



1. **Solicitation #:** 20110013
2. **Solicitation Issue Date:** August 11, 2010

3. **Brief Description of Requirement:**

The State of Oklahoma (State), by and through its designated Medicaid (SoonerCare) agency, the Oklahoma Health Care Authority (OHCA), is issuing an RFP for a pharmacy benefits manager for the Oklahoma Prescription Drug Discount Program (OPDDP).

4. **Response Due Date**¹: 09/07/2010
- Time:** 4:00 CST

5. **Issued By and RETURN SEALED BID TO**²:

Agency Name: Oklahoma Health Care Authority

- U.S. Postal Delivery: 2401 N.W. 23rd Street, Suite 1-A, Oklahoma City, OK 73107-2423
- Carrier Delivery: 2401 N.W. 23rd Street, Suite 1-A, Oklahoma City, OK 73107-2423

6. **Solicitation Type** (check one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

7. **Shipping Location:** 2401 N.W. 23rd Street, Suite 1-A, Oklahoma City, OK 73107-2423

8. **Contracting Officer:**

Name: Theresa Isenhour

Phone: (405) 522-7264

Email: theresa.isenhour@okhca.org

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments")

² If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries



"Certification for Competitive Bid and Contract" (see page 3) **MUST** be submitted along with the response to the Solicitation.

1. RE: Solicitation # 20110013

2. Bidder General Information:

FEI / SSN : _____ VEN ID: _____
Company Name: _____

3. Bidder Contact Information:

Address: _____
City: _____ State: _____ Zip Code: _____
Contact Name: _____
Contact Title: _____
Phone #: _____ FAX#: _____
Email: _____ Website: _____

4. Oklahoma Sales Tax Permit¹:

- YES – Permit #: _____
- NO – Exempt pursuant to Oklahoma Laws or Rules

5. Registration with the Oklahoma Secretary of State:

- YES - Filing Number: _____
- NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

- YES – include a certificate of insurance with the bid
- NO - attach a signed statement that provides specific details supporting the exemption you are claiming from the Workers' Compensation Act (Note: Pursuant to Attorney General Opinion #07-8, the exemption from 85 O.S. 2001, § 2.6 applies only to employers who are natural persons, such as sole proprietors, and does not apply to employers who are entities created by law, including but not limited to corporations, partnerships and limited liability companies.)²

Authorized Signature Date

Printed Name Title

¹ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <http://www.tax.ok.gov/faq/faqbussales.html>

² For frequently asked questions concerning workers' compensation insurance, see [http://www.ok.gov/oid/Consumers/Workers' Compensation Information.html](http://www.ok.gov/oid/Consumers/Workers'_Compensation_Information.html)



A certification shall be included with any competitive bid and/or contract submitted to the State for goods or services.

Solicitation or Purchase Order #: 20110013

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
 - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
 - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

the competitive bid attached herewith and contract, if awarded to said supplier;

OR

the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number

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A. GENERAL PROVISIONS

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1.** "Acquisition" means items, products, materials, supplies, services and equipment a state agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act;
- A.1.2.** "Bid" means an offer in the form of a bid, proposal or quote a bidder submits in response to a solicitation;
- A.1.3.** "Bidder" means an individual or business entity that submits a bid in response to solicitation;
- A.1.4.** "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.5.** "Supplier" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

A.2. Bid Submission

- A.2.1.** Submitted bids shall be in strict conformity with the instructions to bidders, and shall be submitted with any other forms completed as required by the solicitation.
- A.2.2.** Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3.** The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", DCS-FORM-CP-004A, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4.** All bids shall be legibly written or typed. Any corrections to bids shall be initialed. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive.
- A.2.5.** All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

A.3. Solicitation Amendments

- A.3.1.** If an amendment is issued, then the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3.** It is the Bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to acquire any amendment documents required to complete a solicitation.

A.4. Bid Change

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a response to this solicitation:

- A.5.1.** The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:
 - A.5.1.1.** Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;

- A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and
- A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State or local) contracts terminated for cause or default.

A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

A.6. Bid Opening

Sealed bids shall be opened by the Oklahoma Health Care Authority located at 2401 N.W. 23rd St Suite 1-A Oklahoma City, OK 73107-2423 at the time and date specified in the solicitation as the Response Due Date and Time.

A.7. Bids Subject to Public Disclosure

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The Chief Administrative Officer of the requesting agency shall make the final decision as to whether the documentation or information is confidential.

A.8. Late Bids

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

- A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.
- A.9.2. The Contract resulting from this solicitation will consist of the following documents in order of preference: Contract award documents, including but not limited to the Purchase Order, Contract Modifications, required certification statement, affidavit, and change orders; the solicitation including any amendments; and the successful bid to the extent that the bid does not conflict with the requirements of the Contract award documents or solicitation or applicable law. In the event there is a conflict between any of the preceding documents, the Contract award documents prevail over the solicitation, and both the Contract award documents and the solicitation shall prevail over the successful bid.
- A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

- A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.
- A.10.2. Bidders guarantee unit prices to be correct.
- A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

A.11. Manufacturers' Name and Approved Equivalents

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

A.12. Clarification of Solicitation

Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation.

A.13. Rejection of Bid

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid

may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 580:15-4-11.

A.14. Award of Contract

- A.14.1.** The procuring agency may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the procuring agency to be in the best interest of the State of Oklahoma.
- A.14.2.** Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.
- A.14.3.** In order to receive payments from the State of Oklahoma, suppliers who are not registered on the State of Oklahoma Vendor Registration list must complete the "Vendor/Payee Form" (www.ok.gov/OSF/documents/osfvend.pdf). Non-U.S. suppliers who are not registered on the State of Oklahoma Vendor Registration List must complete a W-8BEN (www.irs.gov/pub/irs-pdf/fw8ben.pdf). Failure to do so may delay contract award.

A.15. Contract Modification

- A.15.1.** The Contract is issued under the authority of the procuring agency who signs the Contract. The Contract may be modified only through a written Contract Modification, signed by the procuring agency approving official.
- A.15.2.** Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the Supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Contract Modifications, shall be void and without effect, and the Supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

A.16. Delivery, Inspection and Acceptance

- A.16.1.** Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The bidder(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.16.2.** Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

A.17. Invoicing and Payment

- A.17.1.** Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.17.2.** Interest on late payments made by the State of Oklahoma is governed by 62 O.S. §34.71 and 62 O.S. §34.72.

A.18. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

A.19. Audit and Records Clause

- A.19.1.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.
- A.19.2.** The successful bidder(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of three years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the three year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved, or until the end of the three year retention period, whichever is later.

A.20. Non-Appropriation Clause

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

A.21. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

A.22. Choice of Venue

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

A.23. Termination for Cause

- A.23.1.** The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.
- A.23.2.** The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the procuring agency determines that an administrative error occurred prior to Contract performance.
- A.23.3.** If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.24. Termination for Convenience

- A.24.1.** The State may terminate the Contract, in whole or in part, for convenience if the procuring agency determines that termination is in the State's best interest. The procuring agency shall terminate the Contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the procuring agency.
- A.24.2.** If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

A.25. Insurance

The successful bidder(s) awarded the Contract shall obtain and retain insurance, including worker's compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

A.26. Employment Relationship

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

A.27. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) available at www.dhs.gov/E-Verify.

A.28. Compliance with Applicable Laws

The products and services supplied under the Contract shall comply with all applicable federal, state and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

A.29. Special Provisions

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

RFP GENERAL TERMS AND CONDITIONS

B.1 PARTIES

OKLAHOMA HEALTH CARE AUTHORITY

- B.1.1** OHCA is the single state agency designated by the Oklahoma Legislature through 63 Okla. Stat. §5009(B) to administer Oklahoma's Medicaid Program, known as SoonerCare.
- B.1.2** OHCA has authority to enter into this Contract pursuant to 63 Okla. Stat. §5006(A) and 74 Okla. Stat. §85.1. OHCA's Chief Executive Officer has authority to execute this contract on OHCA's behalf pursuant to 63 Okla. Stat. §5008(B).

CONTRACTOR

- B.1.3** Contractor states that it has the experience and expertise to perform the services required under the contract.
- B.1.4** Contractor has the authority to enter the resulting contract pursuant to its organizational documents, by laws, or property enacted resolution of its governing authority. The person executing the resulting contract for Contractor has authority to execute the resulting contract on Contractor's behalf pursuant to the Contractor's organizational documents, bylaws, or properly enacted resolution of Contractor's governing authority.

B.2 CONTRACT TERM

- B.2.1** The contract shall begin on the Date of Award and terminate on June 30, 2014. A purchase order will be issued for the first fiscal year and change orders to the original purchase order will be issued to the Contractor at the beginning of each following fiscal year. The option to renew shall be at the sole discretion of the OHCA based on its needs and funding availability.
- B.2.2** It is understood and agreed to by the parties hereto that all obligations of OHCA, including the continuance of payments, are contingent upon the availability and continued appropriation of the State and Federal funds, and in no event shall OHCA be liable for any payments in excess of such available appropriated funds.

B.3 ASSIGNMENT

Contractor shall not assign or transfer any rights or obligations under this contract without prior written consent of OHCA.

B.4 AUDIT AND INSPECTION

- B.4.1** The Contractor shall keep records as are necessary to disclose fully the extent of service provided under this contract, and shall furnish records and information regarding upon request to the OHCA, the State Auditor & Inspector (SA&I), Department of Central Services – Central Purchasing Division (DCS), the General Accounting Office (GAO), and the U.S. Secretary of the Department of Health and Human Services (hereinafter referred to as Secretary) for six years from the ending date of this contract, which includes all renewal options. The Contractor shall not destroy or dispose of records, which are under audit, review or investigation when the six-year limitation is met. The Contractor shall maintain such records until informed in writing by the auditing, reviewing or investigation agency that the audit, review or investigation is complete.
- B.4.2** Authorized representatives of OHCA, SA&I, DCS, GAO, and the Secretary shall have the right to make physical inspection of the Contractor and to examine records relating to financial statements or claims submitted by the Contractor under this contract and to audit the Contractor's financial records.
- B.4.3** Pursuant to 74 Okla. Stat. §85.41, OHCA and the SA&I shall have the right to examine the Contractor's books, records, documents, accounting procedures, practices, or any other items relevant to this contract. The OHCA shall allow for the inspection of public records in accordance with the provisions of the Oklahoma Open Records Act.

B.5 CONFIDENTIALITY

- B.5.1** Contractor agrees that SoonerCare member information is confidential pursuant to 42 USC § 1396a(7), 42 CFR § 431:300-306, and 63 Okla. Stat. § 5018. Contractor shall not release the information governed by these requirements to any entity or person without proper authorization or OHCA's permission.
- B.5.2** Contractor shall have written policies and procedures governing the use and removal of patient records from Contractor's facility. The patient's written consent shall be required for release of information not authorized by law, which consent shall not be required for state and federal personnel working with records of members.
- B.5.3** Contractor agrees that SoonerCare member and provider information cannot be re-marketed, summarized, distributed, or sold to any other organization without the express written approval of OHCA.
- B.5.4** Contractor agrees to comply with the Federal Privacy Regulations and the Federal Security Regulations as contained in 45 C.F.R. Parts 160 through 164 that are applicable to such party as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 42 U.S.C. §§1320d -1320d-8.
- B.5.5** Contractor must report a known breach of confidentiality, privacy, or security, as defined under HIPAA, to the OHCA Privacy and Confidentiality Officer within 48 hours of knowledge of an unauthorized act. Failure to perform may constitute immediate termination of contract.
- B.5.6** Contractor agrees to report potential known violations of 21 Okla. Stat. §1953 to the OHCA Legal Division within 48 hours of knowledge of an unauthorized act. In general, this criminal statute makes it a crime to willfully and without authorization gain access to, alter, modify, disrupt, or threaten a computer system.
- B.5.7** Contractor shall, following the discovery of a breach of unsecured PHI as defined in the HITECH (The Health Information Technology for Economic and Clinical Health Act) or accompanying regulations, notify the OHCA of such breach pursuant to the terms of 45 CFR §164.410 and cooperate in the OHCA's breach analysis procedures, including risk assessment, if requested.

A breach shall be treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor. Contractor shall provide such notification to OHCA without reasonable delay and in no event later than 48 hours after discovery of the breach. Such notification will contain the elements required in 45 CFR §164.410.

- B.5.8** Contractor shall report to the OHCA any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Contractor shall report to OHCA any Security Incident of which it becomes aware. For purposes of this Agreement, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. In addition, Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.

B.6 CONFLICT OF INTEREST

Contractor certifies and agrees that it presently has no interest and shall not acquire any interest, either direct or indirect, which would conflict in any manner or degree with the performance of a contract resulting from this RFP.

B.7 DISPUTES

The parties shall use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with the resulting contract. When a dispute arises between OHCA and the Contractor, both parties will attempt to resolve the dispute pursuant to Oklahoma Central Purchasing Act, 74 Okla. Stat § 85, et seq.

B.8 LAWS APPLICABLE

- B.8.1** The parties to this contract acknowledge and expect that changes may occur over the term of this contract regarding the multiple federal and state statutes, regulations and guidelines that govern this contract. The parties shall be mutually bound by such changes.
- B.8.2** The Contractor shall comply and certifies compliance by its signature on this contract with the following:
- B.8.2.1** the Age Discrimination in Employment Act, 29 USC §621 et seq.;
 - B.8.2.2** the Rehabilitation Act, 29 USC §701 et seq.;
 - B.8.2.3** the Drug-Free Workplace Act, 41 USC §701 et seq.;
 - B.8.2.4** Title XIX of the Social Security Act (Medicaid), 42 USC §1396 et seq.;
 - B.8.2.5** the Civil Rights Act, 42 USC §§2000d et seq. and §§2000e et seq.;
 - B.8.2.6** the Age Discrimination in Federally Assisted Programs, 42 USC §6101 et seq.;
 - B.8.2.7** Equal Opportunity for Individuals with Disabilities 42 USC §12101 et seq.;
 - B.8.2.8** the Oklahoma Worker's Compensation Act, 85 Okla. Stat. §et seq.;
 - B.8.2.9** the Fair Labor Standards Act, 29 USC §201 et seq.;
 - B.8.2.10** the Equal Pay Act, Public Law 88-38, 77 Stat. 56.;
 - B.8.2.11** the Vietnam Era Veterans Re-adjustment Act of 1974, 38 USC §4212.;
 - B.8.2.12** Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 Okla. Stat. §1313 and participates in the Status Verification System. The Status Verification System is defined at 25 Okla. Stat. §1312 and includes but is not limited to, the free Employment Verification Program (E-Verify) available at www.dhs.gov/e-Verify.
 - B.8.2.13** 31 USC §1352 and 45 CFR §93.100 et seq., which (1) prohibit use of federal funds paid under this contract to lobby Congress or any federal official to enhance or protect the monies paid under this contract and (2) require disclosures to be made if other monies are used for such lobbying.;
 - B.8.2.14** Presidential Executive Orders 11141, 11246 and 11375, which together require certain federal contractors and subcontractors to institute affirmative action plans to ensure absence of discrimination for employment because of race, color, religion, sex, or national origin.;
 - B.8.2.15** 45 CFR §§76.105 and 76.110 concerning debarment, suspension and other responsibility matters.;
 - B.8.2.16** 74 Okla. Stat. §85.44(B) and (C) and 45 CFR §74.34 with regard to equipment (as defined by 2 CFR, Part 230) purchased with monies received from OHCA pursuant to this contract.;
 - B.8.2.16** the Anti-Kickback Act of 1986; 41 USC §51-58, which prohibits any person from providing or attempting to provide or offering to provide any kickback.;
 - B.8.2.17** Federal False Claims Act, 31 USC § 3729-3733; 31 USC § 3801.
- B.8.3** The explicit inclusion of some statutory and regulatory duties in this contract shall not exclude other statutory or regulatory duties.
- B.8.4** All questions pertaining to validity, interpretation and administration of this contract shall be determined in accordance with the laws of the State of Oklahoma, regardless of where any service is performed.
- B.8.5** The venue for civil actions arising from this contract shall be Oklahoma County, Oklahoma. For the purpose of Federal jurisdiction, in any action in which the State of Oklahoma is a party, venue shall be United States District Court for the Western District of Oklahoma.
- B.8.6** If any portion of this contract is found to be in violation of State or Federal Statutes, that portion shall be stricken from this contract and the remainder of the contract shall remain in full force and effect.

B.9 PAYMENTS/REIMBURSEMENT

- B.9.1** In consideration of satisfactory performance of the Duties of the Contractor enumerated in Section C of this RFP, the OHCA shall pay the Contractor in accordance with the pricing submitted during the RFP process. Payment shall be issued to Contractor upon completion of work, and not before. All travel costs shall be reimbursed in accordance with the State Travel Reimbursement Act, 74 Okla. Stat. §500.1 et seq. Payments under the contract resulting from this RFP process shall not exceed \$25,000.00 for the period Date of Award through June 30, 2011.
- B.9.2** Contractor shall submit a proper invoice for services rendered in order to receive payment. A proper invoice is one which contains, at a minimum, the following information: 1) Contractor name; 2) telephone number; 3) FEI or vendor number; 4) invoice number; 5) purchase order number (were applicable); 6) description of service(s); 7) date(s) of service; and, 8) amount(s) billed. Contractor shall maintain documentation of all billed charges and shall make such documentation available to OHCA upon request or as otherwise stated in this contract. Contractor shall submit invoices to the following address:

Oklahoma Health Care Authority
Division of Finance, General Accounting
P.O. Box 18299
Oklahoma City, OK 73154
- B.9.3** OHCA shall have forty-five (45) days from the date that a proper invoice is received by OHCA to pay claims pursuant to the terms of this RFP. If OHCA fails to pay and invoice within that time, Contractor shall have right to interest upon the invoice amount consistent with 62 Okla. Stat. §41.4a and 62 Okla. Stat. §41.4b.
- B.9.4** Contractor(s) shall have the later of: (a) ninety (90) days from the final date of service(s) rendered under the terms of this contract; or (b) ninety (90) days from the expiration of this contract to submit invoice(s) for payment. OHCA will not be held responsible for payment of invoices submitted in excess of these time limitations.

B.10 CONTRACT ADMINISTRATION AND MANAGEMENT

- B.10.1.** OHCA shall designate a Program Manager (PM) to coordinate activities, resolve questions, document and monitor the selected contractor's performance, and be the Contractor's primary liaison in working with other OHCA staff. The PM will initially receive and review all progress reports and deliverables, oversee scheduling of meetings with State staff, and maintain first-line administrative responsibility for the Contract. The PM shall monitor, document and evaluate the work performance of the Contractor, accept deliverables, and authorize the payment for services rendered.
- B.10.2.** The successful Contractor shall designate a Subject Matter Expert (SME) who shall have day to day responsibility for supervising the performance and obligations under this RFP. The selected SME will work closely with and will receive policy direction from the OHCA PM. Contractor shall not change the designation of its SME without OHCA's prior written approval, which approval shall not be unreasonably delayed or withheld.

B.11 LIMITATION OF LIABILITY

The parties intend that each shall be responsible for its own intentional act and negligent acts or omissions to act. The OHCA shall be responsible for the acts and omissions to act of its officer and employees while acting within the scope of their employment according to the Governmental Tort Claims Act, 51 Okla. Stat. §151, et seq. The Supplier shall be responsible for any damages or personal injury caused by the negligent acts or omissions to act by its officers, employees, or agents. The Supplier agrees to hold harmless the OHCA of any claims, demands and liabilities resulting from any act or omission on the part of the Supplier and/or its agents, servants, and employees in the performance of the contract resulting from this RFP process. It is the express intention of the parties hereto that the contract resulting from this RFP process shall not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.

B.12 CHANGES IN CONTRACT PROVISIONS OR SPECIFICATIONS

Bidders are advised that they cannot change provisions or specifications of this contract by indicating a change in their Proposal because this RFP is a higher order document in the Contract than the Proposal. (See A.9. Legal Contract) Bidders may request changes of RFP provisions during the question and answer process described in Section E.2. If OHCA accepts the change, the change will be posted on the OHCA web site as an amendment to the RFP.

C. SOLICITATION SPECIFICATIONS

C.1 PROGRAM OVERVIEW

The OPDDP was created by the Oklahoma Legislature in 2005 through the Oklahoma Prescription Drug Discount Program Act of 2005 (hereinafter "Act"), 59 Okla. Stat. 8:368 (available in the Bidder's Library at okhca.org). The program has been operated by Rx America since contract award in 2006. The Act provides that the program be funded through enrollment fees. OHCA will pay the enrollment fees of enrollees with incomes at or below 150% of the Federal Poverty Level, subject to the availability of funds.

C.2 DEFINITIONS FOR THE PURPOSE OF THIS RFP

The following terms shall be defined as stated below for the purpose of this RFP.

Act – the Oklahoma Prescription Drug Discount Program Act of 2005, 59 Okla. Stat. 8:368

Enrollment Fee - Amount charged per enrolled individual in the Oklahoma Prescription Drug Discount Program on an initial and/or periodical (monthly, annual, etc.) basis

Manufacturer-sponsored prescription drug programs - Company programs that provide prescription drugs to physicians, or programs for patients who could not otherwise afford them.

Means Testing Agent - An entity whose function is to use information obtained from an individual such as income and other financial resources to determine their eligibility for certain programs or benefits.

OPDDP – Oklahoma Prescription Drug Discount Program

Pharmacy Benefit Manager or PBM - A company contracted to manage pharmacy networks, formularies, drug utilization review, pharmacotherapeutic outcomes, claims, disease management and/or other features of a pharmacy benefit.

Prescription drug - A drug which can be dispensed only upon prescription by a health care professional authorized by his or her licensing authority and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug and Cosmetic Act (52 Stat. 1040 (1938), 21 U.S.C. Section 301).

Prescription Drug Coverage - Payments or discounts applied toward Prescription drugs purchased by or for a consumer as part of a health insurance benefit.

Transparency - Documents detailing the financial relationships between the PBM and the pharmaceutical manufacturers and network pharmacies should be available as open records. This does not include any proprietary information related to the Federal Medicaid Drug Rebate program as referenced in 42 U.S.C. 1396r-8

C.3 SCOPE OF WORK

C.3.1 Program Transition

Contractor shall manage the transition of program operations from the current contractor, CVS/Caremark (formerly RxAmerica). Contractor is not required to operate the OPDDP as it is currently being operated, as long as the program meets all requirements of the Act. Transition activities include notifying and educating enrollees about program and Contractor changes, modifying or redoing OPDDP websites and other outreach information, changing phone numbers, assuming or cancelling existing agreements with prescription drug manufacturers and all other activities necessary for a smooth transition for OPDDP enrollees.

C.3.2 Compliance with the Act

Contractor must meet all requirements of the Act. Contractor shall:

- C.3.2.1** Enable persons without prescription drug coverage to be linked to appropriate manufacturer-sponsored prescription drug programs via the use of computer software;
- C.3.2.2** Establish agreements with prescription drug manufacturers to allow Contractor to be the means testing agent for their programs;
- C.3.2.3** Negotiate prescription drug discounts with manufacturers;
- C.3.2.4** Implement a “one-stop” program for uninsured Oklahomans and their families which allows them to enroll in all participating prescription drug manufacturer discount programs via a single computer application process;
- C.3.2.5** Ensure that 100% of all discounts and savings from prescription drug manufacturers and pharmacies is passed on to enrollees;
- C.3.2.6** Include outreach and advertising to potential enrollees as part of the OPDDP;
- C.3.2.7** Charge a basic enrollment fee to cover the administrative costs of the OPDDP to all enrollees whose income is 150% or more of the Federal Poverty Level; Contractor may choose to charge an enrollment fee for enrollees whose income is below that level, but is not required to
- C.3.2.8** Ensure that OPDDP pharmacy dispensing fees do not exceed Medicaid allowable rates
- C.3.2.9** Provide full disclosure and transparency of financial relationships with manufacturers.

C.3.3 Other Activities

Contractor may perform other activities as part of the OPDDP that contribute to the overall goal of increasing the access to prescription drugs for low income Oklahomans.

C.3.4 Reporting

Contractor shall submit a quarterly report to the OHCA PM in a mutually acceptable format. Quarterly reports are due by the last business day of the month following the end of the previous quarter. Quarterly reports shall include:

- Number of current enrollees in the OPDDP at the end of the quarter
- Number of pharmacies participating in the pharmacy network, by county and corporate affiliation at the end of the quarter
- Estimate of prescription drugs provided through the OPDDP during the quarter by brand name and generic, including
 - Number of prescriptions processed in the OPDDP
 - Dollar amount of prescription drugs obtained through manufacturer-sponsored prescription drug programs and savings to OPDDP enrollees
 - Dollar amount or prescription drugs obtained through other OPDDP discounts and savings to OPDDP enrollees
- Dollar amount of enrollment fees collected during the quarter;
- New OPDDP discounts negotiated during the quarter.

D. EVALUATION

D.1 RFP EVALUATION

The State of Oklahoma will conduct a comprehensive, fair, and impartial evaluation of proposal based on the “best value” criteria defined in the Oklahoma Central Purchasing Act, 74, Okla. Stat. §85, et seq. Scoring shall be based on compliance with the Act, increase in access to prescription drugs for low income Oklahomans, transition plans, program cost, Oklahoma incorporation, Bidder’s past performance, project management, corporate stability, and Bidder’s references, not necessarily in that order.

E. INSTRUCTIONS TO SUPPLIER

E.1 RFP SUBMISSION REQUIREMENTS

- E.1.1** The Bidder shall submit one (1) original hard copy and one (1) electronic copy on CD of their response. Both copies shall address each section of the solicitation separately and be labeled in accordance with the Proposal Format and Organization detailed below. The original hard copy shall be in a binder and the electronic copy of CD shall be one file in either Microsoft Word or Adobe PDF (portable document format). **No additional items are to be submitted.**
- E.1.2** Language: Proposals should be in clear and concise language suitable for inclusion in a contract with the State.
- E.1.3** Format: Bidder shall address each section of the proposal separately and label the section according to the numbering below (Chapter 1.a,b,c, etc. through Chapter 7). Bidder should ensure that the proposal addresses all the questions asked below and contains all requested information. Any attachments, sample forms, printed material, etc. should be submitted as appendices and should be referenced in this chapter.
- E.1.4** Page Limitations: Proposals shall be limited to a maximum of twenty (20) pages exclusive of references, appendices and the Attachment A - Pricing Schedule Sheet. The page limit does not include attachments and/or sample forms which should be submitted as appendices and referenced in the text. The type size shall not be smaller than 10 point and top, bottom, left and right margins shall be at least one inch, excluding headers and footers and all pages must be numbered. Any pages submitted in excess of the limit will not be read, evaluated, or considered in scoring the RFP.
- E.1.5** DO NOT INCLUDE ANY INFORMATION ON ENROLLMENT FEES EXCEPT IN ATTACHMENT A. The Cost Proposal must be submitted separately on Attachment A. Any mention of project costs in the Technical Proposal response Chapters 1 through 7 may render the proposal non-responsive.

E.2. QUESTIONS AND ANSWERS

- E.2.1** All questions and requests for clarification or changes relative to the RFP process or regarding the meaning or interpretation of any RFP provision should be submitted to the email address specified on the first page of this solicitation. Questions will not be accepted by mail, fax or telephone. A confirmation email will be sent to the Bidder to confirm receipt of the questions.
- E.2.2** Bidders must submit questions no later than 5:00 PM Central Time on August 20, 2010.
- E.2.3** Answers to the questions shall be posted as amendments to the RFP on the OHCA web site (<http://www.okhca.org>). Access the amendment documents by clicking "About Us" at the top of the page and then on "Procurement" in the column on the left side of the page.

E.3 PROPOSAL FORMAT AND ORGANIZATION

E.3.1 Chapter 1 – Executive Summary

Provide a one page summary of the proposal that includes the general approach, important features of the program that the bidder is proposing, and significant Bidder qualifications. Do not include enrollment fee information in the Executive Summary.

E.3.2 Chapter 2 – Program Information

Section A Overview of Program

Explain the overall activities of the Bidder's proposed OPDDP. Specifically address: outreach to potential enrollees, enrollment process, pharmacy participation, anticipated manufacturers and other discounts, process for means testing of enrollees for the purposes of enrollment and specific assistance programs

Section B. Compliance with the Act

Explain how the Bidder's proposed program will meet all requirements of the Act. Specifically address each item in Section C.3.2.

Section C. Other Program Features

Describe any other activities that Bidder will include in the OPDDP. Explain how these activities will increase the access of low income Oklahomans to prescription drugs.

Section D. Transition Plans

Discuss how the bidder will transition from the current contractor and program to the new program.

E.3.3 Chapter 3 – Corporate Stability and Resources

Section A. Summarize Bidder's organizational characteristics including date established, organization type, number of employees, and relevant financial information. Explain how Bidder's corporate stability and resources will enable it to implement and manage a project of this size and scope. Address financial solvency and credit rating for the past two years. Disclose any judgments, pending or expected litigation, or other real or potential financial reversals which might materially affect the viability or stability of Bidder during the contract period.

Section B. State whether Bidder is incorporated in the State of Oklahoma. If incorporated in Oklahoma, provide evidence of Oklahoma incorporation.

E.3.4 Chapter 4 – Bidder's Past Performance

Section A. State the total number of years of experience Bidder has in working with retail pharmacies in Oklahoma.

Section B. Discuss Bidder's experience negotiating contract prices and discounts from pharmaceutical manufacturers. Identify existing working relationships and how they will benefit the OPDDP.

Section C. Briefly discuss three similar projects that Bidder has managed. Describe each project in enough detail to show its similarity to the scope of work for the OPDDP.

Section D. List Oklahoma pharmacies that Bidder currently interacts with and discuss Bidder's knowledge of the Oklahoma market.

E.3.5. Chapter 5 – Project Management

Section A. Submit a resume or summary of the qualifications of the SME for this project. Discuss any limitations on the SME's availability.

Section B. Submit an implementation timetable for this project. Identify phases, milestones, and/or tasks along with the projected completion date for each. Identify and discuss obstacles to meeting the implementation timetable and any contingency planning.

Section C. Discuss plans and procedures to train and manage staff, any subcontractors, participating retail pharmacies, or any other partners in this project.

E.3.6 Chapter 6 – References

Submit three (3) professional references on the letterhead of the company providing the reference. The letter should contain a brief description of the work Bidder has done for the company and the company's evaluation of Bidder's performance. The reference letter should also state whether the company would be willing to contract again with Bidder. The reference letter should include the name, address, telephone and fax number of a person that OHCA may contact for additional information about Bidder.

E.3.7 Appendices

Submit any additional information such as sample forms, sample marketing material for the OPDDP, etc. as an appendix. The Bidder must refer to any material in the Appendices in at least one place in Chapters 1 through 5. Submit appendices only when necessary to illustrate or enhance items in the Proposal. Please do not submit marketing material for the Bidder.

E.3.8. Contractor's Cost Proposal – Attachment A (not included in page limit)

Submit a firm, fixed price for enrollment fees on Attachment A. No other form shall be substituted for Attachment A and Attachment A shall not be modified in any way. Note that OHCA will pay enrollment fees for all enrollees with incomes equal to or less than 150% of the Federal Poverty Level (FPL.) Contractor must charge the same fee for enrollees with higher incomes.

F. CHECKLIST

The following checklist is included to assist Bidders with ensuring all required documents are included in their RFP Response package.

- RFP Responses must be submitted in electronic format to the email address listed on the first page of this solicitation. Microsoft Word or PDF are acceptable. For other formats, please email the contract coordinator to check that OHCA can receive your documents in that format. OHCA will acknowledge receipt of your submission.

No paper submission is necessary.

RFP Response Package includes the following:

- Certification for Competitive Bid and/Contract (Non Collusion Certification) {DCS Form CP 004}
- Professional Services Contract Certification {DCS Form CP 021}
- Responding Bidder Information Page is completed
- Copy of Bidding Agencies' Worker's Compensation Certification is included
- Proposal Response organized as shown in E.3. including Cost Proposal Attachment A
- If Amendments have been posted, a signed copy of the Amendment of Solicitation form for each Amendment

ATTACHMENT "A"
PRICING SCHEDULE BID SHEET
Oklahoma Prescription Drug Discount Program
(OPDDP)

Company Name: _____ Contact: _____
Address: _____ Telephone: _____
_____ Telephone Fax: _____
FEI# _____ e-mail: _____

Bidder must submit a fixed rate for enrollment fees for clients for the services specified in this RFP. The rate submitted shall be all inclusive of charges necessary to complete the job, and the bidder's ability to successfully meet all requirements specified in this RFP. OHCA will only issue payment for clients at or below the 150% FPL.

Fixed Enrollment Rate per Client: \$ _____

Signature: _____ Date: _____

Title: _____