

REQUEST FOR PROPOSALS

RFP NUMBER: 8035

To Provide: Bad Debt Collection Services

Issue Date:

3/28/2022

CLOSING LOCATION

University of Mississippi Medical Center

Office of Category Management and Procurement

Jackson Medical Mall, Suite 1164

350 West Woodrow Wilson Drive

Jackson, MS 39216

CONTACT

SourcingEvents@umc.edu

CLOSING DATE AND TIME

Proposals must be received by: 4/15/2022 @ 4:00 PM CST.

SECTION 1: GENERAL INFORMATION

Respondents must submit the proposal via email to SourcingEvents@umc.edu no later than the time and date specified for submissions of proposals. The electronic copy must be submitted in PDF format. Timely submission is the responsibility of the Respondent. The email shall be marked with the proposal opening date and time, and the number of the request for proposals. The Respondent must submit the proposal as an attachment and should request a delivery receipt. The body of the email should contain a list of the attachments sent to ensure that all are delivered. The University of Mississippi Medical Center (UMMC) reserves the right to decide, on a case-by-case basis, whether to reject a proposal with modifications or additions as non-responsive. As a precondition to proposal acceptance, UMMC may request the respondent to withdraw or modify those portions of the proposal deemed non-responsive that do not affect quality, quantity, price, or delivery of the service.

NOTE: RFP 8035 CONTAINS MANDATORY REQUIREMENTS TO WHICH NO EXCEPTION MAY BE TAKEN.

1.1 Timeline

Proposals, subject to the conditions included in the Request for Proposal (RFP) will be received by the Office of Category Management and Procurement until April 15, 2022.

1.2 Rejection of Proposals

Proposals which do not conform to the requirements set forth in this Request for Proposals may be rejected by UMMC. Proposals may be rejected for reason which include, but are not limited to, the following:

- 1.2.1** The proposal contains unauthorized amendments to the requirements of the Request for Proposals.
- 1.2.2** The proposal is conditional.
- 1.2.3** The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous.
- 1.2.4** The proposal is received late. Late proposals will remain unopened in the procurement file.
- 1.2.5** The proposal is not signed by an authorized representative.
- 1.2.6** The proposals contains false or misleading statement or references.
- 1.2.7** The proposal does not offer to provide all services required by the Request for Proposal.

1.3 Expenses Incurred in Preparing Offers

UMMC accepts no responsibility for any expenses incurred by the respondent in the preparation and presentation of an offer. Such expenses shall be borne exclusively by the respondent.

1.4 Proprietary Information

The respondent should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with Mississippi Code Annotated §§ 25-61-9 and 79-23-1 (1971, as amended). Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

1.5 Registration with Mississippi Secretary of State

By submitting a proposal, the respondent certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State, or if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

1.6 Debarment

By submitting a proposal, the respondent certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or Federal government and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi.

1.7 Competitive Proposals

Discussions may be conducted with respondents whose submit proposals determined to be reasonably susceptible of being selected for award. Likewise, UMMC also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of proposed terms services, or prices. For the reasons, all parties are advised to propose their most favorable terms initially.

1.8 Additional Information

Questions about the contract and technical portions of the procurement document must be submitted in writing to SourcingEvents@umc.edu at least five (5) business days prior to the RFP closing date. Questions should be directed by email only; phone calls will not be accepted. Respondents are cautioned that any statements made by contact person that cause a material change to any portion of the procurement document shall not be relied upon unless subsequently ratified by a formal written amendment to the procurement document.

1.9 Type of Contract

Compensation for services will be in the form of a firm, fixed-price agreement inclusive of any fees or expenses incurred by the respondents.

1.10 Term

The term of the contract shall be for a period of three (3) years.

1.11 Requirements

Invoicing shall be inclusive for all services provided, including travel and expenses.

1.12 Use of Subcontractors

No subcontractors shall be used without the prior written consent of UMMC.

1.13 Meetings

1.13.1 Respondents may be asked to attend an interview with UMMC Selection Committee. The interview will count toward the evaluation of the proposal. Respondents will be notified of the date and time of their respective interview. This interview is intended to provide the Selection Committee the opportunity to ask questions to the Respondent about the proposal to ensure a complete understanding of the offerings made by the Respondent.

1.13.2 OPTIONAL: Respondents may attend an on-site visit at UMMC. The on-site visit will not count toward the evaluation of the proposal. This on-site visit is intended to provide Respondents the opportunity to tour UMMC grounds to ensure a complete understanding of the services requested by UMMC.

The on-site visit will be scheduled at a later date after the identification of respondent finalists.

Due to COVID-19 attendance is limited to two (2) representatives per vendor

1.14 RFP Response Format- Mandatory

Proposals must be written, concise, and in outline format. Pertinent supplemental information should be referenced and included as attachments. All proposals must be organized and labelled to comply with the following Sections as outlined in Attachment A.

#	Section Name	Description
1	Overview	• A background and overview of initiative including goals and objectives
2	Timeline	• Key milestones and timeline for initiative
3	Process & Key Terms	• Requirements for proposal process, key contract terms and conditions, and service/treatment definitions
4	Scope of Services	• Detailed outline of the full scope of services included in collection services RFP
5	Qualitative Response	• Supplier capabilities in key areas such as service, staffing, implementation, and ongoing program management
6	Service Level Agreement ("SLA")	• Proposed SLA metrics that will be tracked and reported by supplier during contract
7	Pricing Proposal	• Quantitative pricing proposal for full scope of services
8	Incentive Proposal	• Template for supplier proposed one-time or annual financial incentives for UMMC review and consideration
9	Client References	• Overview of value-added services included and/or proposed for the program
10	Staffing	• Vendor's proposed staffing plan for the program

Commented [JJ1]: @Yera Pata please update.

1.15 Evaluation Criteria

Proposals that satisfactorily complete section 1.14 will be reviewed and analyzed to determine if the proposal adequately meets the needs of UMMC. Factors to be considered are as follows:

Criteria	Criteria Description	Weight
RFP Quality	Adherence to RFP timelines and format	5%
General Firm Capabilities	General firm capabilities, experience, client references	10%

Financial Proposal	Price competitiveness and transparency	35%
Service Capabilities	Collection service capabilities, approach and staffing support model, SLAs	30%
Implementation / Transition	Implementation and transition process (if non-incumbent)	10%
Program Management	Ongoing program performance management, metrics, analytics	10%

1.16 Award

Award shall be made to the respondent whose proposal is determined to be the most advantageous to UMMC taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

1.17 Notification

All respondents will be notified of UMMC's intent to award a contract. In addition, UMMC will identify the selected vendor. Notice of award is also made available to the public.

1.18 Acknowledgement of Amendments

Respondents shall acknowledge receipt of any amendment to the solicitation by signing and returned the amendment with the proposal, by identifying the amendment number and date in the space provided for the purpose on the bid form, or by letter. The acknowledgement must be received by UMMC by the time and at the place specified for receipt of bids.

1.19 Communications with the State

From the issue date of this RFP until a Respondent is selected for award and such selection is announced, neither Respondents nor their representatives may communicate either orally or in writing regarding this RFP with any statewide elected official, state officer or employee member of the legislature or exception as noted herein. This directive is meant to ensure fair and unbiased selection of a Respondent. To ensure equal treatment of each responding Respondent, all questions regarding this RFP must be submitted in writing to the contact persons listed in Section 1.8 of this RFP.

1.20 Contract Approval and Execution

A contract is not deemed final until it has been signed by the vice chancellor of UMMC. All contracts are valid only if signed by the Vice Chancellor of UMMC, and vendors will be required to sign contracts before the vice Chancellor of UMMC. All contracts subject to availability of funds of UMMC are contingent upon receipt by the winning Vendor of a purchase order from UMMC.

1.21 Institutions of Higher Learning

UMMC is governed by the Mississippi Board of Trustees of States Institutions of Higher Learning (IHL) and is subject to its approval for particular contracts. The time it takes to obtain any approvals required by IHL is not included in UMMC's internal approval process. Any contracting deadlines will be extended as necessary by UMMC when seeking IHL approval.

SECTION 2: SPECIFICATIONS

See Attachment A – Bid Proposal Template for specifications

SECTION 3

3.1 Required Contract Terms and Conditions

As an agency of the State, there are standard terms and conditions to which all Respondents must agree. Those terms and conditions will be negotiated until mutually beneficial. An example of the UMMC Standard Terms and Conditions can be found in Attachment B.

3.2 Attachments

The attachments to this RFP are made a part of this Request for Proposals as if copied herein words and figures.

By signing below, the Company Representative certifies that he/she has authority to bind the company and further acknowledges on behalf of the company:

1. That he/she has thoroughly read and understands this Request for Proposals, RFP 8035, and the attachments herein;
2. That the company meets all requirements and acknowledges all certifications contained in the Request for Proposals, RFP 8035, and the attachments herein;
3. That the company agrees to all provisions of this Request for Proposals, RFP 8035, and the attachments herein;
4. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Proposals.

Printed Name: _____

Signature/Date: _____

ATTACHMENT A
Bid Proposal Template – Exhibit B
(See Attached Excel Document)

ATTACHMENT B
SERVICES AGREEMENT

This Services Agreement (“Agreement”) is entered into by the University of Mississippi Medical Center (“UMMC”) and _____ (“Contractor”), located at _____.

In consideration of the mutual promises and agreements contained herein, the sufficiency of which is admitted, the undersigned parties, intending to be legally bound, hereby agree as follows:

1. STATEMENT OF WORK

Contractor will provide in a timely and satisfactory manner, the services described in the attached and incorporated Request for Proposal No. 8035 Bad Debt Collection Services, and Contractor’s Response to Request for Proposal No. 8035 Bad Debt Collection Services (hereafter, “Services”).

2. PERIOD OF PERFORMANCE

The Contractor shall begin performance on _____ and continue until _____, unless earlier terminated by agreement of the parties or by the notice as described in Paragraph 11.

3. CONSIDERATION

UMMC agrees to pay the specified rate for the Services rendered under this Agreement, as described in the attached Exhibit B

4. PAYMENT

Contractor shall submit monthly invoices to UMMC for Services provided during the preceding month.

Payment is due within forty-five (45) days of receipt of invoice detailing Contractor's Services. No late payment fees or penalties shall apply in excess of those prescribed by law.

The Contractor acknowledges and agrees that UMMC is exempt from the payment of taxes.

Invoices should be sent to:

University of Mississippi Medical Center
Attn: Comptroller's Office
2500 North State Street
Jackson, MS 39216

Payment shall be made to Contractor at address provided in Section 5 below.

5. NOTICES

Any notices under this agreement shall be sent to:

To Contractor:

To UMMC:

University of Mississippi Medical Center
Office of the Vice Chancellor
2500 North State Street
Jackson, MS 39216-4505

With mandatory copy to: Office of General Counsel

6. STATUS OF PARTIES

It is the intention of the parties that in carrying out its obligations under this Agreement, that Contractor and its employees shall at all times be acting as and deemed to be independent contractors. Nothing contained in this Agreement shall be construed to create a partnership, joint venture, agency or employment relationship between Contractor and UMMC. UMMC shall have no responsibility for any of Contractor's debts, liabilities or other obligations or for the intentional, reckless, negligent or unlawful acts or omissions of Contractor or Contractor's employees or agents. In addition, Contractor may not bind UMMC in any way whatsoever with respect to third parties

It is understood by the parties that Contractor is an independent contractor and not an employee or agent of UMMC. Contractor retains sole and absolute discretion, control and judgment in the manner and means of carrying out its assignments. Contractor shall comply with UMMC's Human Resource Department's applicable policies and procedures including pre-employment screening for any persons performing Services on-site at UMMC. Contractor understands and agrees that neither it nor its employees performing Services hereunder shall be entitled to any of the rights, fringe benefits and privileges established for UMMC's employees, if any, including, but not limited to, the following: retirement benefits, medical insurance coverage, life insurance coverage, health insurance, disability insurance coverage, severance pay benefits, PTO, overtime pay, etc. Contractor understands and agrees that UMMC will not pay or withhold from the compensation paid to Contractor pursuant to this Agreement any sums customarily paid or withheld for or on behalf of employees for income tax, unemployment insurance, social security, or payment pursuant to any law or governmental requirement, and all such payments as may be required by law are the sole responsibility of Contractor. Contractor agrees to indemnify and hold UMMC harmless from and against any such payments or liabilities for which Contractor may become liable with respect to such matters.

Each party to this Agreement is responsible for its own acts or actions and for the actions of its employees or agents. As UMMC is a state supported educational entity, any liability claims will be handled under the Mississippi Tort Claims Act, M.C.A. 11-46-1 et seq., subject to the Act's limitations.

7. CONTRACTOR PERSONNEL

UMMC shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff assigned by Contractor to perform Services hereunder. If UMMC reasonably rejects staff, Contractor must provide replacement staff satisfactory to UMMC in a timely manner and at no additional cost to UMMC. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.

Contractor agrees to be bound by provisions of Civil Rights Act of 1964 (as amended), the Rehabilitation Act of 1973 (as amended), and the Veterans Readjustment Act of 1972 (as amended).

8. CONFIDENTIALITY

Contractor acknowledges and agrees that Mississippi state law as to public records and transparency governs this Agreement.

9. COMPLIANCE

As part of UMMC's overall Compliance Program, Contractor shall establish procedures and ensure adherence for its employees to all applicable state and federal statutes including but not limited to bans on self-referrals, the False Claims Act, the anti-kickback statute, federal and state privacy laws, and the Medicare and Medicaid statutes and regulations. Any acts pursuant to this Agreement shall be done in compliance with the applicable rules and regulations of the Joint Commission and any third party payors.

10. DEBARMENT AND SUSPENSION

Contractor certifies to the best of its knowledge and belief, that it:

- A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- B. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it 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;

- C. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a 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;
- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- E. has not, within a three year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.

11. EMPLOYMENT VERIFICATION

Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform Services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to the contract cancellation or loss of license or permit.

12. ASSIGNMENT

Contractor shall not assign its rights under this Agreement or delegate its duties under this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or another manner, without the prior written consent of UMMC, such consent to not be unreasonably withheld. Any purported assignment of rights in violation of this Section is void. This Agreement does not and is not intended to confer any rights or remedies upon any persons other than the parties hereto.

13. TERMINATION

- A. Termination for Convenience. UMMC may terminate this Agreement with or without cause upon 30 days' written notice to Contractor. No early termination charges, fees, or penalties may be assessed against UMMC for terminating the contract prior to the expiration. The parties expressly acknowledge that no early termination charges, fees, or penalties will apply.
- B. Termination for Default. If Contractor refuses or fails to perform any of the provisions of this contract or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, UMMC may notify Contractor in writing of the nonperformance and if not cured in ten (10) days or any longer time specified in writing by UMMC, UMMC may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar or services. The rights and remedies provided herein are in addition to any other rights and remedies provided by law or under this Agreement.

14. INSURANCE

Contractor represents that it will maintain workers' compensation insurance as required by the State of Mississippi which shall inure to the benefit of all the Contractor's personnel provided hereunder; comprehensive general liability or professional liability insurance, with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, accidental death, and property damage; employee dishonesty insurance or fidelity bond insurance with minimum limits of \$1,000,000 with third party liability coverage; automobile liability insurance covering all vehicles, owned or otherwise, used in the contract work with minimum limits of \$1,000,000 for injuries including accidental death to any person and subject to the same limit for each person for any one accident involving two or more persons; and automobile property damage insurance covering all property damage by automobile with minimum limits of \$1,000,000 for all property

damage by automobile. All general liability, professional liability, employee dishonesty, fidelity bond insurance, automobile liability insurance, and automobile property damage insurance will provide coverage to the State of Mississippi as an additional insured, which includes UMMC and the Board of Trustees of State Institutions of Higher Learning (IHL). This liability coverage shall be primary and noncontributory with respect to any insurance maintained by UMMC or IHL. Contractor agrees to waive any rights of subrogation against UMMC or IHL. UMMC reserves the right to request from carriers, certificates of insurance regarding the required coverage. Upon request at any time, Contractor shall provide proof of insurance to UMMC and by mail to IHL via the following: Risk Management, Mississippi Institutions of Higher Learning, 3825 Ridgewood Road, Suite 427, Jackson, MS 39211. No material change in coverages may occur for UMMC or IHL without sixty (60) days' advance notice. All policies of insurance required by this Agreement shall be with insurers rated by A M Best as A VIII or greater and which are licensed or hold a Certificate of Authority to provide insurance in the State of Mississippi.

15. USE OF TRADEMARKS

Contractor shall not use any UMMC trademark, service mark, logo, symbol, design, device, name or other mark without the express written consent of UMMC which has been executed by a duly authorized UMMC officer and which specifically details the permitted uses of such by Contractor.

16. PUBLICITY

Contractor may not publicize the fact of this Agreement; UMMC's relationship with Contractor as its customer; include UMMC on any Customer lists, or use UMMC as a referral source without UMMC's prior written consent. Contractor shall submit, for UMMC's review and approval, all press releases or any other publicity materials mentioning UMMC by name, and Contractor shall not publish such without UMMC's written approval, which may be withheld at UMMC's sole discretion.

17. INDEMNIFICATION

Contractor shall indemnify and hold UMMC and the Board of Trustees of State Institutions of Higher Learning harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorney's fees, resulting from or arising out of Contractor's breach of this Agreement and/or the negligence or willful misconduct of Contractor or its employees or agents.

18. REPRESENTATIONS OF CONTRACTOR

Contractor represents and warrants that Contractor, its officers, directors and employees (a) are not currently excluded, debarred, or otherwise ineligible to participate in any federal health care programs or any state healthcare programs; (b) have not been convicted of a criminal offense related to the provision of healthcare items or services and have not been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs, (c) are not, nor have ever been included on the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons list; (d) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Contractor being excluded from participation in the Federal Healthcare Programs or any state healthcare programs and (e) if Contractor is to receive any patients' personal health information, Contractor represents and warrants that it has implemented safeguards to ensure that the privacy and confidentiality of patients' personal health information is protected. These shall be ongoing representations and warranties during the term of this Agreement and Contractor shall immediately notify UMMC of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give UMMC the right to terminate this Agreement immediately for cause.

19. THIRD PARTY ACTION NOTIFICATION

Contractor shall give UMMC prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this Agreement.

20. HIPAA

Contractor agrees to fully comply with the Health Insurance Portability and Accountability Act of 1996 and its associated regulations and, more specifically, in 45 C.F.R. §§ 160 and 164, *Standards for Privacy of Individually Identifiable Health Information, Final Rule* (the "Final Privacy Rule"), and in 45 C.F.R. §§ 160, 162 and 164, *Health Insurance Reform: Security Standards, Final Rule* (the "Final Security Rule") collectively referred to as ("HIPAA") (as amended), as they may be applicable to Contractor. Upon request, Contractor agrees to execute a Business Associate Agreement (BAA) in form satisfactory to UMMC.

21. PATIENT CONFIDENTIALITY

In the event Contractor is provided with access to patient health information, Contractor agrees that all patient information shall be maintained in accordance with UMMC's policies and procedures and shall be treated as confidential so as to comply with all state and federal laws and regulations regarding the confidentiality of medical records, including, but not limited to HIPAA. All health information, medical records, and materials relating to patients shall be and remain the property of UMMC during the term of this Agreement and upon the termination of this Agreement.

22. FORCE MAJEURE

"Force Majeure Event" means any act or event, whether foreseen or unforeseen, that meets all three of the following tests: (a) The act or event prevents a party in whole or in part from performing its obligations under this Agreement; or satisfying any conditions to the performing party's obligations under this Agreement; (b) The act or event is beyond the reasonable control of and not the fault of the non-performing party; and (c) The non-performing party has been unable to avoid or overcome the act or event by the exercise of due diligence. Notwithstanding anything to the contrary in this Agreement or otherwise, a Force Majeure Event excludes economic hardship, changes in market conditions, or insufficiency of funds. If a Force Majeure Event occurs, the non-performing party is excused from whatever performance is prevented by the Force Majeure Event to the extent prevented and satisfying whatever conditions precedent that cannot be satisfied. When the non-performing party is able to resume performance of its obligations under this Agreement or satisfy the conditions precedent to the performing party's obligations, it shall immediately give the performing party written notice to that effect and shall resume performance under this Agreement no later than five (5) working days after the notice is delivered. This provision is the exclusive remedy available to the non-performing party with respect to a Force Majeure Event.

23. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of UMMC to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to UMMC, then UMMC shall have the right upon thirty (30) days written notice to Contractor, to terminate this Agreement without damage, penalty, cost, or

expenses to UMMC of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

24. WAIVER

No failure on the part of any party hereto to exercise, and no delay in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy hereunder preclude any further or other exercise thereof or the exercise of any other right, power or remedy.

25. APPLICABLE LAW

This Agreement is governed and controlled by all applicable laws, ordinances, rules and regulations of the State of Mississippi. Any litigation with respect to this Agreement shall be brought in the courts of Mississippi. All suits, claims, cases, controversies, actions, disputes, complaints and/or orders to show cause related to; arising from; in connection with; or to construe or enforce the terms of the Agreement (hereinafter "Suits") shall be governed by the laws of the State of Mississippi, without regard to its conflicts of law principles.

26. CHANGE IN LAW

- A. Notwithstanding any other provisions of this Agreement, if during the term hereof any Change of Law (defined below) results in an Adverse Consequence (defined below), the parties agree to make reasonable revisions to this Agreement to avoid such Adverse Consequences while seeking to maintain the parties as close as possible to their original positions despite such revisions. Upon notice by one party to another of such Change of Law, the parties agree that they shall attempt to resolve the matter within thirty (30) days of such notice. If the parties cannot agree upon renegotiated terms hereunder within such 30-day period, then this Agreement will terminate immediately upon written notice by one party to the other of an inability to agree.
- B. As used herein, "Change of Law" shall mean: (A) any new legislation enacted by the federal government or the government of Mississippi; (B) any new third party payor or governmental agency law, rule, regulation or guideline; or (C) any judicial order or decree.

- C. As used herein, "Adverse Consequence" shall mean a Change of Law that prohibits, restricts, limits or otherwise affects either party's rights or obligations hereunder in a material manner or otherwise makes it desirable to restructure the relationship established hereunder because of material legal consequences, including loss of tax exempt status, expected to result from such Change of Law.

27. GOVERNMENTAL ENTITY

Contractor recognizes and acknowledges that UMMC, as a political subdivision of the State of Mississippi, is entering this Agreement, including the provisions thereof, only to the extent authorized by Mississippi law, including the opinions of the Mississippi Attorney General. Any provision of this Agreement that is in any respect not authorized by or is inconsistent with Mississippi law, including the opinions of the Mississippi Attorney General, is invalid.

28. SEVERABILITY

If any provision of this Agreement shall be deemed to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

29. PRIORITY

The Agreement made by and between the parties hereto shall consist of and precedence is hereby established by the order of the following:

- A. This Agreement signed by all parties;
- B. Any exhibits attached to this Agreement;
- C. UMMC RFP No. 8035; and
- D. Contractor's Proposal, as accepted by UMMC, in response to RFP No. 8035.

The intent of the above listed documents is to include all items necessary for the proper execution and completion of the Services by Contractor. The documents are complementary, and what is

required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof, provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority; that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Contractor's Proposal").

30. QUALITY CONTROL

Contractor shall institute and maintain throughout the term of this Agreement a properly documented quality control program designed to ensure that the Services are provided at all times and in all respects in accordance with this Agreement. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by UMMC.

31. RECORD RETENTION, ACCESS TO RECORDS, AND RIGHT TO AUDIT

Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, UMMC or any duly authorized representative thereof shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement shall be retained by Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

32. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to the subject matter herein and supersedes and replaces all prior negotiations, understandings, and agreements, written or oral, between the parties relating hereto. UMMC's RFP No. 8035 and Contractor's Proposal in response thereto are hereby incorporated into and made a part of this Agreement. Any other agreements or understandings, whether written or oral, are hereby superseded, with the exception of an NDA or BAA, if any. Any modification to the agreement shall only be effective if it is in

writing and signed by a duly authorized representative of Contractor and an authorized signatory of UMMC. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against UMMC or Contractor on the basis of draftsmanship or preparation hereof. The Agreement may be executed in counterparts, each of which shall be deemed an original, but together shall constitute one and the same instrument.

WITNESS OUR SIGNATURES on the dates written below.

CONTRACTOR

Date

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

Lou Ann Woodward, M.D.
Vice Chancellor for Health Affairs
Dean, School of Medicine

Date
