PHI for the facility directory due to an emergency treatment. Obtain and review the process used to disclose PHI for the facility directory due to an emergency treatment: Evidence of provider/payer process. Determine if disclosure of PHI for the facility directory due to an emergency treatment is appropriate.

**Required Disclosure:** §164.510 – §164.512 (c) (1)

Review if objections by individuals to restrict or prohibit some or all of the uses or disclosures are obtained and maintained. Obtain and review Notice of Privacy Practices and evaluate the content for evidence of opportunity to object. Obtain evidence that staff have been trained to properly carry out this standard.

Inquire as to the process to determine if the disclosure of PHI in the course or any judicial or administrative proceeding is appropriate. Obtain and review Orange County's policies and procedures for disclosures of PHI made pursuant to judicial and administrative proceedings. Obtain and review a sample of disclosures and the corresponding court orders, subpoenas, or discovery requests for judicial and administrative proceedings and determine if disclosures are appropriate. Based on the complexity of Orange County, elements to consider include, but are not limited to the following:

- In response to an order of a court or administrative tribunal is necessary
- In response to a subpoena, discovery request, or other lawful processes is necessary

Verify disclosure of PHI in the course of any judicial or administrative proceeding is appropriate.

Inquire of Orange County as to whether the requirements to use or disclose PHI required by law are met. Obtain and review Notice of Privacy Practices and evaluate to determine if the entity identifies the disclosures require by law.

Determine if the disclosure about victims of abuse, neglect, or domestic violence are permitted. Inquire as to whether a process is in place to inform the individual that a disclosure has been or will be made.



**Required Disclosure (continued):** §164.512 (f) – §164.530 (e) (1)

Determine if the actions for law enforcement is appropriate and followed by Orange County:

- Policies and procedures for disclosures of PHI to law enforcement officials
- Obtain and review a sample and the corresponding court orders, subpoenas, or discovery requests to determine if it is necessary
- Obtain and review information for identification and location as it pertains to the disclosures for law enforcement purposes
- Obtain and review a response to a law enforcement official's request to determine whether disclosure is permitted
- Policy to determine the appropriateness in disclosing PHI about an individual who has died to a law enforcement official
- Determine what information about a medical emergency is necessary to disclose to alert law enforcement.

For additional elements to consider when determining what is appropriate disclosure review section §164.512 (f).

Inquire the management of Orange County as to whether a process is in place to determine for which government functions the entity is permitted to disclose PHI. Obtain and review a list of uses and disclosures to determine if it is appropriate.

Determine the policies in place for the protective services the entity is permitted to disclose and for authorized federal officials.

Inquire of management as to whether a process is in place to determine the purpose of disclosing PHI to the Department of State. Obtain and review PHI disclosed to determine the need to access such information.

Inquire of management as to whether a process is in place to determine if the disclosure of PHI to a correctional institution or law enforcement official is necessary. Obtain and review PHI disclosed to a correctional institution or law enforcement official and determine if the disclosure is necessary.

Inquire of management as to whether sanctions are in place against members of the covered entity's workforce who fail to comply with the privacy policies and procedures. Obtain and review policies and procedures of Orange County to determine if sanctions are identified/described in the event of members of the workforce not complying with Orange County's privacy practices. Obtain and review that the appropriate sanctions were applied and evidence that the policies and procedures are updated and conveyed to the workforce.

## **Research Disclosure: §164.512**

Inquire of management as to whether procedures to use PHI for research purposes exists. Obtain and review procedures on use and disclosure to determine if the entity retains authorization and/or includes wavier. Based on the complexity of the entity some elements to include are as follows:

- Obtains documentation that an alteration to a required authorization, or waiver of the authorization has been approved by an IRB or privacy board
- Obtain from the researchers the required representations regarding review preparatory to research on decedents

Inquire of management as to whether a process exists to determine what documentations of approval or waiver is needed to permit a use or disclosure. Obtain and review documentation of approval and evaluate the content in relation to the specified criteria of alteration or waiver to determine if it contains all necessary information. Based on the complexity of the entity some elements to include are as follows:

- Includes waiver criteria
- The list of necessary PHI
- Review and approval procedures
- Signatures

Verify that the documentation of approval or waiver contains all the information necessary to permit a use or disclosure.

## **Other Disclosures: §164.512**

Inquire of management as to whether a process is in place specifying public health activities for which the entity may disclose PHI. Obtain and review of sample of disclosure pertaining to public health activities to determine if criteria have been met. Auditors should refer to the established performance criteria to identify what it should include, see §164.512 (b) (1).

Inquire of management as to whether PHI is disclosed to the appropriate health oversight agency. Obtain and review the policy on permissible uses and disclosures. Obtain a sample of disclosures made for this purpose and verify that the criteria have been appropriately applied, see §164.512 (d) (1).

Orange County should have a process in place to determine the need to disclose PHI for the purpose of workers' compensation. Obtain and review PHI disclosed for the purpose of workers' compensation to determine if it is appropriate.

## **Other Disclosures (continued): §164.514**

Disclosures for fundraising should be reviewed and maintained by Orange County to insure that only related information such as demographic information or dates when health care was provided to an individual. Obtain and review policies and procedures and evaluate the content to be relative to the specified criteria to determine if the information relating to an individual and the dates when health care was provided to an individual. Obtain and review an example of disclosure for fundraising purposes to determine if the information is limited to demographic information relating to an individual and the dates when health care was provided to an individual. Obtain and review evidence that policies and procedures are updated appropriately and conveyed to the workforce.

Inquire as to whether procedures are in place restricting the health plan's uses and/or disclosures of PHI for underwriting purposes for any other purpose except as may be required by law. Obtain and review health plan documents, including contracts, and evaluate the content relative to specified criteria to determine if PHI limitation for underwriting purposes is included. Obtain and review evidence that the policies and procedures are updated appropriately and conveyed to the workforce.

## **Minimum Necessary Disclosure: §164.514**

Inquire of Orange County as to whether access to PHI is restricted. Obtain and review a sample of workforce members with access to PHI for their corresponding job title and description to determine the appropriateness. Obtain and review policies and procedures and evaluate the content relative to the minimum necessary uses for terminating access to PHI. Select a sample listing of former employees to confirm that access to PHI was terminated.

Inquire of management as to whether policies and procedures are in place to limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of disclosure. Obtain and review policies and procedures related to minimum necessary disclosures. Obtain and review documentation related to the provision of minimum necessary access to PHI for individuals and evaluate the content to follow the recommendations of minimum necessary disclosures for PHI.

Inquire of management as to whether data use agreements are in place between the covered entity and its limited data set recipients. Obtain and review policies and procedures and evaluate the content to adhere to limited data sets and limited data use agreements. Obtain and review evidence that policies and procedures are update appropriately. Obtain and review a sample of data use agreement to determine if the agreements comply.

## **Provisions of Notice for Health Care: §164.520**

Specific requirements for health plans as to how Orange County is to notify any person upon request. Obtain and review the policies and procedures in place regarding the provision of the notice of privacy practices. For a selection of individuals, obtain and review the individuals' files for the past year to identify how frequently notices are provided and how individuals covered by the plan may obtain the notice of privacy practices.

Provisions of notice for electronic notice should have a set of policies and procedures governed by Orange County for the purposes of regarding the provision of notice by email and the process by which an individual can withdraw their request for receipt of electronic notice. If Orange County maintains a website, observe the website to determine if the notice of privacy practices is prominently displayed and available. If Orange County provides notice of privacy practice by email, obtain and review an example of an agreement to receive the notice via email.

In situations in which the covered entities that participate in organized health care arrangements, inquire as to whether a joint notice of privacy practices meets the minimum requirements set forth by the HIPAA Privacy Standards Rule. Obtain and review the joint notice of privacy practices to determine whether right to it meets the minimum requirements.

Inquire of the management of Orange County as to whether the documentation of privacy practices must be maintained in electronic or written form and retain for a period of six years. Obtain and review documentation to determine if the notice of privacy practice and the acknowledgements for health care providers are in direct relationships with the patient. Insure that the relationships are maintained in electronic or written form and retained for a period of six years.

## **Individuals Access to PHI: §164.522**

Inquire of the management of Orange County that the following topic are reviewed for compliance, periodic maintenance, and subject to be audited:

- Alternative means or locations to receive communications of PHI
- A process to terminate restrictions for the disclosure of PHI
- Documentation of restrictions are maintained in electronic or written form and retained for a period of six years
- A process to permit an individual to request that Orange County restrict uses or disclosures of PHI

Obtain and review samples of document retention, requests, and disclosures as insure that it maintains a level of agreement between the covered entity and Orange County.

## **Individuals Access to PHI (continued): §164.524**

Inquire of the management of Orange County as to how an individual can access PHI. Obtain and review policies and procedures to determine if a process is in place to allow for access in a timely manner. Determine whether the fees that are charged meets the criteria from their policies and procedures.

Inquire as to whether a process to facilitate review of denial of access is in place. Determine if the entity has a process in place for an individual to request and receive a review of a denial of access by a licensed health care professional who did not participate in the original decision to deny the individual's request for access.

Inquire as to whether the unreviewable denied requests for access are properly documented. Inquire as to whether policies and procedures are in place to have the denial of access reviewed.

Inquire as to whether a process of document request for amendments to PHI is in place Obtain and review policies and procedures to determine if a person or office is specified to process requests for amendments by individuals. Obtain and review the process to determine proper documentation is maintained and retained for a period of six years.

## **Storage and Policies of PHI Data: §164.528 - §164.530**

Inquire as to how accounting of disclosures is documented and retained. Obtain and review policies and procedures to determine if the documentation complies with the HIPAA Privacy Standards Rule. Obtain and review documentation of all accounting and disclosures made within the past year to determine if the documentation complies with the HIPAA Privacy Standards Rule.

Ensure that training is provided to the workforce of Orange County on the HIPAA Privacy Standards Rule. Obtain and review documentation to determine that a training process is in place. Obtain and review documentation to determine if a monitoring process is in place to help ensure all members of the workforce receive training. For a selection of new hires within the audit period, obtain and review documentation showing training on HIPAA Privacy Standards Rule, that compliance has been completed.

Inquire as to whether policies and procedures with respect to PHI are in place that are designed to comply with the standards of the HIPAA Privacy Standards.

Inquire of management as to the administrative, technical, and physical safeguards that are in place to protect all PHI. Refer to the HIPAA Security Standards Rule to determine how to test ePHI. Observe and verify whether the safeguards in place are appropriate.

## **Protecting the Covered Entity: §164.522**

Inquire of Orange County as to the policies and procedures that exist for receiving and processing complaints over the entity's privacy practices. Obtain and review to determine how the complaints are received, processed, and documented. From a population of complaints received within the audit period, obtain and review documentation of each complaint.

Determine if the covered entity mitigates any harmful effect that is known to the covered entity of a use or disclosure of PHI by the covered entity or its business associates, in violation of its policies and procedures. Obtain and review the procedures in place to monitor and to help manage and ensure corrective action/mitigation plans are developed pursuant to relevant policies or procedures. From a population of instances of non-compliance within the audit period, obtain and review the actions taken to mitigate the situation. Obtain and review evidence that the policies and procedures are updated appropriately and conveyed to the workforce.

Inquire as to the policies and procedures that exist to prevent intimidating or retaliatory actions against any individual for the exercise by the individual of any right established, or for participation in any process provided, or for filing complaints against the cover entity. Obtain and review the policies and procedures in place to determine if anti-intimidation and anti-retaliatory standards exist. Obtain and review evidence that the policies and procedures are updated appropriately and conveyed to the workforce.

## **Amending PHI: §164.526**

Inquire of Orange County as to whether a policy exists regarding an individual's right to amend their PHI in a designated record set. Obtain and review authoritative documentation to determine the individual's right to amend PHI in a designated record set is included. Verify the process allows the individual the right to amend protected health information in a designated health record set.

Inquire as to the grounds to accept or deny the amendment. For a selection of requests for amendments, obtain and inspect a list of requirements to determine if the entity is in compliance.

## **Disclosure of Previous Disclosures: §164.528**

Inquire Orange County as to their policies and procedures for disclosing any previous disclosures to the individual insure that the following topic are followed and available for audit:

- The notification of individuals of the potential uses and disclosures of PHI
- The accounting of disclosures of PHI, with retention
- Insurance that the content of the disclosures meet the HIPAA Privacy Rule
- The availability of disclosures to the individual upon request