

3 RFP Forms

REQUIREMENT: RFP Section 3.2.3, pg. 16

The forms listed below are attachments to this RFP. Fully complete and return these forms behind Tab 3:

- Release of Information Form
- Primary Bidder Detail & Certification Form
- Subcontractor Disclosure Form (one for each proposed subcontractor)

As requested in the State of Iowa's Department of Human Services RFP (MED-012-003), ACS returns the fully completed and signed forms behind Tab 3:

- Release of Information
- Primary Bidder Detail & Certification Form

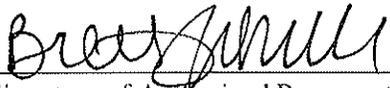
Please note that ACS does not intend to use subcontractors for this proposal and per RFP instructions the Subcontractor Disclosure Form does not need to be returned.

Attachment A: Release of Information
(Return this completed form behind Tab 3 of the Bid Proposal.)

ACS State Healthcare, LLC (name of bidder) hereby authorizes any person or entity, public or private, having any information concerning the bidder's background, including but not limited to its performance history regarding its prior rendering of services similar to those detailed in this RFP, to release such information to the Agency.

The bidder acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. The bidder acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the Agency or may otherwise hurt its reputation or operations. The bidder is willing to take that risk. The bidder agrees to release all persons, entities, the Agency, and the State of Iowa from any liability whatsoever that may be incurred in releasing this information or using this information.

ACS State Healthcare, LLC
Printed Name of Bidder Organization


Signature of Authorized Representative

September 16, 2011
Date

Brett Jakovac
Printed Name

Attachment B: Primary Bidder Detail Form & Certification

(Return this completed form behind Tab 3 of the Proposal. If a section does not apply, label it "not applicable".)

| Primary Contact Information (individual who can address issues re: this Bid Proposal) | |
|--|--|
| Name: | Bob Chouinard |
| Address: | 1462 Fox Hollow Pl., Castle Rock, CO 80104 |
| Tel: | (720) 379-5151 |
| Fax: | (303)660-6401 |
| e-mail: | Bob.Chouinard@acs-inc.com |

| Primary Bidder Detail | |
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| Business Legal Name ("Bidder"): | ACS State Healthcare, LLC |
| "Doing Business As" names, assumed names, or other operating names: | Not applicable |
| Parent Corporation, if any: | Affiliated Computer Services, Inc., A Xerox Company |
| Form of Business Entity (i.e., corp., partnership, LLC, etc.): | Corporation |
| State of Incorporation/organization: | Delaware |
| Primary Address: | 8260 Willow Oaks Corporate Drive, Suite 600, Fairfax, VA 22031 |
| Tel: | 703.891.8700 |
| Fax: | 703.891.8857 |
| Local Address (if any): | Not applicable |
| Addresses of Major Offices and other facilities that may contribute to performance under this RFP/Contract: | ACS Central Business Office, 2810 North Parham Road, Richmond, Virginia 23294; ACS Tarrytown Data Center, 777 Old Sawmill River Road, Tarrytown, New York 10591; ACS Pittsburgh Data Center, 4920 Campbells Run Road, Pittsburgh PA 15205-1321; ACS Billing Office, 2828 North Haskell Avenue, Dallas, Texas 75204 |
| Number of Employees: | 4,300 |
| Number of Years in Business: | 11 years 5 months (since March 25, 2009) |
| Primary Focus of Business: | IT business process outsourcing |
| Federal Tax ID: | 58-2479287 |
| Bidder's Accounting Firm: | PriceWaterHouseCooper, LP |
| If Bidder is currently registered to do business in Iowa, provide the Date of Registration: | July 27, 1999 |
| Do you plan on using subcontractors if awarded this Contract? {If "YES," submit a Subcontractor Disclosure Form for each proposed subcontractor.} | No |

| Request for Confidential Treatment (See Section 3.1) | | |
|---|--|---|
| Location in Bid (Tab/Page) | Statutory Basis for Confidentiality | Description/Explanation |
| Tab 4, Section 4.1, pgs. 30,32 | Iowa Code §550.2(4) | ACS SLR State Dashboard – tools, design, process, etc. Justification Code 2 (below) |
| Tab 4, Section 4.1.1, pg. 33 | Iowa Code §550.2(4) | Security – Authorization and Authentication Justification Code 2 (below) |
| Tab 4, Section 4.1.1, pgs. 34,35,46 | Iowa Code §550.2(4) | ACS SLR Dashboard and SLR Screenshots Justification Code 2 (below) |

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| Tab 4, Section 4.1.1, pgs. 41,43 | Iowa Code §550.2(4) | Process Workflows (Exhibits 4.4 and 4.5) Justification Code 2 (below) |
| Tab 4, Section 4.1.2, pgs. 52,53,54,58 | Iowa Code §550.2(4) | ACS SLR State Dashboard – tools, design, process, etc. Justification Code 2 (below) |
| Tab 4, Section 4.1.2, pgs. 51-54, 56,57 | Iowa Code §550.2(4) | ACS SLR Dashboard and SLR Screenshots Justification Code 2 (below) |
| Tab 4, Section 4.1.4, pgs. 62.63 | Iowa Code §550.2(4) | Secure Data Exchange – file specifications Justification Code 2 (below) |
| Tab 4, Section 4.1.5, pg. 66 | Iowa Code §550.2(4) | SLR System Architecture Outline (Exhibit 4-15) Justification Code 2 (below) |
| Tab 4, Section 4.1.7, pgs. 69,70 | Iowa Code §550.2(4) | Change Management Methodology Justification Code 2 (below) |
| Tab 4, Section 4.1.7, pg. 71 | Iowa Code §550.2(4) | Service Level Agreement Justification Code 2 (below) |
| Tab 4, Section 4.1.8, pg. 75-76 | Iowa Code §550.2(4) | Implementation Timeline & Tasks Justification Code 1 (below) |
| Tab 4, Section 4.1.10, pgs. 78-79 | Iowa Code §550.2(4) | Security Architecture Approach Justification Code 2 (below) |
| Tab 4, Section 4.1.12, pg. 82 | Iowa Code §550.2(4) | ACS SLR Dashboard Reporting Screenshot Justification Code 2 (below) |
| Tab 4, Work Plan, pg 88-95 | Iowa Code §550.2(4) | Project Work Plan Justification Code 1 (below) |
| Tab 4, Training Plan, pgs. 96-105 | Iowa Code §550.2(4) | Sample Training Plan Justification Code 2 (below) |
| Tab 4, Project Timeline, pg. 106 | Iowa Code §550.2(4) | Screen Shots Justification Code 1(below) |
| Tab 4, Screen Shots, pgs. 107-186 | Iowa Code §550.2(4) | Implementation Timeline Justification Code 2 (below) |
| Tab 4, Sample Reports, pgs. 187-204 | Iowa Code §550.2(4) | Sample Reports Justification Code 2 (below) |
| Tab 5, Section 5.1, pgs. 210-215 | Iowa Code §550.2(4) | ACS Client Contact Names and Information Justification Code 5 (below) |
| Tab 5, Section 5.1, pgs. 216-217 | Iowa Code §550.2(4) | ACS Reference Names and Contact Information, Letter of Reference Justification Code 5 (below) |
| Tab 5, Section 5.2.1, pgs. 219- 222 | Iowa Code §550.2(4) | ACS Project Personnel Names Justification Code 3,4 (below) |
| Tab 5, Section 5.2.1, pgs.220, 222 | Iowa Code §550.2(4) | ACS Project Organizational Charts Justification Code 3,4 (below) |
| Tab 5, Section 5.2.2, pgs. 224, 226 | Iowa Code §550.2(4) | ACS Project Personnel Names and Credentials Justification Code 3,4 (below) |
| Tab 5, Section 5.2.2, pgs. 227-230 | Iowa Code §550.2(4) | ACS Project Personnel Resumes Justification Code 3,4 (below) |
| Tab 5, Section 5.2.3, pgs. 232, 233, 234-239, 240 | Iowa Code §550.2(4) | ACS Project Management Team Names, Resumes, and Metrics Justification Code 3,4 (below) |

We believe that the items referenced above must be treated as confidential trade secrets in order to protect the time and effort expended by ACS in the development of its products and the execution of our services for our customers. Therefore, we ask the Agency not to disclose these items to third parties and to treat the information as confidential and proprietary trade secrets. ACS provides the following as our explanation of the validity of our trade secret position:

It is ACS' position that the confidential information (as described below) included in our proposal should not be released to the public or third parties because they are a trade secret of ACS' under Iowa law. Pursuant to Iowa Code Chapter 22, Section 22.7(3), "[T]rade secrets which are recognized and protected as such by law" are records considered confidential and exempt from disclosure to third parties.

The Uniform Trade Secrets Act codified in Iowa Code §550.2(4) (the “Act”), governs the determination of what constitutes a trade secret under Iowa law.

The Act defines a trade secret as

Information, including but not limited to a formula, pattern, compilation, program device, method, technique, or process that is both of the following:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use.
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

In order to determine whether a trade secret exists, the following factors should be met: a) economic value requirement; b) readily ascertainable requirement; and c) secrecy

a) Readily Ascertainable Requirement

ACS' confidential information listed above is not readily ascertainable outside of ACS. ACS has spent much time and money perfecting its process and ability to engage the right staff to develop and implement an EHR Provider Incentive System. Although not novel, it would be impossible for third parties to duplicate ACS' process. In addition, ACS has various state and commercial customers that pay ACS to perform substantially similar services that Iowa is requesting in the RFP. If the confidential information were easy and publicly known, these entities would run the programs themselves, rather than outsource to ACS.

The disclosure of staffing information could result in irreparable competitive harm because it would allow competitors to compare their organizational and staffing procedures to those unique to ACS, and to use the resulting information as the basis for improving their own procedures to be more competitive in future similar procurements. In addition, the loss of these trained personnel would greatly increase ACS' recruitment and training costs. Disclosure of ACS' estimating methods and techniques for assigning and controlling resources would also allow competitors to accurately calculate ACS' detailed costs in performing various parts of this contract, thereby significantly, unfairly and irreparably increasing their competitive position in future procurements. ACS is in the business of providing services. The business is only as “good” as the people who provide those services and the experiences and knowledge they bring. Thus, unlike a proposal just for the sale of software or pencils or any other material good that might be sold to a state agency, ACS is proposing the sale of “people services.” The identity and skills of those people can and do constitute a “trade secret.”

ACS uses its implementation timeline and task plan as a guide to implementing and operating the EHR Provider Incentive System. The timeline and task plan represents a very detailed description of the tasks and timelines associated with implementing ACS' proposed solution. It is exacting in detail and outlines tasks used in past implementations. It literally presents the “road map” developed by ACS at considerable time and expense as the basis for ACS' provision of its EHR Provider Incentive System solution methodology. This information is extremely valuable to ACS, and if made available to a competitor, would result in significant, unfair, and irreparable competitive advantage to the competitor.

Information contained in the indicated section(s) of the proposal and the proposal itself is highly restricted by ACS even internally within our company. The information is stored in internally secure databases. Further, such information is not incorporated in general marketing, published articles, or ACS public websites and is generally not known or available to the public. Currently it would be extremely difficult for any party to acquire such information.

In addition to the above, ACS has invested significant resources in the development of our implementation timeline and task plan and has also expended a great deal of resources in developing the optimal methodology by which to present this information in a proposal format. The plan contains ACS' unique approach to implementing its solution and provides ACS with a real and significant competitive advantage. Disclosure of the information contained in the work plan to ACS' competitors would seriously and irreparably damage ACS' competitive position in the EHR Provider Incentive System marketplace.

(b) Economic Value Requirement

All of the information marked as confidential in the proposal represents an investment by ACS into a specific group of services and applications utilizing the skills of its employees to provide an EHR Provider Incentive System to our customers. Each customer's health care program and requirements is different, however, the main characteristics are the same. ACS uses this know-how to provide its customers with the benefit of its many years developing and running the same type of program. ACS' customers pay for

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this knowledge and service and this business line has enabled ACS to create a separate health information exchange division within its government healthcare line of business. ACS clearly derives “independent economic value” from the confidential information.

If a competitor were allowed to see ACS’ confidential information, they could easily duplicate ACS’ efforts and cause ACS financial harm by underbidding ACS in the future. ACS’ EHR Provider Incentive System would also lose its uniqueness which ACS customers find attractive.

(c) Secrecy

Secrecy is the most basic requirement for a trade secret. Restatement (First) of Torts §757 cmt. b (1939). Reasonable efforts by an entity to protect a trade secret are sufficient to maintain its secrecy.

ACS uses reasonable efforts to protect the secrecy of its confidential information. ACS’ confidential information sets out in detail the specific processes it employs to perform successful EHR Provider Incentive System development, implementation, and operational services. Disclosure of this confidential information is made to ACS employees, subcontractors and independent consultants who have a need to know the trade secret because they are working on a project or participating in the drafting and strategizing of a proposal. Such disclosures are made under a non-disclosure agreement or other type of agreement that limits the disclosure of ACS’ trade secrets. Moreover, ACS has made a large investment of money, time and people in its process contained in ACS’ EHR Provider Incentive System. If a competitor were to obtain an entire copy of ACS’ proposal, including the confidential information, they would enjoy a substantial competitive advantage over ACS. In addition, ACS’ confidential information is kept physically secure in a locked office, file cabinet or system where access is limited to those persons who have a need to know. Treating ACS’ confidential information as confidential trade secrets that are not subject to disclosure allows the flow of necessary information to the State, yet protects the privacy of ACS’ competitive position. By redacting the confidential information from ACS’ proposal, the State of Iowa can still meet the requirements of a competitive procurement, while protecting ACS’ trade secret concerns.

In summary, we believe that the confidential information does not contain information generally known to the public or industry. The Agency, by withholding the confidential information that reflects ACS’ unique knowledge of the project or describes ACS’ unique approaches to it, protects the integrity of ACS’ competitive position.

*To facilitate the State’s review of our protected information, we are providing this list of justification codes and their explanations:

| Justification Code | Explanation |
|--------------------|---|
| 1 | <p>The work plan presents a very detailed description of the tasks and timelines associated with implementing ACS’ proposed base system. The work plan literally presents the “road map” developed by ACS at considerable time and expense as the basis for ACS’ provision of its solution methodology. This information is extremely valuable to ACS, and if made available to a competitor, would result in a significant, unfair, and irreparable competitive advantage to the competitor.</p> <p>ACS has invested significant resources in the development of our implementation work plan and has also expended a great deal of resources in developing the optimal methodology by which to present this information in a proposal format. The work plan contains ACS’ unique approach to implementing its core State Registry Level (SLR) solution and provides ACS with a real and significant competitive advantage. Disclosure of the information contained in the work plan to ACS’ competitors would seriously and irreparably damage ACS’ competitive position in the Medicaid and SLR marketplace.</p> <p>Information contained in the indicated section(s) of the proposal and the proposal itself is highly restricted by ACS even internally within our company. The information is stored in internally secure databases. Further, such information is not incorporated in general marketing, published articles, or ACS public websites and is generally not known or available to the public. Currently it would be extremely difficult for any party to acquire such information.</p> |

| Justification Code | Explanation |
|--------------------|---|
| 2 | <p>The technical approaches and business strategies included in the indicated section(s) are solutions for which ACS has expended considerable time, effort, and expense. Allowing access to this information by our competitors would result in a significant unfair competitive advantage to such companies. This information is a trade secret because it presents a “formula, pattern, compilation, program, device, method, technique, or process” created by ACS, and used in ACS’ business. The information presented as part of this section(s) is not unique to this proposal. Rather, it reflects many of the technical processes ACS undertakes for similar projects, a process that ACS has and will continue to employ across the country. Therefore, the information is not related to a single or ephemeral event but is part of “a process or device” developed by ACS at its sole expense, and used continuously in ACS’ business.</p> <p>We believe that the proprietary tools we have developed and the methodology utilized in compiling those components into our overall proposed solution, give ACS a significant competitive advantage in the Medicaid and SLR marketplace.</p> |
| 3 | <p>The disclosure of ACS’ project organization, detailed staffing plans, subsidiary structure, litigation, and financial information could result in irreparable competitive harm because it would allow competitors to compare their organizational and staffing procedures to those unique to ACS, and to use the resulting information as the basis for improving their own procedures to be more competitive in future similar procurements. Disclosure of ACS’ estimating methods and techniques for assigning and controlling resources would also allow competitors to accurately calculate ACS’ detailed costs in performing various parts of this contract, thereby significantly, unfairly, and irreparably increasing their competitive position in future procurements.</p> |
| 4 | <p>These sections include information on ACS’ proposed key staff, and officers of ACS. The disclosure of proposed staff and officers could result in substantial and irreparable harm to ACS by assisting competitors in identifying, and seeking to and hire, ACS-trained, experienced staff members. The loss of these trained personnel would greatly increase ACS’ recruitment and training costs. Such added costs would in turn create a significant and irreparable competitive disadvantage that would make it much more difficult for ACS to compete successfully in future healthcare procurements.</p> <p>ACS is in the business of providing services. The business is only as “good” as the people who provide those services and the experiences and knowledge they bring. Thus, unlike a proposal just for the sale of software or pencils or any other material good that might be sold to a state agency, ACS is proposing the sale of “people services.” The identity and skills of those people can and do constitute a “trade secret.”</p> <p>ACS does not customarily reveal any information concerning employees, independent contractors, or officers that manage ACS that may be utilized other than to potential clients and current clients—and then, only for the purposes of performing or obtaining contracts.</p> |
| 5 | <p>Our clients, government and commercial, are sensitive about the fact that we work for them and the results we have achieved. We keep our client information confidential as allowed by FOIA.</p> |

| Exceptions to RFP/Contract Language (See Section 3.1) | | | | | | | | | | | | | | | | | | |
|---|--|--|--|-------|--------|---|--|---|---------------------------------|---------------------------------|----------------------------|---------------------------|-------------------------|-------------------------|------------------------|---|----------------------------|--|
| RFP Section and Page | Language to Which Bidder Takes Exception | Explanation and Proposed Replacement Language: | Cost Savings to the Agency if the Proposed Replacement | | | | | | | | | | | | | | | |
| SECTION 1, Special Terms, 2.4.3, Offset Against Sums Owed by the Contractor, page 35. | In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset. | Please delete the following from this Section. From an accounting standpoint, ACS prefers that only amounts owed under this Contract be available under this requirement. “...any other contract or agreement; pursuant to a judgment, or pursuant to any law” | | | | | | | | | | | | | | | | |
| SECTION 1, Special Terms, 1.4, Insurance Coverage, page 32 | The Contractor and any subcontractor shall obtain the following types of insurance for at least the minimum amounts listed below: As stated in RFP. | <table border="1"> <thead> <tr> <th>Type of Insurance</th> <th>Limit</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>General Liability (including contractual liability) written on occurrence basis</td> <td>General Aggregate Product/ Completed Operations Aggregate Personal Injury Each Occurrence</td> <td>\$2 \$3 Million \$1 Million Included. \$1 Million \$1 Million</td> </tr> <tr> <td>Excess Liability, Umbrella Form</td> <td>Each Occurrence Aggregate</td> <td>\$1 Million \$1 Million</td> </tr> <tr> <td>Workers' Compensation and</td> <td>As required by Iowa law</td> <td>As Required by Iowa law</td> </tr> <tr> <td>Professional Liability</td> <td>Each Occurrence Claims Made Basis</td> <td>\$2 Million \$2 Million</td> </tr> </tbody> </table> | Type of Insurance | Limit | Amount | General Liability (including contractual liability) written on occurrence basis | General Aggregate Product/ Completed Operations Aggregate Personal Injury Each Occurrence | \$2 \$3 Million \$1 Million Included. \$1 Million \$1 Million | Excess Liability, Umbrella Form | Each Occurrence Aggregate | \$1 Million \$1 Million | Workers' Compensation and | As required by Iowa law | As Required by Iowa law | Professional Liability | Each Occurrence Claims Made Basis | \$2 Million \$2 Million | |
| Type of Insurance | Limit | Amount | | | | | | | | | | | | | | | | |
| General Liability (including contractual liability) written on occurrence basis | General Aggregate Product/ Completed Operations Aggregate Personal Injury Each Occurrence | \$2 \$3 Million \$1 Million Included. \$1 Million \$1 Million | | | | | | | | | | | | | | | | |
| Excess Liability, Umbrella Form | Each Occurrence Aggregate | \$1 Million \$1 Million | | | | | | | | | | | | | | | | |
| Workers' Compensation and | As required by Iowa law | As Required by Iowa law | | | | | | | | | | | | | | | | |
| Professional Liability | Each Occurrence Claims Made Basis | \$2 Million \$2 Million | | | | | | | | | | | | | | | | |
| SECTION 1, Special Terms, 2.5.1.3, page 36 | The Contractor or any parent or affiliate of the Contractor owning a controlling interest in the Contractor dissolves; | As a subsidiary of a large, publicly traded entity, we often reorganize and dissolve entities for numerous reasons. We would like the following to be deleted. “...or affiliate...” | | | | | | | | | | | | | | | | |

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| <p>SECTION 1, Special Terms, 2.8, Insurance Coverage, page 38</p> | <p>2.8 Insurance. 2.8.1.1 Be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy; 2.8.1.2. Name the State of Iowa and the Agency as additional insureds or loss payees on the policies for all coverages required by this Contract, with the exception of Workers' Compensation, or the Contractor shall obtain an endorsement to the same effect; and Electronic Health Records Medicaid Incentive Payment Administration Tool 2.8.1.3 Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the policies for all coverages required by this Contract, with the exception of Workers' Compensation. The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency. 2.8.2 Types and Amounts of Insurance Required. Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law. 2.8.3 Certificates of Coverage. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all</p> | <p>As a subsidiary of a large, publicly traded entity, ACS maintains a set level of insurance that have been approved by the Board of Directors of Xerox Corporation. We request the State make the following changes, which should in no way effect ACS performance of the services. 2.8.1.1 Be occurrence based, <u>except for professional liability, which may be based on claims made type of policy</u>, and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy; 2.8.1.2. Name <u>Include</u> the State of Iowa and the Agency as additional insureds or loss payees on the policies for all coverages required by this Contract, with the exception of Workers' Compensation <u>commercial general liability insurance</u>, or the Contractor shall obtain an endorsement to the same <u>effect, which may also be met through a blanket additional insured provision endorsement as well,</u> and 2.8.1.3 Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the <u>commercial general liability and excess liability</u> policies for all coverages required by this Contract, with the exception of Workers' Compensation. The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency. 2.8.2 Types and Amounts of Insurance Required. Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount <u>meeting the types and amounts as</u> specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law. <u>Contractor shall require its subcontractors to also maintain insurance as required by this RFP at subcontractors' expense.</u> 2.8.3 Certificates of Coverage. The Contractor shall submit <u>standard</u> certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of <u>notice to</u> the Agency. The insurer shall state in the certificate that no</p> | |
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| | <p>insurance policies required by this Contract in full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.</p> | <p>cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.”</p> | |
| <p>SECTION 1, Special Terms, 2.9, Change Order Procedure, page 39</p> | <p>The Agency may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed: 2.9.1 Written Request. The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.</p> | <p>We believe it to be in the best interest of both ACS and the Agency to allow ACS to request a change order from the Agency. Please revise this Section as follows: The Agency or Contractor may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed: 2.9.1 Written Request. The Agency or Contractor shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.</p> | |
| <p>SECTION 1, Special Terms, 2.10, Intellectual Property, page 39</p> | <p>2.10.1 Ownership and Assignment of Other Deliverables. The Contractor agrees that the State and Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and</p> | <p>We would like the intellectual property language to accurately reflect the “Software as a Services (SaaS)” treatment of the system to be delivered to the Agency and suggest the following revisions: <u>Pre-existing Materials.</u> The State acknowledges that, in the course of performing the Services and providing the Deliverables, Contractor may use software and related processes, instructions, methods, and techniques that have been previously developed by Contractor (collectively, the “Pre-existing Materials”) and that same shall remain the sole and exclusive property of Contractor. <u>No License.</u> Except as expressly set forth herein, no license is granted by Contractor to the State with respect to the Deliverables or Pre-existing Materials. Nothing in this Agreement shall be construed to grant to the State any ownership or other interest, in the Deliverables or Pre-existing Materials, except as may be provided under a license specifically applicable to such Deliverables or Pre-existing Materials. The provisions of this Section shall survive the termination of this Agreement.</p> | <p>ACS proposed language reflects a multi-state solution offered to the Agency as a SaaS.</p> |

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| <p>SECTION 1, Special Terms, 2.10, Intellectual Property, page 39 (continued)</p> | <p>clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor's employees, agents, contractors,</p> | <p>2.10.1 Ownership and Assignment of Other Deliverables. The Contractor agrees that the State and Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by the Agency, upon completion or termination of this Contract, the Contractor will immediately turn over to the Agency all Deliverables not previously delivered to the Agency, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors, or affiliates, without the prior written consent of Agency.</p> <p>2.10.2 Waiver. To the extent any of the Contractor's rights in any Deliverables are not subject to assignment or transfer hereunder, including any Records Medicaid Incentive Payment Administration Tool moral rights and any rights of attribution and of integrity, the Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Deliverables.</p> <p>2.10.3 Further Assurances. At the Agency's request, the Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect, or protect the State's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 2.10, <i>Intellectual Property</i>.</p> | |
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| <p>SECTION 1, Special Terms, 2.10, Intellectual Property, page 39 (continued)</p> | | <p>2.10.6 Federal License. As this Contract is at least partially federally funded, the federal government reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, software and associated documentation designed, developed or installed in whole or in part with federal funds pursuant to this Contract. The state and federal governments shall have all rights to Deliverables as set forth in 45 C.F.R. § 95.617(a).</p> <p><u>License Back.</u> To the extent the State is now or hereafter vested with any ownership rights in or to any Deliverables, the State does hereby grant to Contractor in connection with any such Deliverables, a nonexclusive, worldwide, perpetual, irrevocable, royalty-free, fully paid-up license to use, modify, sell, sublicense or create derivative works based upon, such Deliverables.</p> | |
| <p>SECTION 1, Special Terms, 2.13.33, Delays or Impossibility of Performance Based on a Force Majeure, page 47</p> | <p>Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. The party seeking to exercise this provision shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.</p> | <p>Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts commercially reasonable efforts to directly provide alternate, and to the extent possible, comparable performance. The party seeking to exercise this provision shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.</p> | |

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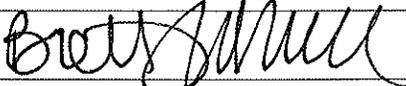
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| <p>Additional Clause</p> | <p>Additional Clause</p> | <p>ACS would like to add the following language to the Contract:</p> <p>(a) NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.</p> <p>(b) Each party's cumulative liability to the other for any and all actions, whether in contract or in tort, will not exceed an amount equal to the total payments payable to ACS under the Contract for the twelve (12) complete calendar months immediately preceding the month in which the event giving rise to the liability occurred (or, if the event giving rise to the liability occurs during the first twelve (12) months after the Effective Date, the total payments estimated to be payable to ACS pursuant to the Contract for such first twelve (12) months).</p> | |
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BID PROPOSAL CERTIFICATION

By signing below, Bidder certifies that:

- Bidder accepts and will comply with all Contract Terms and Conditions contained in the Sample Contract without change except as otherwise expressly stated in the Primary Bidder Detail Form & Certification;
- Bidder has reviewed the Additional Certifications, which are incorporated herein by reference, and by signing below represents that Bidder agrees to be bound by the obligations included therein;
- Bidder does not discriminate in its employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or handicap;
- No cost or pricing information has been included in the Bidder’s Technical Proposal;
- Bidder has received any amendments to this RFP issued by the Agency;
- Bidder either is currently registered to do business in Iowa or agrees to register if Bidder is awarded a Contract pursuant to this RFP;
- The person signing this Bid Proposal certifies that he/she is the person in the Bidder’s organization responsible for, or authorized to make decisions regarding the prices quoted and he/she has not participated, and will not participate, in any action contrary to the anti-competitive agreements outlined above;
- Bidder specifically stipulates that the Bid Proposal is predicated upon the acceptance of all terms and conditions stated in the RFP and the Sample Contract without change except as otherwise expressly stated in the Primary Bidder Detail Form & Certification. Objections or responses shall not materially alter the RFP. All changes to proposed contract language, including deletions, additions, and substitutions of language, must be addressed in the Bid Proposal;
- Bidder certifies that the Bidder organization has sufficient personnel resources available to provide all services proposed by the Bid Proposal, and such resources will be available on the date the RFP states services are to begin. Bidder guarantees personnel proposed to provide services will be the personnel providing the services unless prior approval is received from the Agency to substitute staff;
- Bidder certifies that if the Bidder is awarded the contract and plans to utilize subcontractors at any point to perform any obligations under the contract, the Bidder will (1) notify the Agency in writing prior to use of the subcontractor, and (2) apply all restrictions, obligations, and responsibilities of the resulting contract between the Agency and contractor to the subcontractors through a subcontract. The contractor will remain responsible for all Deliverables provided under this contract.
- Bidder guarantees the availability of the services offered and that all Bid Proposal terms, including price, will remain firm until a contract has been executed for the services contemplated by this RFP or one year from the issuance of this RFP, whichever is earlier; and,
- Bidder certifies it is either a) registered or will become registered with the Iowa Department of Revenue to collect and remit Iowa sales and use taxes as required by Iowa Code chapter 423; or b) not a “retailer” of a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(42) & (43). The Bidder also acknowledges that the Agency may declare the bid void if the above certification is false. Bidders may register with the Department of Revenue online at:<http://www.state.ia.us/tax/business/business.html>.

By signing below, I certify that I have the authority to bind the Bidder to the specific terms, conditions and technical specifications required in the Agency’s Request for Proposals (RFP) and offered in the Bidder’s Proposal. I understand that by submitting this Bid Proposal, the Bidder agrees to provide services described herein which meet or exceed the requirements of the Agency’s RFP unless noted in the Bid Proposal and at the prices quoted by the Bidder. I certify that the contents of the Bid Proposal are true and accurate and that the Bidder has not made any knowingly false statements in the Bid Proposal.

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| Signature: |  |
| Printed Name/Title: | Brett Jakovac |
| Date: | September 16, 2011 |