REQUEST FOR PROPOSAL (RFP) DPH 08-01

Picture Archiving and Communication System (PACS)

County of San Bernardino
Public Health Department
351 N. Mt View Avenue, 2nd Floor
San Bernardino, CA 92415
March 2008
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I. Introduction

A. Purpose

The San Bernardino County Department of Public Health (DPH), hereafter referred to as the “County”, is seeking proposals from interested and qualified organizations to provide a digital Picture Archiving and Communication System solution for DPH’s x-rays. Agencies and individuals with experience and expertise in a PACS system are encouraged to apply.

Any solution covered by the above contract will become property of the County. Therefore all hardware, software, and services covered under this contract must be pre-approved by the County.

B. Period of Contract

The term of the agreement will be for a period of five (5) years, subject to the approval of the San Bernardino County Board of Supervisors.

C. Mandatory Contractor Requirements

All Vendors must:

1. Have a total working capital of at least $100,000.

2. Have no record of unsatisfactory performance. Vendors who are or have been seriously deficient in current or recent contract performance, in the absence of circumstances properly beyond the control of the Vendor, shall be presumed to be unable to meet this requirement.

3. Demonstrate the capability to perform all elements of the proposed scope of services and have the capacity to enter into a contract with the County.

4. Vendor must have previously provided Computerized Radiography (CR) and PACS equipment and room preparation to at least 3 Outpatient Care Centers.

5. Must be an entity qualified to do business in the State of California and must have been in existence at least three (3) years as an operating business.

6. May not have declared any form of Bankruptcy in the last five (5) years.

7. Vendor must demonstrate experience in providing equipment and room preparation in at least three Out-Patient care sites.

8. Have the ability to maintain adequate files, records and meet statistical reporting requirements.

9. Vendor must provide at least three references that demonstrate Vendor meets the required experience.

10. Vendor shall have the ability to comply with proposed timeline.

11. Vendor shall have the ability to fulfill standard contract requirements, including indemnification and insurance, of the County.
12. Meet other presentation and participation requirements listed in this Request for Proposal (RFP).

D. Questions

Questions regarding the contents of this RFP must be submitted in writing on or before 5:00 p.m. (PST) on Monday, April 14, 2008 and directed to the individual listed in Section I, Paragraph E. All questions will be answered and posted on the County website at http://www.sbcounty.gov/rfp/rfplist.htm.

E. Correspondence

All correspondence, including proposals, are to be submitted to:

Amanda Trussell
County of San Bernardino Public Health
Contracts/Special Projects Unit
351 N. Mt View Avenue, 2nd Floor
San Bernardino, CA 92415

E-Mail: atrussell@dph.sbcounty.gov

E-Mail address may be used to submit questions only. Proposals will not be accepted by e-mail or facsimile.

F. Admonition to Vendors

Once this RFP has been issued, prospective Vendors are specifically directed not to contact County personnel (other than the individual identified in Section I, Paragraph E above) for meetings, conferences, or technical discussions related to this RFP. Failure to adhere to this policy may result in disqualification of the Vendor. All questions regarding this RFP can be presented in writing as indicated in Section I, Paragraphs D and E.

G. Proposal Submission Deadline

All proposals must be received at the address listed in Section I, Paragraph E no later than 11:00 a.m. (PST) on Monday, April 28, 2008. Facsimile or electronically transmitted proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals will not be opened and considered. It is the prospective Vendor’s responsibility to ensure delivery of the proposal in a timely manner.

II. Proposal Timeline

<table>
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<th>Release of Board Approved RFP</th>
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<td>Deadline for Submission of Questions</td>
<td>5:00 p.m. (PST) April 14, 2008</td>
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<td>Questions/Answers Posted to County Website</td>
<td>5:00 p.m. (PST) April 21, 2008</td>
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<td>Deadline for Proposals</td>
<td>11:00 a.m. (PST) April 28, 2008</td>
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<td>Tentative Date for Awards</td>
<td>May 2008</td>
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The COUNTY reserves the right to deviate from this schedule. If any deviation becomes necessary prior to the submission deadline, an addendum to this RFP will be posted to the COUNTY website noted in Section I, Paragraph D.
III. Proposal Conditions

A. Contingencies

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals, if the County determines it is in the best interest of the County to do so. The County will notify all Vendors in writing, if the County rejects all proposals.

B. Modifications

The County reserves the right to issue addenda or amendments to this RFP.

C. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this proposal. It is the Vendor’s responsibility to ensure that its proposal arrives on or before the specified time.

D. Incurred Costs

This RFP does not commit the County to pay any costs incurred by Vendors in the preparation of a proposal in response to this request and Vendors agree that all costs incurred by Vendors in developing this proposal are the Vendor’s responsibility.

E. Negotiations

The County may require the potential Vendor/Contractor(s) selected to participate in negotiations, and to submit a price, technical, or other revisions of their proposals as may result from negotiations.

F. Acceptance or Rejection of Proposals

Proposals shall remain open, valid and subject to acceptance anytime within one hundred eighty (180) days after the proposal opening.

The County realizes that conditions other than price are important and will award contract(s) based on the proposal that best meets the needs of the County. While cost may not be the primary factor in the evaluation process, it is an important factor.

G. Formal Contract

The successful Vendor will be required to enter into a formal contract with the County. This RFP sets forth some of the general provisions which will be included in the final contract. In submitting a response to this RFP, Vendor will be deemed to have agreed to each clause unless the proposal identifies an objection and County agrees to a change of language in writing.

**Failure to raise any objections to the contract language at the time of submittal of a response to this RFP will result in a waiver of objection to any of the contract language.**

H. Final Authority

The final authority to award a Contract rests solely with the San Bernardino County Board of Supervisors.
I. Level of Service

For any Contract awarded as a result of this RFP, no minimum or maximum number of clients to be served can be guaranteed by the County.

J. Pre-Award Site Visit

Site visits may be conducted to verify information submitted in the proposal and/or to determine if proposed facilities are appropriate for the proposed services.

IV. Scope of Services

A. Background

DPH currently uses plain film X-rays. The purpose of this proposal is to employ a digital Picture Archiving and Communication System (PACS) solution for DPH’s x-rays. X-rays are primarily taken at 1 location but the future plans for DPH is to expand services to other locations throughout the County. The current volume is approximately 2,500 x-rays annually with the vast majority being posterior/anterior chest x-rays.

B. Division of Work

The model for managing the requested service is outlined below.

Public Health Responsibilities:
Furnish space for equipment, pay all utilities for equipment, provide staff as contacts to coordinate installation and service, provide network connectivity, provide parking at no cost, provide security and reimburse Vendor based upon an agreed upon rate for software, hardware and license fees.

Vendor Responsibilities:
Furnish and install all software and hardware, provide services of qualified equipment installation and service personnel and all staff of Vendor will conform to laws, regulations and standards of governing authorities. Provide for data conversion to an archive and/or proposed system which allows for business continuity, provide a price for software, hardware and licenses, provide a contact for coordination of installation and service calls, data tracking, development of policies and procedures consistent with State/Federal guidelines, and training and continuing education of DPH staff.

C. Scope of Services

1. Vendor must assume overall responsibility for the provision of stated service.

2. Vendor must provide training to DPH staff on installed equipment.

3. Vendor must provide service and software upgrades for at least 5 years.

D. References

The following materials may be of assistance related to this RFP:


3. Clean Air Act (42 USC 7606) [http://www4.law.cornell.edu/uscode/html/uscode42]


7. Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 32) [http://www4.law.cornell.edu/cfr]

8. Executive Order 12549 and Debarment, Suspension, And Other Responsibility Matters (45 CFR, Part 76) [http://www4.law.cornell.edu/cfr]


12. Penal Code 11105.3 [http://www.leginfo.ca.gov/calaw.html]

13. San Bernardino County Policy (11-10) - Recycled products

14. State Energy Conservation Plan (California Code of Regulations Title 20, Division 2, Chapter 4) [http://ccr.oal.ca.gov/default.htm]


V. Contract Requirements

A. General

1. Legality and Severability

The parties’ actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

2. Taxes

County is exempt from Federal excise taxes and no payment shall be made for any personal
property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

3. Representation of the County

In the performance of the Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County.

4. Contractor Primary Contact

The Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary point of contact without written notification and acceptance of the County. Contractor will also designate a back-up point of contact in the event the Primary contact is not available.

5. Change of Address

Contractor shall notify the County in writing of any change in mailing address within ten (10) business days of the change.

6. Subcontracting

Contractor agrees not to enter into any subcontracts for work contemplated under the Contract without first obtaining written approval from the County. Any subcontract shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance and payments of any subcontracting.

7. Agreement Assignability

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

8. Agreement Amendments

Contractor agrees any alterations, variations, modifications, waivers, or provisions of the Contract shall be valid only when reduced to writing, duly signed, attached to the original Contract, and made a part of the contract by amendment duly approved by the required parties.

9. Termination for Convenience

The County for its convenience may terminate the Contract in whole or in part upon thirty (30) calendar day’s written notice. Subject to receipt of authorized and documented expenses incurred following last invoice, County shall provide for payment to the Contractor for services rendered and expenses incurred prior to the effective date of termination. Upon receipt of termination notice, Contractor shall promptly discontinue services unless the notice directs otherwise.
10. Attorney Fees and Costs

If any legal action is instituted to enforce any party’s rights hereunder, each party shall bear its own costs and attorney fees regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section V, Paragraph B.1, Indemnification.

11. Venue

The venue of any action or claim brought by any party to the Contract will be the San Bernardino County Superior Court, Central District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party, the parties hereto agree to use their best efforts to obtain a change of venue to the San Bernardino County Superior Court, Central District.

12. Licenses and Permits

Contractor shall ensure that it maintains in full force and effect all licenses required for the conduct of business under the State of California and all necessary licenses and permits required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations.

The Contractor shall maintain these licenses and permits in effect for the duration of the Contract. Contractor will notify County immediately of loss or suspension of any such licenses and permits. Failure to maintain required licenses and permits may result in immediate termination of this contract.

13. Notification Regarding Performance

In the event of a problem or potential problem that will impact the quality or quantity of work, services, or the level of performance under the Contract, the Contractor shall notify the County within one (1) working day, in writing and by telephone.

14. Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or any relationship to the Contractor, or officer, or employee of the Contractor.

15. Client List Notification

Contractor shall not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time and within the scope of work requested by subject organization, individual or entity. Contractor shall provide current client list and shall provide the County with updated client lists as necessary so that the County may determine whether conflict of interest exists. The determination of a conflict of interest, direct or incidental, shall be at the sole discretion of the County. Should a conflict of interest be determined, the Contractor agrees not to contract with the subject organization, individual or entity with respect to the issues of conflict.
16. Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee, or agent of the County in an attempt to secure favorable treatment regarding the Contract.

The County, by written notice, may immediately terminate any Contract, if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee, or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension, or evaluation process once a Contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee, or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Officer. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

17. Employment of Former County Officials

Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former county administrative officials who terminated county employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, “County Administrative Official” is defined as a member of the Board of Supervisors or such officer’s staff, County Administrative Officer or member of such officer’s staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit, or Safety Management Unit.

18. Inaccuracies or Misrepresentations

If in the administration of a Contract, the County determines that Contractor has made a material misstatement, misrepresentation, or omission that materially inaccurate information has been provided to the County during the RFP process, the Contract may be immediately terminated. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

19. Recycled Paper Products

The County has adopted a recycled product purchasing standards policy (Procurement of Recycled Products 11-10SP), which requires Contractors to use recycled paper for proposals and for any printed or photocopied material created as a result of a contract with the County. The policy also requires Contractors to use both sides of paper sheets for reports submitted to the County whenever practicable.
20. Ownership of Documents

All documents, data, products, graphics, computer programs, and reports prepared by the Contractor pursuant to the Contract shall be considered property of the County upon payment for product/services. All items shall be delivered to the County at the completion of work under the Contract, subject to the requirements of Section V, Paragraph A.9 (Termination for Convenience). Unless otherwise directed by the County, Contractor may retain copies of such items.

21. Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor’s relationship with County may be made or used without prior written approval of the County.

22. County Hours

Some County departments adopted hours other than the 8:00 a.m. to 5:00 p.m. standard. These departments will notify Contractor of the modified work schedule, as necessary, to allow proper billing. Such modified 40-hour workweek will NOT result in overtime billing.

23. Electronic Fund Transfer Program

Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor’s designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

24. Local Preference

The County has adopted a preference for Contractors whose principal place of business is located within the boundaries of the County. A five percent (5%) preference may be applied prior to approval of any purchase or acquisition of services, equipment, goods or supplies.

For purposes of the application of the local preference policy (County Policy 11-12), “principal place of business” is defined as the Contractor’s main office (or headquarters) or a major regional office. A “major regional office” is defined as a business location apart from the Contractor’s main office (or headquarters) which:

- Has been issued a business license, if required, and has been established and open for a minimum of six months prior to the date that the approval authority authorizes the circulation of an RFP/RFQ/Quote for any contract, agreement, or purchase order to which it responds; and

- Can demonstrate on-going business activity in the field of endeavor on which the Contractor is proposing, from that office during the preceding six months; and

- Has a minimum of twenty-five percent (25%) of the Contractor’s full time management employees and twenty-five percent (25%) of its full time regular employees working from the San Bernardino County location(s).
The County’s Local Preference Policy means for example, if two Contractors are responding to this RFP and if quality, service and ability to meet the County’s needs are equal, County staff must determine if one of the Contractors is a local Contractor. If one of the Contractors is a local contractor, and its quoted price or cost for services, equipment, goods or supplies does not exceed five percent (5%) of the other Contractor’s quoted price or cost, unless it is determined that an exemption applies, staff should recommend the local Contractor for the contract award.

25. Non-Discrimination

The Contractor shall not in any way discriminate against any Member or Patient on the grounds of race, color, religion, sex, national origin, age, disability, health status and genetics, political affiliation or belief. The Contractor shall include a clause to this effect in all its pertinent subcontracts. The Contractor shall also comply with all applicable provisions of the Americans with Disabilities Act of 1990.

26. Equal Opportunity Employer

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or disability. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor will, to the extent such provisions apply, comply with Title VI and VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990; and the Immigration Reform and Control Act (IRCA) of 1986.

27. Health Insurance and Portability and Accountability Act of 1996 (HIPAA)

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), regulations have been promulgated governing the privacy and security of individually identifiable health information (IIHI), otherwise defined as Protected Health Information (PHI) or electronic Protected Health Information (ePHI). The HIPAA Privacy and Security Regulations specify requirements with respect to contracts between an entity covered under the HIPAA Privacy and Security Regulations and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to IIHI, or PHI, or ePHI. Therefore, in accordance with the HIPAA Privacy and Security Regulations, Contractor shall comply with the terms and conditions as set forth in Attachment H, HIPAA Business Associate Agreement, hereby incorporated by this reference.

28. Administrative Reporting Requirements

Contractors are required to submit to County an itemized invoice for services performed under the Contract.

29. Debarment, Suspension, and Other Responsibility Matters
As required by Executive Order 12549, Debarment and Suspension, and other responsibilities implemented at 45 CFR Part 76 [http://www4.law.cornell.edu/cfr]:

a. The Vendor certifies that it and any potential subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (as defined at 45 CFR Part 76, Section 76.200) by any federal department or agency;

2. Have not within a three-year period preceding 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) transaction or contract under a public transaction, 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;

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 above; and

4. Have not within a three-year period proceeding had one or more public transactions (federal, state, or local) terminated for cause or default; and

Where the Vendor is unable to certify as true any of the statements in this certification, he or she shall include an explanation in the Proposal.

30. Grievance Procedure

Contractor shall develop an agency-specific grievance policy and procedure, approved by the County, through which recipients of service shall have the opportunity to express and have considered their complaints regarding the delivery of services.

31. Confidentiality

Contractor shall be required to protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to the Contract, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under the Contract, except as may be otherwise required by law.

B. Indemnification and Insurance Requirements

1. Indemnification

The Contractor agrees to indemnify, defend and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.
2. Insurance

Without in any way affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the Contract the following types of insurance with limits as shown:

Workers’ Compensation – A program of Workers’ Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer’s Liability with $250,000 limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance. If the County’s Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

a. Comprehensive General and Automobile Liability Insurance – This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars ($1,000,000);

b. Errors and Omission Liability Insurance – Combined single limits of $1,000,000 for bodily injury and property damage and $3,000,000 in the aggregate; or

c. Professional Liability – Professional liability insurance with limits of at least $1,000,000 per claim or occurrence.

d. Employee Automotive Liability Insurance – If the services to be performed under the Contract require Contractor’s employee to drive a vehicle, Contractor’s employee must possess a valid California driver’s license at all times during the performance of the Contract. Contractor’s employees are prohibited from driving County owned vehicles as part of the services performed.

In order for Contractor’s employees to be able to use a private vehicle during the performance of the Contract, Contractor’s employees shall be covered by vehicle liability insurance at least equal to the minimum requirements of the California Vehicle Code.

Such requirements currently are:

- Fifteen Thousand Dollars ($15,000.00) for single injury or death;
- Thirty Thousand Dollars ($30,000.00) for multiple injury or death;
- Five Thousand Dollars ($5,000.00) for property damage.
Contractor's Automobile Liability coverage will serve to augment Contractor's employees' vehicle liability coverage as per the specified limits of not less than one million dollars ($1,000,000.00) per occurrence.

3. Additional Named Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

4. Waiver of Subrogation Rights

The Contractor shall require the carriers of the above required coverage to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, Contractors, and subcontractors.

5. Policies Primary and Non-Contributory

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

6. Proof of Coverage

The Contractor shall immediately furnish certificates of insurance to the County Department administering the Contract evidencing the insurance coverage, including the endorsements required above, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department. Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of the Contract, the Contractor shall furnish certified copies of the policies and all endorsements.

7. Insurance Review

The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore, unreasonably priced, or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Contract and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to the Contract. Contractor agrees to execute any such amendment within thirty days of receipt.
C. Right to Monitor and Audit

1. Right to Monitor

The County (and if applicable, the State or Federal government) has the absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under the Contract. Contractor shall give full cooperation in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of the Contract and comply with any and all reporting requirements established by the County.

2. Availability of Records

All records, including electronic records, pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County, Federal and State representatives for a period of three years after final payment under the Contract or until all pending County, State, and Federal audits are completed, whichever is later.

VI. Proposal Submission

A. General

1. All interested and qualified service Vendors are invited to submit a proposal for consideration. Submission of a proposal indicates that the organization has read and understands the entire RFP, to include all appendixes, attachments, exhibits, schedules, and addendum (as applicable) and all concerns regarding the RFP have been satisfied.

2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP.

3. Expensive bindings, colored displays, promotional materials, etc., are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.


All responses to this RFP shall become the exclusive property of the County. At such time as County recommends any Vendor to the Board of Supervisors, and that such recommendation, together with any recommended Contract, appears on the Board Agenda, all proposals for such Contract shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each proposal which are defined by the Vendor as business or trade secrets and are plainly and prominently marked as “TRADE SECRET," “CONFIDENTIAL” or “PROPRIETARY."

Each element of a proposal which a Vendor desires not be considered a public record must be clearly marked as set forth above, readily separable from the other portions of the response, and any blanket statement (i.e., regarding entire pages, documents, or other non-specific designations) by a Vendor shall not be sufficient and shall not bind the County in any way whatsoever. The County shall not in any way be liable or responsible for the disclosure of any
such records, or parts thereof, if disclosure is required or permitted under the California Public Records Act or otherwise by law.

B. Proposal Presentation

1. All proposals must be submitted on 8 ½” x 11” paper, neatly typed, single-spaced, double-sided (on recycled paper) and with normal (1 inch) margins. Typeface must be no more than 12 characters per inch. Each page, including attachments, must be clearly and consecutively numbered at the bottom center of each page.

   a. One (1) original and six (6) copies, total of seven (7), of the complete proposal must be received by the deadline for receipt of proposal specified in Section II, Proposal Timeline. The original and all copies must be in a sealed envelope or container stating on the outside: Vendor Name, Address, Telephone Number, RFP Number, RFP Title, and Proposal Due Date.

2. Hand carried proposals may be delivered to the address listed in Section I, Paragraph E, between the hours of 8 a.m. and 5 p.m., Monday through Friday, excluding holidays observed by the County, up to the deadline for proposal submission. Vendors are responsible for informing any commercial delivery service, if used, of all delivery requirements, and for ensuring that the address information appears on the outer wrapper or envelope used by such service.

C. Proposal Format

Vendors must provide the following information in the following format:

1. Cover Page

   Attachment A is to be used as the cover page for the proposal. This form must be fully completed and signed by an authorized officer of the Vendor.

2. Proposal Submission Checklist

   Attachment B is to be completed and included in the proposal and must be located directly behind Attachment A.

3. Table of Contents

   All pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the Table of Contents.

4. Statement of Certification

   Complete, initial, sign, and include in the submitted proposal, Statement of Certification, Attachment C. This form must be fully completed and signed by an authorized officer of the Vendor.

5. Exceptions to RFP

   Complete Attachment D and include in submitted proposal.
6. Related Service Experience

Using a format similar to Attachment E, please identify the Vendor's related experience to perform the scope of services requested in this RFP.

7. References

Using a format similar to Attachment F, please provide three (3) references from other hospital or medical facilities that you have provided the same or similar service as being requested in this RFP. Provide Contact Name, Address, Phone Number, and dates services were provided.

8. Proposal Description/Narrative

Provide a detailed description of the proposal

a. Brief synopsis of the Vendor’s understanding of the County’s needs and how the Vendor plans to meet these needs. This should provide a broad understanding of the Vendor’s entire proposal.

b. Provide a brief narrative outlining the Vendor’s history, milestones, and other information that supports the scope of services requested.

c. Brief narrative description of the proposed plan to achieve the Scope of Services, Section IV.

d. Brief synopsis of the Vendor’s proposed outline of organization, staffing, work plan or other services.

e. Complete Cost Schedule as outlined on Attachment G.

f. Explanation of any assumptions and/or constraints.

9. Employment of Former County Officials

Provide information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent the Agency. The information provided must include a list of former county administrative officials who terminated county employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of the Agency. For purposes of this section, “county administrative official” is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

10. Disclosure of Criminal and Civil Proceedings
The County reserves the right to request the information described herein from the Vendor selected for contract award. Failure to provide the information may result in a disqualification from the selection process and no award of Contract to the Vendor. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The selected Vendor also may be requested to provide information to clarify initial responses. Negative information provided or discovered may result in disqualification from the selection process and no award of Contract.

The selected Vendor may be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Vendor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the selected Vendor may also be asked to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. “Legal proceedings” means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Vendor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision “key employees” includes any individuals providing direct service to the county. “Key employees” do not include clerical personnel providing service at the firm’s offices or locations.

11. Vendor’s Financial Capability

a. Vendor must provide the Company’s Annual Report for the last two years. Vendor must also include independently audited financial statements for the most recent completed fiscal year. If audited financial statements are not available, please provide un-audited financial statements along with a certification from the owners and the Company’s accountant that the information accurately reflects the Company’s current financial status. If the business is a sole proprietorship, please provide Schedule C of the Internal Revenue Service forms as well as a certification from the owner and the accountant that the information accurately reflects the business’ current financial status.

b. Alternatively, provide tax returns from the most recent completed fiscal year or a letter from the Vendor’s financial institution indicating the Vendor can carry up to sixty (60) days worth of invoices before obtaining payment.

c. Provide the name of firm(s) who performs annual financial audits.

12. Insurance
Submit evidence of ability to insure as stated in Section V, Paragraph B, Indemnification and Insurance Requirements.

13. Proprietary Information

Any information that is deemed proprietary by a Vendor must be clearly identified as such. The Vendors shall submit justification for any information designated as proprietary in nature. Final determinations of nondisclosure, however, rest with the COUNTY.

The County will not be held accountable if material from responses is obtained by parties other than the County without the written consent of the Vendor.

VII. Evaluation Process

A. General

All proposals will be subject to a standard review process developed by the County utilizing an Evaluation Committee. The Committee will be comprised of County and governmental agency representatives. Scoring proposals will be based on an ordinal ranking system.

B. Initial Review of Submitted Proposals

1. All proposals will be initially evaluated to determine if they meet the mandatory requirements.

2. The proposal must have been received at or before the time, as stated in Section II, Proposal Timeline, be complete and in the required format, and be in compliance with all the material requirements of this RFP.

Failure to meet all of these requirements may result in a rejected proposal. No proposal shall be rejected, however, if it contains a minor irregularity, defect, or variation, if the irregularity, defect, or variation is considered by the County to be immaterial or inconsequential. In such cases, the Vendor will be notified of the deficiency in the proposal and given an opportunity to correct the irregularity, defect, or variation, or the County may elect to waive the deficiency and accept the proposal.

C. Scope of Evaluation

The proposal must clearly demonstrates the following:

1. Administrative capacity to respond to all requirements in this RFP

2. Proposed cost of service, Attachment G

3. Experience, qualifications, and competence in providing the requested services. This review will be based upon the three (3) references provided;

4. Vendor’s financial stability. This review will be based upon Vendor provided business financial statements.

5. Adequate and reasonable plan to deliver proposed services (Scopes of Work)
6. Selection will be based on determination of which proposal best meets the needs of the County and the requirements of the RFP.

D. Competitive Negotiation

The County retains the right to negotiate the final contract terms and conditions to be presented to the San Bernardino County Board of Supervisors for approval, with one or more of the apparent most responsive Vendors as solely determined by the County.

The County reserves the right to request clarification, to conduct discussions with Vendors, to request revisions of proposals, and to negotiate price changes or waive minor informalities. During the discussion period, no information will be disclosed regarding either the contents of the Proposals or discussions. When the Board of Supervisors makes an award, the solicitation file and the Proposals are a matter of public record.

E. Contract Award Process

Contract(s) will be awarded based on a competitive selection of proposals received.

A recommendation will be made to the Board of Supervisors, which will then consider recommendation to make award.

The contents of the proposal of the successful Vendor will become contractual obligations and failure to accept these obligations in a Contract may result in cancellation of the award.

Cost of service is an important factor in the evaluation process, but the County is not obligated to accept the lowest cost proposal. Ability to provide a quality service in a timely manner at a low or reasonable cost in accordance with the RFP requirements is critical to a successful proposal.

F. Disputes Relating to Proposal Process or Award

In the event a dispute arises concerning the proposal process prior to the award of the Contract, the party wishing resolution of the dispute shall submit a request in writing to the Public Health Director. Vendor may appeal the recommended award or denial of award, provided the following stipulations are met:

1. Appeal must be in writing.

2. Must be submitted within seven (7) calendar days of the date of the recommended award or denial of award letters.

An appeal can only be brought on the following grounds:

1. Failure of the County to follow the selection procedures and adhere to requirements specified in the RFP or any addenda or amendments.

2. There has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.

3. A violation of State or Federal law.
Appeals will not be accepted for any other reasons than those stated above. All appeals must be sent to:

Jim Lindley, Interim Director  
County of San Bernardino  
Department of Public Health  
351 N. Mt View, 3rd Floor  
San Bernardino, CA 92415
**VENDOR’S NAME** (name of firm, entity or organization):

__________________________________________________________________________________________________________________________________________________

FEDERAL EMPLOYER IDENTIFICATION NUMBER:

__________________________________________________________________________________________________________________________________________________

NAME AND TITLE OF VENDOR’S CONTACT PERSON:

__________________________________________________________________________________________________________________________________________________

MAILING ADDRESS:

Street Address: ____________________________________________________________

City, State, Zip: ____________________________________________________________

TELEPHONE NUMBER: _____________________________________________________

FAX NUMBER: ____________________________________________________________

EMAIL ADDRESS: _________________________________________________________

VENDOR’S ORGANIZATIONAL STRUCTURE

___ Corporation  ____ Partnership  ____ Proprietorship  ___ Joint Venture

___ Other (explain): ________________________________________________________

If Corporation, Date Incorporated: ___________ State Incorporated: ___________
States Registered in as foreign corporation:

VENDOR’S SERVICES OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS RFP REQUESTS:

________________________________________________________________________________________________________________________________________________

VENDOR’S AUTHORIZED SIGNATURE:

The undersigned hereby certifies that this proposal is submitted in response to this solicitation.

SIGNED: _______________________________________________________________________

DATE: _______________________________________________________________________

PRINT NAME: ________________________________________________________________ TITLE: ________________________________________________________________
# ATTACHMENT B - PROPOSAL SUBMISSION CHECKLIST

Use this checklist to ensure that all items requested have been included. This form is to be completed and included in the proposal and must be located directly behind Attachment A.

<table>
<thead>
<tr>
<th>Items Completed</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Attachment A – Cover Page</td>
<td></td>
</tr>
<tr>
<td>2 Attachment B – Proposal Submission Checklist</td>
<td></td>
</tr>
<tr>
<td>3 Attachment C – Statement of Certification</td>
<td></td>
</tr>
<tr>
<td>4 Attachment D – Exceptions to RFP</td>
<td></td>
</tr>
<tr>
<td>5 Attachment E – Related Service Experience Form</td>
<td></td>
</tr>
<tr>
<td>6 Attachment F – References</td>
<td></td>
</tr>
<tr>
<td>7 Proposal Description/Narrative (Sections VI. Paragraph C.8. a, b, c, d, e &amp; f)</td>
<td></td>
</tr>
<tr>
<td>8 Financial Audit Information (Section VI. Paragraph C. 11)</td>
<td></td>
</tr>
<tr>
<td>9 Attachment G – Cost Schedule</td>
<td></td>
</tr>
</tbody>
</table>

Page 1 of 1
ATTACHMENT C – STATEMENT OF CERTIFICATION

The following statements are incorporated as part of the proposal in response to the County of San Bernardino RFP DPH 08-01 Picture Archiving and Communication System.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Agree (initial)</th>
<th>Disagree with qualification (initial and attach explanation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The offer made in this proposal is firm and binding for 180 days from the date the proposal is opened and recorded.</td>
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</tr>
<tr>
<td>2. All aspects of this proposal, including cost, have been determined independently and without consultation with any other prospective Vendor or competitor for the purpose of restricting competition.</td>
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<tr>
<td>3. All declarations in the proposal and attachments are true and this shall constitute a warranty, the falsity of which shall entitle the County to pursue any remedy by law.</td>
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<tr>
<td>4. All aspects of the RFP and the proposal submitted shall be binding if the proposal is selected and a Contract awarded.</td>
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<td>5. The County will be provided with any other information the County determines is necessary for an accurate determination of the ability to provide the services being proposed.</td>
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<td>6. If selected, Vendor agrees to comply with all applicable rules, laws, and regulations.</td>
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<tr>
<td>7. Have a total working capital of at least $100,000.00</td>
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<tr>
<td>8. Have no record of unsatisfactory performance. Vendors who are or have been seriously deficient in current or recent contract performance, in the absence of circumstances properly beyond the control of the Vendor, shall be presumed to be unable to meet this requirement.</td>
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<tr>
<td>9. Demonstrate the capability to perform all elements of the proposed scope of services and have the capacity to enter into a contract with the County.</td>
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<tr>
<td>10 Previously provided Computerized Radiography (CR) and PACS equipment and room preparation to at least 3 Outpatient Care Centers.</td>
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<tr>
<td>11 Must be an entity qualified to do business in the State of California and must have been in existence at least three (3) years as an operating business.</td>
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<tr>
<td>12 May not have declared any form of Bankruptcy in the last five (5) years.</td>
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</table>
### ATTACHMENT C – STATEMENT OF CERTIFICATION

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td>13</td>
<td>Vendor must demonstrate experience in providing equipment and room preparation in at least three Outpatient care sites.</td>
</tr>
<tr>
<td>14</td>
<td>Have the ability to maintain adequate files, records, and meets statistical reporting requirements.</td>
</tr>
<tr>
<td>15</td>
<td>Provide at least three references that demonstrate Vendor meets the required experience.</td>
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<tr>
<td>16</td>
<td>Have the ability to fulfill standard contract requirements, including indemnification and insurance, of the County.</td>
</tr>
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</table>

______________________________
Signature                           Date

______________________________
Print name

______________________________
Company/Agency
ATTACHMENT D – EXCEPTIONS TO RFP

VENDOR NAME ________________________________

ADDRESS ________________________________

TELEPHONE # (        ) ___________________ FAX # (        ) ___________________

I have reviewed the RFP and General Contract Terms in their entirety and have the following exceptions: (Please identify and list exceptions by indicating RFP, the Section or Paragraph number, and Page number, as applicable. Be specific about objections to content, language, or omissions. Add as many pages as required.)

Name of Authorized Representative ________________________________

Signature of Authorized Representative ________________________________

Date ________________________________
ATTACHMENT E – RELATED SERVICE EXPERIENCE FORM

Identify past and current experience in providing services similar to those requested in this RFP

<table>
<thead>
<tr>
<th>Description of Related Services</th>
<th>Number of Clients</th>
<th>Length of Time in Business</th>
<th>Location/Service Area</th>
<th>Amount of Funding</th>
<th>Funding Source(s)</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Started</td>
<td>Ended*</td>
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<td>5.</td>
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CURRENT ANNUAL OPERATING BUDGET: $____________________

Percent of Operating Budget Generated from:
- Government Contracts: $_______________ % ______.
- Non-governmental Agencies: $_______________ % ______.
- Donations: $_______________ % ______.
- Fees: $_______________ % ______.
- Other: ___________________ $_______________ % ______.

TOTAL $_______________ % ______.

*Enter “Present” if still providing the identified services.
<table>
<thead>
<tr>
<th>Name of Agency</th>
<th>Contact Name</th>
<th>Phone Number</th>
<th>Dates services provided From</th>
<th>To</th>
</tr>
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<tbody>
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</table>
## ATTACHMENT G - COST SCHEDULE

<table>
<thead>
<tr>
<th>PRODUCT</th>
<th>Purchase One-Time</th>
<th>Recurring</th>
<th>Lease/License One-Time</th>
<th>Recurring</th>
<th>Cross Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. APPLICATION SOFTWARE</td>
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<tr>
<td>1. Order management/results</td>
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<td>2. Bar coding</td>
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<td>3. QA/QC</td>
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<td>4. Word processing/transcription</td>
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<td>5. ADT/Registration</td>
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<td>6. Other:</td>
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<td>B. SYSTEM SOFTWARE</td>
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<td>1. Hardware</td>
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<td>2. Software Maintenance</td>
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<td>3. Hardware Maintenance</td>
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<td>4. Implementation and Conversion Assistance</td>
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<td>5. Integration/Customization Costs</td>
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<td>6. Training and Documentation</td>
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<td>7. Other Costs</td>
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**GRAND TOTAL:**
ATTACHMENT H – HIPAA BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Agreement, CONTRACTOR, hereinafter referred to as BUSINESS ASSOCIATE, may use or disclose Protected Health Information to perform functions, activities or services for or on behalf of the COUNTY OF SAN BERNARDINO, hereinafter referred to as the COVERED ENTITY, as specified in this Agreement and in the attached Contract, provided such use or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Regulations Parts 160, 162, and 164, hereinafter referred to as the Privacy and Security Rules.

I. Obligations and Activities of Business Associate.

a. Business Associate shall not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law. Business Associate shall disclose to its employees, subcontractors, agents, or other third parties, and request from Covered Entity, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

b. Business Associate shall implement administrative, physical, and technical safeguards to:
   1. Prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
   2. Reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

c. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

d. Business Associate shall report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement and/or any security incident with respect to electronic Protected Health Information of which it becomes aware.

e. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, shall comply with the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

f. Business Associate shall provide access to Protected Health Information in a Designated Record Set to Covered Entity or to an Individual, at the request or direction of Covered Entity and in the time and manner designated by the Covered Entity, in order to meet the requirements of 45 CFR 164.524.

g. Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526, in the time and manner designated by the Covered Entity.

h. Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, and/or to the Secretary for the U.S. Department of Health and Human
Services, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy and Security Rules.

i. Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

j. Business Associate shall provide to Covered Entity or an Individual, in the time and manner designated by the Covered Entity, information collected in accordance with provision (i), above, to permit Covered Entity to respond to a request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

k. Upon termination of this Agreement, Business Associate shall return all Protected Health Information required to be retained and return or destroy all other Protected Health Information received from the Covered Entity, or created or received by the Business Associate or its subcontractors, employees or agents on behalf of the Covered Entity. In the event the Business Associate determines that returning the Protected Health Information is not feasible, the Business Associate shall provide the Covered Entity with written notification of the conditions that make return not feasible. Business Associate further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any Protected Health Information retained by Business Associate or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.

II. Specific Use and Disclosure Provisions.

a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation service to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR 164.502(j)(1).

III. Obligations of Covered Entity.
   a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

   b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate’s use or disclosure of Protected Health Information.

   c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of Protected Health Information.

IV. General Provisions.
   a. Remedies. Business Associate agrees that Covered Entity shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which Covered Entity may have at law or in equity in the event of an unauthorized use or disclosure of Protected Health Information by Business Associate or any agent or subcontractor of Business Associate that received Protected Health Information from Business Associate.

   b. Ownership. The Protected Health Information shall be and remain the property of the Covered Entity. Business Associate agrees that it acquires no title or rights to the Protected Health Information.

   c. Regulatory References. A reference in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended.

   d. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

   e. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.