

**THE SCHOOL BOARD OF POLK COUNTY**

**PURCHASING DEPARTMENT**

**REQUEST FOR PROPOSAL (RFP)**

**\*\*\*\* RESPONSE FORM\*\*\*\***

**TITLE: RFP FOR PHARMACY BENEFIT MANAGEMENT #062-PSC-0409**

Anti-Collusion Statement/Public Domain

I, the undersigned proposer have not divulged, discussed, or compared this proposal with any other Proposers and have not colluded with any other proposer in the preparation of this proposal in order to gain an unfair advantage in the award of this proposal.

I acknowledge that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119, F.S.

Proposal Certification

I hereby certify that I am submitting the following information as my company's proposal and understand that by virtue of executing and returning with this proposal this RESPONSE FORM, I further certify full, complete and unconditional acceptance of the contents of this Request for Proposal, all Attachments, Worksheets, Appendices, Supplemental Materials, and the contents of any Addendum released hereto.

PROPOSER (firm name): \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY & STATE: \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

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

CONTACT PERSON: \_\_\_\_\_

CONTACT PERSON'S ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ TOLL FREE: \_\_\_\_\_

PROPOSER TAXPAYER IDENTIFICATION NUMBER: \_\_\_\_\_

NOTE: Entries must be completed in ink or typewritten. **\*\*An original manual signature is required.\*\***

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**THE SCHOOL BOARD OF POLK COUNTY, FLORIDA**

**P.O. Box 391  
Bartow, Florida 33831-0391**

**1915 S. Floral Avenue  
Bartow, Florida 33830-7124**

**PURCHASING DEPARTMENT  
Request for Proposal (RFP)  
Pharmacy Benefit Management**

RFP NO: 062-PSC-0409

NOTICE TO INTERESTED PROPOSERS MAILED: March 27, 2009

DEADLINE FOR RECEIPT OF WRITTEN QUESTIONS: 5:00 pm April 13, 2009

DEADLINE FOR RECEIPT OF PROPOSALS: 3:00 P.M. April 23, 2009

**SECTION I PROPOSAL FORMAT**

**I. Proposal Format**

Proposers shall include one (1) original and seven (7) copies of their proposal. Included with the Original proposal will be two (2) CD-Rom, each containing Attachments A, B, C and D in the appropriate formats as indicated below.

The proposal shall include the following information and consist of the following sections labeled as such:

**1.1 Response Form and Letter of Transmittal**

Please complete and submit the Response Form (Page 1 of the RFP).

Please provide a Letter of Transmittal that provides an executive summary of two (2) pages or less and gives a concise summation of the proposal.

**1.2 Proposal Worksheet, Attachment A**

All proposers must complete the Proposal Worksheet, Attachment A, in full. Include a printed copy under the specified Tab in your proposal and return the completed Attachment A in WORD format on CD.

**1.3 The Pharmacy Network Directory, Attachment B**

All proposers must complete Attachment B. Use your proposed network that most closely matches the current network.

Include a printed copy under the specified Tab in your proposal and return the completed Attachment B in EXCEL format on CD.

**1.4 The Formulary Disruption Worksheet, Attachment C**

All proposers must complete Attachment C. Use your formulary list as of April 1, 2009. Include a printed list in your response under the specified Tab in your proposal and return the completed Attachment C worksheet in EXCEL format on CD.

**1.5 The Claims Re-pricing Worksheet, Attachment D.**

Provide the amount you would pay for each of the Pharmacy claims provided based on your current contracted agreement with the applicable pharmacies. Highlight the prescription numbers of any claim which you are not able to price. **The "Total Paid Amount" must include your AWP, any dispensing fees and any administration fees. (The administration fee is to include the \$0.15 per claim fee being paid to the SCHOOLS.)** Entering the actual dispensing and administration fees in the detail fields on the file is optional for your proposal.

Return the completed Attachment D on CD in TXT or ACCESS format

**SECTION II TIMELINE OF ACTIVITIES**

The following anticipated timeline for completion of the RFP process and implementation has been established: (SOME DATES/TIMES MAY CHANGE AS CONDITIONS MAY DICTATE)

<b>Action</b>	<b>Date &amp; Time</b>
Notice to Interested Proposers Mailed and On-Line Posting of RFP	March 27, 2009
Deadline for Questions From Bidders to Purchasing 5:00 pm	April 13, 2009 – 5:00 pm
Release of Official Response to Questions	April 15, 2009
Proposals Due 3:00 pm local time	April 23, 2009 – 3:00 pm
Proposal Analysis Prepared and Submitted to Proposers for Verification	May 4, 2009
Deadline for Proposers to Verify Spreadsheet Analysis Accuracy	May 6, 2009– 4:00 p.m.
Selection Committee Review of Analysis and Recommendations – Finance Conference Room 8:00 am – 5:00 pm	May 8, 2009 8:00 am – 5:00 pm
If necessary, finalist interviews – Finance Conference Room 8:00 am – 5:00 pm	May 11, 2009 8:00 am – 5:00 pm
Posting of Award Recommendation (on or about)	May 15, 2009
Board Action	June 9, 2009 Board Action
Contract Effective Date	October 1, 2009

**SECTION III BACKGROUND INFORMATION**

**3.1 Purpose**

The School Board of Polk County (hereinafter referred to as the “Board” or the “District”), located in Bartow, Florida, is seeking proposals from experienced and qualified providers for Pharmacy Benefit Management as specified herein.

**3.2 General Information About the District**

There are over 100 K-12 schools located throughout the District and the current student population is approximately 93,000 students. The District currently operates 12 high schools, 3 middle-senior high schools, 18 middle schools, 69 elementary and K-8 schools and various alternative education sites.

The School Board of Polk County currently offers health plan coverage through Blue Cross Blue Shield of Florida (BCBS) and Walgreens Health Initiatives. The schedule of benefits for the current health plan is found in the attached Summary Plan Description. The pharmacy portion of the health plan is carved out; Walgreens Health Initiatives has been the PBM providing the service since 2001. The pharmacy benefit is as follows:

**A. Pharmacy Services (provided by Walgreens Health Initiatives)**

**In-Network Pharmacy**

	<b>Retail</b>	<b>Mail Order*</b>
Generic	\$8.00	\$16.00
Preferred Brand (Deductible Applies)	\$25.00	\$62.50
Non-Preferred Brand (Deductible Applies)	\$40.00	\$100.00

An Annual Deductible of \$25 applies to the Preferred and Non-Preferred Brand prescriptions.

\*Note: 1. The Mail Order copayments mean payments are for a three (3) month supply of prescription maintenance drugs.

2. The Mail Order copayments also apply to 90 day maintenance drugs at select in-Network retail pharmacies.

The Plan has also been set up so that the Covered Person will be required to pay the difference in the cost between a brand and generic drug only if he or she requests a brand when a generic equivalent is available.

### **B. Blue Cross Blue Shield of FL Care Management and PCSB Wellness Incentives**

Polk County Public Schools offers pharmacy benefit incentives to members who participate in the Blue Cross Blue Shield of FL Care Management (disease management) and PCSB Wellness programs. The eligibility criteria and benefits are listed below.

**Eligibility:** The requirements for becoming eligible for pharmacy benefit incentives are described below:

1. Must be designated an eligible member of PCSB Health Plan benefits as designated by PCSB.
2. Activated in any of the five Blue Cross Blue Shield of Florida Care Management programs (Coronary Artery Disease, CHF, Diabetes, Asthma, COPD)
3. Activation at anytime within the specified 90 day period as identified by health plan records.
4. Activation requires active participation in program as designated by “Level 2 or 3”. Note: “Level 1-Watch Only” designated individuals are not eligible. “Level 1-Watch Only” individuals are not actively engaged either by member choice or affiliates unsuccessful contact with member.
5. Enrollment in the ABC’s of Diabetes, Lose for Life, and/or Prenatal Vitamin program as monitored by the PCSB Wellness Department and indicated on the weekly member eligibility file generated by PCSB (SAP).

#### **BCBSF Care Management Incentive:**

Eligible participants who are actively enrolled for each 90 day period may receive a \$25 credit in cost share for each quarter. Credits will not accumulate. Credits will be administered within 30 days of end of each period. Example: Member enrolled in Care Management for Asthma any time during the quarter of October – December will receive their drug plan credit in January.

#### **PCSB Wellness Incentives:**

Eligible participants in the ABC’s of Diabetes program receive a 50% reduction in prescription drug copayments for all diabetes related prescriptions.

Eligible participants in the Lose for Life program have access to fill prescriptions for weight loss medications.

Eligible participants in the Prenatal Vitamin program receive free prenatal vitamins.

**C. Enrollment and Premium History  
BCBS PPO**

	<b>EE Only</b>	<b>EE + Spouse</b>	<b>EE + 1 Child</b>	<b>EE + Child(ren)</b>	<b>EE + Family</b>	<b>Total Contracts</b>	<b>Total Members</b>
Active	8,308	717	1,185	1,070	531	11,811	17,749
COBRA	28	3	4	4	6	45	80
Retirees	1,705	396	13	6	10	2,130	2,579
Total	10,041	1,116	1,202	1,080	547	12,086	20,408

**2008-2009 MONTHLY HEALTH PLAN PREMIUMS**

	<b>EE Only</b>	<b>EE + Spouse</b>	<b>EE + 1 Child</b>	<b>EE + Child(ren)</b>	<b>EE + Family (1 Child)</b>	<b>EE + Family (Children)</b>
<b>PPO Plan Active</b>	\$440.00	\$808.00	\$532.00	\$624.00	\$900.00	\$992.00

The School Board pays 100% of the Employee Only monthly premium and the Employee Only premium amount is applied to dependent premiums.

The Retiree premiums are not subsidized by the School Board, however the Retiree and Dependent eligible for Medicare monthly premium is \$281.00 per Medicare eligible member.

**SECTION IV. SCOPE OF SERVICES**

The following Scope of Services provides additional information and outlines specific requirements that must be met as part of your proposal. Proposers must agree to comply with the Scope of Services herein as a condition of acceptance or list deviations in the RFP response.

**4.1 General**

- A. Pharmacy benefit management proposals are being sought by the District for an effective date of October 1, 2009 through December 31, 2012. It is the intention of the District to enter into a three (3) year and 3 month contract with two (2) additional one year renewal options with the successful company. See Section 9.14 and 9.15 pertaining to contract period and option to extend term of contract.
- B. Companies are asked to conduct annual survey of members, pharmacies, and physicians that is specific to the District.
- C. Proposals are to be submitted net of commissions.

**4.2 Administrative Services**

- A. An experienced local client service representative and client manager, with expert support, is to be provided.
- B. A comprehensive customer service component that is accessible, effective and efficient is to be included.

- C. Claims administration and eligibility information must be timely and accurate. Weekly eligibility discrepancy reports are to be provided to the District in the format acceptable to the District.
- D. Companies will provide: separate identification cards if needed; electronic and paper network directories and formulary listings; general communication materials on their website and for distribution to members; and targeted communication to members for clinical interventions and formulary disruption.
- E. The administration of the pharmacy benefit plan design must be flexible to meet the needs of the District.
- F. On line web based administrative services for eligibility are to be included.
- G. On line web based customer service tools are to be made available to plan members.
- H. On line web based consumer education tools are to be made available to plan members.
- I. Companies are to provide a Statement on Auditing Standards (SAS) No. 70, Service Organizations examination, or a similar auditing document, at least annually to the District.
- J. Companies are to either accept the fiduciary responsibility for claims resolution or to have procedures in place to act on appeals from members through two (2) levels of appeal.
- K. Companies are to allow annual claims audits by the District or by a firm selected by the District.
- L. Companies submitting proposals are to attend meetings, at least quarterly, to review plan performance and ongoing service issues, and to make available a Pharmacy Director for ongoing involvement in pharmacy management, ready access for clinical support, and performance improvement activities.

#### **4.3 Plan Design**

- A. Companies are to closely match the current pharmacy benefit plan coverage, with the exception of the 90 day fill at retail.
- B. Over the counter and vitamin discount arrangements are of interest to the District and should be included in your proposal as an option that will be fully paid by the members.
- C. The drug formulary should closely match the current pharmacy formulary.
- D. Companies are to provide retail pharmacy coverage for up to a 31 day supply for one copayment, and an 84 day maintenance drug option at their mail order pharmacies for two (2) copayments for a three (3) month (90 day) supply. The District is not seeking the three month maintenance drug option at retail.

#### **4.4 Network Services**

- A. Proposers must include a comprehensive network of pharmacies specifically in Polk County and have a statewide and national pharmacy network.

- B. Any change in networks is not to be of significant disruption to the District plan members.
- C. Companies are to monitor pharmacy network provider performance and take action when standards are not being met.
- D. Companies are to provide a mail order pharmacy service that is convenient and timely for members.
- E. Companies are to provide a specialty pharmacy service that includes patient education.

#### **4.5 Pharmacy Plan Management**

- A. Companies are to provide step therapy and prior authorization programs that will encourage members to effectively use medications. Step therapy programs are to include the following: ACE inhibitors and angiotensin-2 receptor blockers (ARBs), non-steroidal anti-inflammatory drugs (NSAIDS) and COX-2s, proton pump inhibitors (PPIs), selective serotonin reuptake inhibitors (SSRIs), HMG-enhanced, calcium channel blockers, leukotriene pathway inhibitors, topical immunomodulators, and antidepressants.
- B. Companies will provide assistance with step therapy and prior authorization programs by communicating with physicians and implementing a process that does not harm the physician and patient relationship.
- C. Companies are to provide prior authorization programs for specialty pharmacy medications.
- D. The dispensing of generic drugs in lieu of prescribed brand name drugs if commercially available and consistent with the dispensing pharmacist's professional judgment and state and federal law is to be encouraged.
- E. Companies are to have procedures in place to increase the use of mail order pharmacies for maintenance medications.
- F. Companies are to monitor medication compliance and take action to ensure member adherence.
- G. Companies are to provide outreach and assistance to members taking several medications on a regular basis.
- H. Companies are to have procedures in place to protect patient safety.
- I. Companies are to have procedures in place to monitor fraud and abuse and to take appropriate action.
- J. Companies are to include outreach and patient education for specialty pharmacy medications.
- K. Companies must be able to administer copayment incentives or dollar incentives for members enrolled in the District disease and condition management programs.

#### **4.6 Reporting and Data Interface**

- A. Companies will provide supporting detail with claims reimbursement requests that will assist the District in assuring proper payment.

- B. Proposers must provide monthly electronic claims, eligibility, and utilization reports, preferably downloadable on line system information, which meet the needs of the District.
- C. Complete claims and eligibility file downloads are to be provided to the Districts' benefits consultant on a monthly basis.
- D. Companies will assist the District with health management initiatives.
- E. Companies will assist the District with Medicare Part D options, including attestation, necessary reports, and eligibility and claims submission.
- F. Companies must be capable of exchanging weekly eligibility feeds in a secured, encrypted environment in the file layout specified by the District.

#### **4.7 Cost of Services**

- A. Proposals are sought on a self-funded basis. Proposals are to include multi-year rate guarantees on pharmacy administrative fees, plan discounts, dispensing fees, and other administrative fees.
- B. Companies are to retain pharmacy rebates and to apply the expected rebates by improving discounts on all medications dispensed.
- C. The administrative and support services offered must be comprehensive and meet the needs of the District.
- D. Administration fees are to include a \$0.15 per claim fee, to be paid to the DISTRICT for the cost of the annual and new member enrollment process. The administrative fees are to include all of the services requested and, with the exception of the enrollment fee to be paid to DISTRICT, are not to be applied to zero balance claims. Optional services that will incur additional cost must be specified in detail.

#### **4.8 Performance Guarantees**

- A. Plan Implementation guarantees are to include: Plans loaded and tested; staff trained; and ID cards issued before 9/26/2009.
- B. Plan document, administrative contract, and banking arrangements are to be completed by August 15, 2009.
- C. Performance guarantees on drug discount arrangements and generic fill rates are encouraged.

## **SECTION V PROPOSAL SUBMITTALS**

All submitted proposals must include a fully completed Proposal Worksheet in the format provided. Proposers must also complete the Pharmacy Network Directory, the Formulary Disruption Worksheet, and the Claims Re-pricing Worksheet following the instructions provided in Section I.

## **SECTION VI SELECTION PROCESS AND CRITERIA**

Proposals will be evaluated by a Selection Committee comprised of representatives from the District. The Selection Committee will review the proposals for conformance to requirements of this RFP and adherence to the Scope of Services as outlined herein.

All respondents should be prepared to participate in finalist interviews on **May 11, 2009**. Decisions on finalists and specific interview times will be released on **May 8, 2009** following a meeting of the Selection Committee.

It is anticipated the evaluations will be completed in a two step process. The Selection Committee will score and rank all responsive proposals based on the evaluation criteria below, and determine a short list to be finalists for further consideration. Following this step, the Selection Committee may conduct finalist presentations and then re-score and re-rank the finalists proposals. The best-ranked proposer, at the completion of this process, will be recommended to the Superintendent of Schools, who in turn will present a recommendation to the Polk County School Board for award.

### **Evaluation Criteria**

<b>Evaluation Criteria</b>	<b>Points</b>
1. General and Administrative	0-15
2. Benefit Design including Formulary Disruption	0-10
3. Network Services	0-10
4. Pharmacy Plan Management	0-20
5. Reporting and Data Interface	0-15
6. Cost	0-30
Total Possible Points	100

## **SECTION VII TERMS AND CONDITIONS**

### **7.1 School Board Obligations**

The District accepts no obligation for the costs incurred in responding to this RFP in anticipation of being awarded a contract. The District reserves the right to select qualified responses to this RFP without discussion of the responses with the providers. The District reserves the right to reject any or all submitted proposals.

### **7.2 Vendor Obligations**

Vendors are invited to submit proposals in accordance with the requirements outlined in this document. By submitting a signed proposal, a vendor agrees that it fully understands this RFP and must abide by the terms and conditions contained therein. The proposals are required to address all specifications in this RFP and must specifically highlight in the proposal on a page entitled "Exceptions to RFP" any deviations or variations from the services requested in the RFP. If no such page is included in the proposal, the District will expect the vendor to provide the services requested in

the RFP and to enter into a contract on that basis at their proposed costs, if selected to perform the work. Unauthorized exceptions, amendments, or deviations will not be accepted. The decision of the District will be final in this regard.

Costs of preparation of a response to this request for proposal are solely those of the proposer, and the District assumes no responsibility for any such costs incurred by the proposer.

The responsibility for determining the full extent of exposure to risk and verification of all information rests solely with the vendor submitting a response. Neither the District nor its representatives shall be responsible for any error or omission in this request for proposal, nor the failure on the part of the responder to determine the full extent of exposure to risk.

### **7.3 Lobbying**

Proposers are hereby advised that lobbying is not permitted with any district personnel or board members related to or involved with this RFP. All oral or written inquiries must be directed through the Purchasing Department.

Lobbying is defined as any action taken by an individual, firm, association, venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of a board member or district personnel on the award of this contract.

Any proposer or any individuals that lobby on behalf of proposer will result in rejection/disqualification of said proposal.

### **7.4 Board Contact/Inquiries**

This RFP is issued by the Board. The Board is the sole point of contact with regard to this RFP and all contractual matters related to the services described herein. All communications concerning this RFP must be addressed, in writing, to:

Scott Clanton, Director of Purchasing & Warehousing  
The School Board of Polk County  
Post Office Box 391  
Bartow, FL 33831-0391  
email address: scott.clanton@polk-fl.net  
FAX: 863-534-0802  
PHONE: 863-534-0572

The physical address for overnight and hand delivery only:

The School Board of Polk County  
Attn: Scott Clanton, Director of Purchasing & Warehousing  
1915 South Floral Avenue  
Bartow, Florida 33830-7124

### **7.5 Open Records**

All responses to the RFP are subject to release as public records. Proposers are advised to consult with their legal counsels regarding any material in their proposals that the Proposers believe should not be public record. The Board assumes no obligation or responsibility for asserting legal arguments on behalf of potential vendors.

## **7.6 Addendum**

Any changes to this bid shall be in the form of a written addendum issued by the Purchasing Director and will be posted to the same website where this RFP is posted, at <http://www.polk-fl.net/community/doingbusinesswithus/purchasing/default.htm>. No other person shall be authorized to make changes verbally or in writing. It shall be the responsibility of the bidder to ascertain if any addenda have been issued and to obtain all such addenda.

## **7.7 Written Questions And Official Responses:**

Written questions from potential proposers will be accepted by US mail, facsimile or email addressed to the attention of Scott Clanton, via the contact information in Section 7.4 of this RFP. All written questions must be received by the District no later than 5:00 pm April 13, 2009. Telephone inquiries will not be accepted, nor will answers be provided by telephone. It is the sole responsibility of the proposer at its own risk to ensure that written questions, however submitted, will be received by the deadline indicated above. On or about April 15, 2009 the District will issue responses to all questions timely received. The District will post the responses (as an addendum) to the same website where this RFP is posted, at <http://www.polk-fl.net/community/doingbusinesswithus/purchasing/default.htm>.

## **7.8 Receipt Of Proposals**

Proposals must be submitted in a sealed container, clearly identified as a "Response for Pharmacy Benefit Management RFP #062-PSC-0409. Sealed proposals will be received until 3:00 p.m. local time on April 23, 2009 in the School Board Purchasing Office at the physical address shown in Section 7.4. The official clock for the purpose of receiving proposals is located in the Purchasing Office. All proposals must be date and time stamped by the official clock. Proposals will be opened in the Purchasing Offices after the deadline for receiving proposals. Any proposal received in Purchasing after the deadline indicated above will be date and time stamped and will not be opened. It is the vendors' responsibility to see that their proposal is properly received at the correct location prior to the deadline.

RFPs will be received and publicly opened. Only names of respondents will be read at this time.

## **7.9 Time**

All times stated in this document refer to Board local time. The normal office hours for the Board are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except Board holidays.

## **7.10 Proposal Submittals**

The proposer must submit a total of eight (8) copies of their proposal; an original and seven (7) copies. Please refer to Section I and the Submittals Checklist on page 22. The original proposal must be signed in ink in the space provided on the RESPONSE FORM by an officer or agent of the proposing agency who is empowered to contractually bind the agency.

## **7.11 Contract Elements**

The requirements appearing in this RFP will become part of the contract(s) with the selected vendor(s). The contract between the parties will consist of a written Agreement (if required by the District), the RFP (including addenda), and the successful proposal, together with any modifications

that are agreed to by the District and the vendor(s). This will constitute the complete agreement between the proposer and The School Board of Polk County.

**7.12 Public Entity Crimes Statement And Convicted Vendor List**

In accordance with Section 287.133(2)(a), Florida Statutes, the following information is part of this RFP:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The prospective bidder certifies, by submission and signature of this bid, that neither the bidder, nor its principal, its agent or its representative is presently debarred suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction or otherwise precluded by Florida Statute 287.133 from participating in this contract.

**7.13 Discriminatory Vendor List**

Per the provisions of Florida Statute 287.134(2)(a), “An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.” The prospective bidder certifies, by submission and signature of this bid, that neither the bidder, nor its principal, its agent or its representative is presently on the discriminatory vendor list, or otherwise precluded by Florida Statute 287.134 from participating in this contract.

**7.14 Preference For Drug-Free Workplace**

Whenever two or more proposals which are equal with respect to price, quality, and service are received, preference shall be given to a proposal received from a business that certifies that it has implemented a drug-free workplace program in accordance with Section 287.087, Florida Statutes. In order to receive preference, a signed certification of compliance must be submitted with the proposal (see page 22 for Drug Free Workplace Certification form).

**7.15 Conflict Of Interest**

The vendor must disclose any contractual relationship that exists or has existed during any part of the period of time from January 1, 2004, through the present, between the vendor, or a predecessor organization of the vendor, or a subcontractor included in the vendor’s response to this RFP, and the Polk County School Board. Not every prior or existing contractual relationship will constitute a conflict of interest. However, each such relationship must be disclosed. Vendors also must disclose any existing business or personal relationship between the vendor, its principals, or any affiliate or subcontractor, and the Board, or any other entity or person involved in the project that is the subject of this RFP.

Failure to disclose any such prior or existing contractual or personal relationship as described in this section may result in disqualification of the proposal. The Board will make the final determination regarding the existence of a conflict of interest. The information requested in this section must be contained in vendor's proposal as a required Submittal. Please refer to SUBMITTALS CHECKLIST on page 22.

#### **7.16 Selection Process and Oral Presentations (optional) and Other General Information**

It is the intention of the Board to select the firm(s) as outlined in Section VI of this RFP. All proposals will be evaluated using a point system applied to the evaluation criteria listed on page 10. The evaluation committee may elect to hear oral presentations from the top ranked respondents as outlined in Section VI of this RFP. Typically, the top ranked candidates are selected for oral presentations and are then notified when and where to appear. Respondents must have qualified personnel available for oral presentations upon short notice.

Any response may be withdrawn until the date and time set for the opening of the RFP. Any response not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, or until one of the proposals has been selected by the School Board.

All proposals, whether accepted or rejected, shall become the property of the Board.

The Board reserves the right to reject any and all proposals and to request additional proposals if deemed necessary and in the best interest of the Board to do so. The Board reserves the right to waive irregularities in the proposals. The Board reserves the right to select the proposal(s) which, in its judgment, best serves the interest of the Board.

Should proposals require additional clarification and/or supplementary information, firms should be prepared to submit such additional clarification and/or supplementary information, in a timely manner, when so requested. The Purchasing Director or designee may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

The Board reserves the right to alter, amend, or modify any provisions of the RFP, or to withdraw this RFP at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the Board to do so. The decision of the Board will be final in this regard.

#### **7.17 Posting of RFP Recommendation of Award**

The recommendation for award of this RFP will be posted for review by interested parties, at The School Board of Polk County Administrative Offices, 1915 S. Floral Ave., Bartow, FL on or about May 15, 2009, and will remain posted for a period of at least 72 hours.

#### **7.18 Protest Procedures**

Any person who may be adversely affected by an intended decision with respect to the award of any bid, may protest such a decision by following the Bid Protest Procedure of the School Board of Polk County. A copy of the Procedure, which has been prepared in accordance with the provisions of the Florida Administrative Code, is available upon request and is permanently posted at the Administrative Offices of the School Board of Polk County, Florida. Failure to follow the requirements of the bid protest procedure shall constitute a waiver of all protest rights. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

**7.19 Compliance With The Jessica Lunsford Act.**

Florida Statutes contain certain fingerprinting and/or screening requirements pertaining to all persons or entities entering into contracts with Schools/School Boards/School Districts/Charter Schools who may have personnel who will be on school grounds when students may be present. Any individual who fails to meet the statutory requirements shall not be allowed on school grounds. Failure to comply with the statutory requirements will be considered a material default of this contract/agreement. Please visit <http://www.polk-fl.net/community/doingbusinesswithus/jessicalunsfordact.htm> for a list of links to requirements regarding the Jessica Lunsford Act .

**7.20 Non-Warranty Of Specifications:**

Due care and diligence have been exercised in the preparation of this RFP, and all information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the exposures to risk, and verification of all information herein, shall rest solely with the proposer. Neither the District nor its representatives shall be responsible for any error or omission in this RFP, nor for the failure on the part of the proposer to determine the full extent of the exposures.

**7.21 Alternate Proposals**

Proposals should meet the requirements and conform to the format prescribed in this RFP. As additions to the requested format, vendor is permitted to submit alternate proposals/supplemental materials to the base proposal, when vendor determines a need to more fully explain aspects of vendor’s solution, applications or services. Any such additions must be explicitly identified. Any decision to review these additional materials is solely at the discretion of the Evaluation Committee.

**SECTION VIII INSURANCE REQUIREMENTS**

The awarded proposer(s) shall procure and maintain at their sole expense insurance of the types and in minimum amounts stated below:

INSURANCE	LIMITS
<u>Worker’s Compensation</u> Florida Statutory Coverage/ Employers’ Liability	Statutory Limits/ \$500,000 each accident
<u>Commercial General Liability</u> Premises-Operations: Contractual Liability	\$1,000,000 each occurrence \$2,000,000 annual aggregate combined single limit, for bodily injury & property damage
Professional Liability (Errors and Omissions)	\$1,000,000 per claim \$2,000,000 annual aggregate

The Board shall be named as an additional insured under all of the above Commercial General Liability coverage. Such insurance shall be primary to any and all other insurance or self-insurance maintained by the Board. All insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to the Board. Prior to commencing any contracted services, certificates evidencing the maintenance of said insurance shall be furnished to the Board.

## **SECTION IX: CONTRACT INFORMATION**

### **9.1 Contingency of the Contract Award**

Award of the contract to the selected firm is contingent upon:

- the budget and appropriation of funds (if necessary) by Polk County, and
- the successful negotiation of contractual terms agreeable to both parties.

Failure to achieve the foregoing may result in no award of contract at this time.

### **9.2 Agreement for Services**

The District may require a contract which will include provisions, among others, addressing matters such as:

- contract costs
- contract modifications
- contract termination
- disputes

The requirements appearing in this RFP will become part of the contract(s) with the selected vendor(s). The contract between the parties will consist of a written Agreement (if required by the District), the RFP (including addenda), and the successful proposal, together with any modifications that are agreed to by the District and the vendor(s).

The District will consider Agreements proposed by offerors. Any Agreement, however, shall be in a form acceptable to the District.

If proposer requires an additional contract, then proposer should include their sample contract as an attachment to the proposal submitted for review.

### **9.3 Indemnification/Hold Harmless Agreement**

Each party shall be responsible for its own acts and will be responsible for all damages, costs, fees and expenses which arise out of the performance of this contract and which are due to that party's own negligence, tortuous acts and other unlawful conduct and the negligence, tortuous acts and other unlawful conduct of its respective agents, officers and employees.

Awarded proposers shall, in addition to any other obligation to indemnify the Polk County School Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, and losses (including economic losses), costs arising out of any actual or alleged;

- a. bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
- b. violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or
- c. liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

Any costs or expenses, including attorney's fees, incurred by the Polk County School Board to enforce this agreement shall be born by the contractor.

The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the Awarded Firm of any subcontractor under worker's compensation acts, disability benefit acts, other employee benefit acts or any statutory bar.

The Indemnification/Hold Harmless provisions shall survive the termination of any contract with the District.

#### **9.4 Sub-Contracts**

Nothing contained in this specification will be construed as establishing any contractual relationship between any sub-proposer(s) and The School Board of Polk County

The proposer(s) will be fully responsible to The School Board of Polk County for the acts and omissions of the sub proposer(s) and their employees.

After award of contract, any changes in subcontractors or sub proposers requires prior District written approval.

Assignment of Contract and/or Payment:

This contract or agreement is personal to the parties herein and may not be assigned, in whole or in part, by the proposer without prior written consent of the School Board of Polk County.

The proposer herein shall not assign payments under this contract or agreement without the prior written consent of the School Board of Polk County.

#### **9.5 Joint Proposal**

In the event multiple proposers submit a joint proposal in response to the RFP, a single proposer shall be identified as the Prime Vendor. If offering a joint proposal, Prime Vendor must include the name and address of all parties of the joint proposal. Prime Vendor shall provide all bonding and insurance requirements, execute any Contract, have overall and complete accountability to resolve any dispute arising within this contract. Only a single contract with one proposer shall be acceptable. Prime Vendor responsibilities shall include, but not be limited to, performing of overall contract administration, preside over other proposers participating or present at District meetings, oversee preparation of reports and presentations, and file any notice of protest and final protest as described herein. Prime Vendor shall also prepare and present a consolidated invoice(s) for services performed. The District shall issue only one check for each consolidated invoice to the Prime Vendor for services performed. Prime Vendor shall remain responsible for performing services associated with response to this RFP.

## **9.6 Funding Out/Termination**

Florida School Laws (Section 1000, Florida Statutes) prohibit School Boards/Districts from creating obligations on anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the agreements.

It is necessary that fiscal funding out provisions be included in all proposals in which the terms are for periods longer than one (1) year.

Therefore, the following funding out provisions are an integral part of this proposal and must be agreed to by all proposers:

The School Board of Polk County may, during the contract period, terminate or discontinue the services covered in this proposal at the end of the District's then current fiscal year upon ninety (90) days prior written notice to the successful proposer.

Such prior written notice will state:

- A. That the lack of appropriated funds is the reason for termination, and
- B. Agreement not to replace the services being terminated with services similar to those covered in this proposal from another vendor in the succeeding funding period.
- C. "This written notification will thereafter release the District of all further obligations in anyway related to the services covered herein."
- D. The Funding Out statement must be included as part of any agreement. No agreement will be considered that does not include this provision for "funding out".

## **9.7 Work Papers:**

In all cases, the awarded firm(s) shall retain all work papers for a period of five (5) years after the conclusion of the contract period and shall provide the District and/or its assignee access, free of charge, to any or all work papers at any reasonable time. Work Papers are defined by the District as documents, correspondence, memoranda, reports, and other materials in preliminary or developmental form before their completion as a final product. Work papers may be destroyed, by the awarded firm(s) at the end of this period. Destruction of said work papers shall be at the awarded firm(s)'s expense.

## **9.8 Dispute Resolution**

Except with respect to injunctive relief, neither party shall institute a proceeding in any court or administrative agency to resolve a dispute between the parties before that party has sought to resolve the dispute through direct negotiation with the other party.

## **9.9 Other Contracts**

The Board may undertake or award other contracts for work not being performed acceptably by the vendor and/or work not being accomplished on time by the vendor.

## **9.10 Use of Other Contracts**

The Board reserves the right to utilize any other School District contract, any State of Florida Contract, any contract awarded by any other city or county governmental agencies, any other school board, or any other community college/state university system cooperative bid agreement, or to contract with

others to perform work and services described in this RFP, in lieu of any offer received or award made as a result of this RFP, if it is in its best interest to do so. The School Board also reserves the right to separately bid/request proposals for any single project/item/service, or to purchase any item/service on this RFP if it is in its best interest to do so.

**9.11 Default**

In the event that the awarded proposer(s) should breach this contract the District reserves the right to seek remedies in law and/or in equity.

**9.12 Legal Requirements**

It shall be the responsibility of the proposer to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein which may apply. Lack of knowledge by the proposer(s) will in no way be a cause for relief from responsibility.

**9.13 Permits And Licenses**

The awarded vendor shall timely obtain and keep in force, at the vendor's expense, all permits and licenses required by applicable governmental authorities for the performance by the vendor of all covenants herein contained on the part of the vendor.

The awarded vendor is required to have the necessary permits and licenses required by law to conduct business in Polk County.

**9.14 Contract Period**

The contract effective date will be October 1, 2009 through December 31, 2012. The Board reserves the option to extend the contract period provided the vendor is in agreement. The term of any contract shall be subject to the cancellation/termination provisions of Section 9.16 and 9.17 of this RFP.

**9.15 Option To Extend Term Of Contract**

The District shall have the right and option to extend the term of the Contract(s) for two (2) additional one year periods upon mutual agreement of both parties. All covenants and provisions of the Contract(s) shall be and remain in full force and effect during any extension period of the Contract(s). District extension of the contract will in part be dependent upon acceptability of cost, service, contractor stability and market conditions. Contract extension rates shall be provided to the Board at least 120 days prior to the date in which the contract renewal option will take effect. For the two (2) additional one year renewals, it is anticipated that the contract terms and conditions will be equal to or better than the terms and conditions of the initial term of the contract.

**9.16 Termination Of Contract For Cause**

The District shall have the right at any time and at all times to terminate this Contract for cause, and it is agreed that the violation by the awarded vendor of any covenant or provision contained in this Contract, or the failure or refusal of the awarded vendor to abide by or carry out any covenants or provision of this Contract, shall be and constitute sufficient cause for which the District may terminate this Contract. In the event the District shall elect to terminate this Contract for cause, the District shall notify the awarded vendor thereof in writing and shall therein specify the cause for such termination and the date that such termination shall be effective. Unless the stated deficiencies are corrected within ten (10) days, a recommendation will be made to the School Board of Polk County for immediate cancellation. Upon cancellation the awarded vendor agrees to return all Board property as defined in Section 9.7, Work Papers.

Payment, if applicable, will be made to the awarded vendor for services that have been satisfactorily rendered, as determined by the District, prior to the effective date of termination. The awarded vendor shall have no further rights, and the District shall have no further obligation to the vendor, pursuant to this Contract subsequent to the date that this Contract is terminated for cause as aforesaid by the District.

Upon cancellation hereunder, the Board may pursue any and all legal remedies as provided herein and by law.

**9.17 Cancellation/Termination Of Contract :**

Any contract resulting from this RFP may be terminated by the Board or the Contractor by either party submitting written notice of intent to cancel as follows: (a) Thirty (30) days written notice must be given by the Board to the Contractor; (b) Ninety (90) days written notice must be given by the Contractor to the Board. Termination or cancellation of the contract will not relieve the respondent of any obligations for any deliverables entered into prior to the termination of the contract (i.e., reports, statements of accounts, etc., required and not received).

Termination or cancellation of the contract will not relieve the respondent of any obligations or liabilities resulting from any acts committed by the respondent prior to the termination of the contract.

**9.18 Force Majure:**

Performance of obligations under this RFP and any subsequent contract shall be pursued by each party with due diligence in all requirements herein; however, neither party shall be liable for any loss or damage for delay or nonperformance due to causes not reasonably within its control. In the event of any delay resulting from such causes, the time for performance and payment hereunder shall be extended for a period of time reasonably necessary to overcome the effect of such delay(s). In the event of any delay or nonperformance caused by such uncontrollable forces, the party affected shall promptly notify the other, in writing, of the nature, cause, date of commencement thereof, and the anticipated extent of such delay.

# ADDENDUM ACKNOWLEDGMENT FORM

Please complete and return this form with your proposal as applicable.

**ADDENDA ACKNOWLEDGMENT:** The undersigned acknowledges the receipt of the following Addenda:

*ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_ *ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_

*ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_ *ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_

*ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_ *ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_

*ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_ *ADDENDUM NO.* \_\_\_\_\_ DATED \_\_\_\_\_

## SUBMITTALS CHECKLIST

To help ensure that you include all the submittals necessary to complete a thorough evaluation of your bid proposal, we suggest that you use this checklist as a reminder to yourself, by placing a check in each box in the **Verified** column indicating that the item is included in your bid proposal packet. Include this completed checklist along with your bid proposal. Items checked **Required** must be submitted at the time you submit your bid proposal or your proposal may be declared non-responsive or points could be subtracted from your evaluation score. Items checked **Requested** should be submitted at the time you submit your bid proposal to facilitate the bid evaluation process, but will not be cause for declaring your proposal non-responsive

Verified	Required	Requested	Description of Submittal	Page No.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Completed and signed RESPONSE FORM	1
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Letter of Transmittal	N/A
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Submittal 1:</b> Proposal Worksheet (Printed and in Word on CD)	Attachment A
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Submittal 2:</b> Pharmacy Network Directory (Printed and in Excel on CD)	Attachment B
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Submittal 3:</b> Formulary Disruption Worksheet (Printed and in Excel on CD)	Attachment C
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Submittal 4:</b> Claims Re- Pricing (In TXT or Access on CD)	Attachment D
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Conflict of Interest (See Section VII; 7.15)	13-14
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Completed and signed Drug Free Workplace Certification Form (optional)	23
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Completed and signed Certification Regarding Debarment Form AD-1048	24
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Addendum Acknowledgement Form	21

## **DRUG FREE WORKPLACE CERTIFICATION FORM**

In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program *shall be given preference* in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free program, a business shall:

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

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

\_\_\_\_\_  
(vendor's signature)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION  
INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED  
TRANSACTIONS**

This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7CFR Part 3017, Section 3017.510, Participants responsibilities*. The regulations were published as *Part IV of the January 30, 1989, Federal Register (pages 4722-4733)*.

**\*\*\* BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE \*\*\***

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attached an explanation to this proposal.

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Organization Name PR/Award Number or Project Name

---

Name(s) and Title(s) of Authorized Representative(s)

---

Signature(s) Date

Form AD-1048 (1/92)

**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Form AD-1048 (1/92)

# Executive Order 12549--Debarment and Suspension

**Source:** The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

**Section 1.** (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

**Sec. 2.** To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

**Sec. 3.** Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

**Sec. 4.** There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

**Sec. 5.** The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

**Sec. 6.** The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe governmentwide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

**Sec. 7.** The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.