

Purchasing Services

**REQUEST FOR PROPOSAL (RFP)**

**TITLE: RETAIL PHARMACY DESIGN, CONSTRUCTION, START-UP, AND OPERATION**

**RFP NUMBER: UH-P20-006**

**DATE ISSUED: October 25, 2019**

**DUE DATE: December 17, 2019**

**TIME: 2:00 P.M.**

**LOCATION: UNIVERSITY HOSPITAL  
DEPARTMENT OF PURCHASING SERVICES  
65 Bergen Street, 12<sup>th</sup> Floor  
Newark, New Jersey 07103**

Important Note: Bidders should check Section 1.3 of this document to verify if attendance at a mandatory event (e.g., pre-bid conference, site visit, etc.) is required for this procurement. Failure to attend a mandatory event will result in the rejection of your proposal.

In accordance with the requirements of this proposal, the undersigned offers and agrees, if their proposal is accepted, to furnish any and all services for which the prices are submitted in accordance with the attached conditions as specified in this proposal.

BIDDER NAME: \_\_\_\_\_

BIDDER REPRESENTATIVE:

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

NAME: \_\_\_\_\_

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

PHONE NO.: \_\_\_\_\_

EMAIL: \_\_\_\_\_

FAX NO.: \_\_\_\_\_

FED. TAX ID: \_\_\_\_\_

\_\_\_\_\_  
BIDDER'S AUTHORIZED SIGNATURE

**PREVENTING DISQUALIFICATION WHEN BIDDING ON RFP # UH-P20-006 for RETAIL PHARMACY CONSTRUCTION AND SERVICES”**

A) First, always remain aware of the concept that this is a public sector bid, not private sector. The underlying premise of all public procurements is to keep a “level playing field” for all bidders so that competition will be fair among all that participate. This sometimes means that rules and requirements might seem arbitrary or even meaningless to a bidder experienced in the private sector. Those reactions, however valid, are not relevant to those evaluating the proposal submissions. There are parameters that must not be breached and the evaluators and Purchasing Services will be obligated to stay within them. Simply put, there are certain requirements that must be met for an award to be issued. **The following list outlines requirements of the bid; bids that do not adhere to these requirements are subject to rejection:**

- 1) The bid proposal must be signed.
- 2) The bid proposal must have been submitted to Purchasing Services by the prescribed opening time and date.
- 3) Submit all required documents – see Sections 1.0, 3.0, 5.0, 8.0, and 9.0.
- 4) Any changes in pricing written within the bid, (white outs, etc. **must be initialed** by the bidder.
- 5) Outside of procedural questions (e.g. directions to Newark) all questions must be done by the protocol established within the RFP. Under the level playing field premise, all potential bidders must be made aware of any relevant information given to another bidder.
- 6) UH payment terms are 45-days. If a proposal takes exception to that aspect of the RFP, most often the proposal will be determined to be non-responsive. UH will accept shorter payment terms with additional discounts – e.g. 2%/15 days.
- 7) Insurance requirements – make any objections known immediately, **before bid opening.**
- 8) Bid submission - A submitted bid **must** be in a **sealed** package.
- 9) Identification of the Bid package - The package sent in must be labeled as stated in the RFP to prevent potential loss or accidental opening.
- 10) Bidder responsibility - Purchasing Services is not responsible for any bids that arrive late because of courier service errors. **Send the bid for an arrival a day or two earlier than mandated and then track it! A late bid will be disqualified.**

B) **Forms** – Problems with forms are a primary cause of bid rejection. **Section 9.0** of the RFP describes all of what is required but some problem areas are:

- 1) The New Jersey State Business Registration – it does not have to be submitted with the bid **but the bidder MUST have registered with the state of New Jersey BEFORE any contract can be awarded.** Registration often takes some time. If you are not registered, start the process immediately!
- 2) Ownership Disclosure Form – The bidder must complete the attached Ownership Disclosure Form. A complete Ownership Disclosure Form must be received prior to, or accompanying, the bid. Failure to do so will preclude the award of a contract.
- 3) The Affirmative Action (AA) Certificate – Up until three years ago, the AA 302 form which provided racial and ethnic hiring and working statistics was the only AA document that was required to be submitted with a bid proposal. Currently AA requires, along with the AA 302 Form, certification of its submission to the state. That certification requires a \$150.00 to be sent to the state. Without certification you won't necessarily be disqualified but you will not be eligible for award until UH receives evidence that the certification has been granted by the state. Links to AA for to obtain certification are in Section 9.0 of the RFP.
- 4) Two Year Chapter 51 Forms – These forms establish whether the bidder's firm or its principle ownership have made any political contributions. If these forms are not submitted your firm will unequivocally **NOT** be able to have a contract with a state entity in NJ.
- 5) Business Associates Agreement - Any deviation from the UH Business Associates Agreement **may (or may not)** be accepted but because of the process and legal review, any potential award will be delayed significantly.
- 6) MacBride Principles Certification – The Bidder must certify pursuant to N.J.S.A. 52:34-12.2 that is in compliance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland ) Act of 1989, and permit independent monitoring of their compliance with those principles. Please refer to the State of NJ N.J.S.A. 52:34-12.2 for additional information about the Mac Bride principles.

By signing the RFP Signatory Page the bidder/offeror is automatically certifying that either:

- a. The bidder has no operations in Northern Ireland; or

- b. The bidder has business operations in Northern Ireland and is committed to compliance with the MacBride principles.

A bidder/offeror electing not to certify to the MacBride Principles must nonetheless sign the RFP Signatory Page AND must include, as part of its proposal, a statement indicating its refusal to comply with the provisions of this Act.

- 7) Disclosure of Investment Activities in Iran Form – Pursuant to N.J.S.A. 52:32-58, the Bidder must submit the Disclosure of Investment Activities in Iran form to certify that neither the Bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury’s List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Bidder, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Bidder is unable to so certify, the Bidder shall provide a detailed and precise description of such activities as directed on the form. A Bidder’s failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as nonresponsive and preclude the award of a contract to Bidder.

C) **Exceptions** – Exceptions to the specifications contained within the RFP are the most serious form of non-compliance/non-responsiveness. Whereas some of the above are mistakes for which potential cures may be offered, material exceptions have one cure – withdrawal of the exception. Evaluators will look at all exceptions to see if any may be determined to be non-material deviations which would give no advantage to the bidder. Usually exceptions give advantage to the bidder over its competitors and the bidder will ultimately be disqualified.

**REVIEW:**

- 1) Read and understand the entire RFP
- 2) Follow instructions as presented in the RFP
- 3) Sign everything that requires signing
- 4) Enclose all required documents and forms in your bid package
- 5) Label the bid package correctly
- 6) Submit the bid package ahead of time
- 7) Take no exceptions

## **1. INFORMATION FOR BIDDERS**

### **1.1. Purpose and Intent of the Procurement**

#### **1.1.1. Purpose**

This Request for Proposal (RFP) is being issued by the University Hospital (UH), Department of Purchasing Services on behalf of the University Hospital Pharmacy Department.

The purpose of this RFP is to enter a contract with one vendor to design, stock, staff and operate an on-site Pharmacy at our Newark location to service patients, employees and public. UH will contract separately for construction of the pharmacy. The pharmacy will be owned by UH and managed by the contractor.

#### **1.1.2. Intent**

The intent of UH through this Request for Proposal is to award a contract to one responsive bidder whose bid proposal conforms to the specifications contained in the RFP and is most advantageous to UH, price and other factors considered.

### **1.2. Background**

In 1979, the Newark Martland Hospital closed and a new building called College Hospital, opened as the flagship teaching hospital of the College of Medicine and Dentistry of New Jersey. In 1981, the hospital was renamed University Hospital (UH) when university status was granted to the college.

University Hospital (UH) was separated from University Medical and Dentistry of New Jersey (UMDNJ), its parent organization for 31 years, by legislation that took effect in July 2013. UH is now an independent medical center and an instrumentality of the State of New Jersey. It is a principal teaching hospital of Rutgers Biomedical and Health Sciences (RBHS), which includes Rutgers New Jersey Medical School and Rutgers School of Dental Medicine.

UH is a critical statewide resource for clinical care, medical education and research; a key component of New Jersey's healthcare landscape; and important to federal, state and local legislators and other policy-makers interested in advancing scientific discoveries and healthcare delivery. It is New Jersey's leading public hospital, provides training to more future physicians than any other hospital in the state.

UH is a 320-bed acute-care hospital, home to regional and statewide resources for advanced care in many medical specialties. UH has 676 medical and adjunct staff, 602 residents, and 3,220 total employees. Current average daily patient census is 292. UH is a disproportionate share hospital (DSH) under applicable Medicare rules and is a "Covered Entity" as defined in Section 340B of the Public Health Service Act (Section 340B), eligible to purchase certain outpatient drugs at

reduced prices for use by UH patients from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services (DHHS), and also has certain other sites that are registered with HRSA as 340B sites. Current average outpatient 340B revenue is \$1,500,000 per month.

Fiscal Year 2019 patient discharges and Emergency Department visits, by day of the week are as follows:

<b>Hospital Discharges and ED Visits FY2019</b>		
<b>Day</b>	<b>Patients Discharged</b>	<b>ED Visits</b>
Sunday	1,272	10,189
Monday	2,321	11,977
Tuesday	2,580	12,438
Wednesday	2,836	12,758
Thursday	2,750	12,559
Friday	2,922	11,821
Saturday	1,661	10,732
<b>Total</b>	<b>16,342</b>	<b>82,474</b>

Fiscal Year 2019 clinic visits are as follows:

<b>Completed Clinic Encounters FY2019</b>		
<b>CLINIC</b>	<b>Location</b>	<b>Completed Encounters</b>
AMBULATORY CHEMOTHERAPY	Cancer Center	5,717
AUDIOLOGY	ACC	2,121
DENTAL	UH	6,577
EAR NOSE & THROAT	ACC	3,158
HEMATOLOGY / ONCOLOGY	Cancer Center	5,425
INFECTIOUS DISEASE	ACC	18,312
LATTIMORE CLINIC (TB)	225 Warren Street	2,008
LIVER	ACC	5,079
MEDICAL (combined with Med Subspec and Cardiology)	ACC	38,140
NEUROLOGY	ACC	3,370
NEUROSURGERY	ACC	1,049
OPHTHALMOLOGY SERVICES-DOC	DOC	24,380
ORTHO PM&R	UH	992
ORTHOPEDIC	UH	8,110
OUTPATIENT-REHAB	ACC	14,734
PAIN MANAGEMENT (previously in Surgery)	ACC	941
PEDIATRIC SPECIALTY (Cancer)	ACC & Cancer Center	72
PM&R	ACC	565
PODIATRY	ACC	5,038
SUR - Acquired Brain Injury (previously w/PM&R Ortho)	ACC	134
SURGICAL SPECIALTY	ACC	5,092
OB/GYN	ACC	30,719
UROLOGY	ACC	5,794
WOUND CARE CENTER	UH	2,121
<b>Grand Total</b>		<b>189,648</b>

ACC - Ambulatory Care Center  
 DOC - Doctors Office Center  
 UH - Main Hospital Building  
 225 Warren Street is 0.6 Mile from Campus

Fiscal Year 2019 payor mix is as follows:

**FY19 Payor Mix Hospital**

<b>Payer Type</b>	<b>Percentage</b>
Blue Cross	5%
Charity Care	10%
Comm/HMO	6%
Medicaid	11%
Medicaid HMO	33%
Medicare	13%
Medicare HMO	10%
No Fault	5%
Self-Pay	6%
Workers' Comp	1%

**FY19 Payor Mix ACC**

<b>Payer Type</b>	<b>Percentage</b>
Blue Cross	5%
Charity Care	21%
Comm/HMO	5%
Medicaid	4%
Medicaid HMO	33%
Medicare	15%
Medicare HMO	10%
No Fault	1%
Self-Pay	5%
Workers' Comp	1%

The UH fiscal year runs from July 1<sup>st</sup> to June 30<sup>th</sup>. Additional information about UH is available on the UH web page at: <http://www.uhnj.org/about/>.

1.3. Key Events

1.3.1. Questions and Inquiries

It is the policy of the UH, Purchasing Services to accept questions and inquiries from all potential bidders receiving this RFP.

Written questions should be e-mailed or faxed to the UH, Purchasing Services to the attention of the assigned buyer at the following address:

UNIVERSITY HOSPITAL, DEPARTMENT OF PURCHASING SERVICES  
Stanley S Bergen Building,  
65 Bergen Street  
12<sup>th</sup> Floor Suite 1218  
ATTN: Edwing Canaca  
Newark, New Jersey 07101-1709

Buyer's Phone Number: 973-972-1255  
Buyer's Fax Number: 973-972-7036  
Buyer's E-mail: canacaes@uhnj.org

#### 1.3.1.1. Cut-Off Date for Questions and Inquiries

A mandatory Pre-bid Conference has been scheduled for this procurement; therefore, the cut-off date for submission of questions will be the conclusion of the mandatory Pre-Bid Conference. **While all questions will be entertained at the mandatory Pre-bid Conference, it is strongly urged that questions be submitted in writing prior to the mandatory Pre-bid Conference.** Written questions must be delivered to the Department of Purchasing Services' Buyer. It is requested that bidders having long, complex or multiple part questions submit them in writing as far in advance of the mandatory Pre-bid Conference as possible. This request is made so that answers can be prepared prior to the mandatory Pre-bid Conference.

#### 1.3.1.2. Question Protocol

Questions should be submitted in writing to the attention of the assigned UH Purchasing Services buyer. Written questions should be directly tied to the RFP by the writer. Questions should be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Short procedural inquiries may be accepted by telephone by the buyer; however, oral explanations or instructions given over the telephone shall not be binding upon the University Hospital. **Bidders shall not contact any person within the University Hospital directly, in person, or by telephone, other than the assigned buyer, concerning this RFP.**

#### 1.3.2. Mandatory Pre-Bid Conference

A mandatory Pre-Bid Conference has been scheduled for this procurement. The purpose of the mandatory Pre-Bid Conference is to provide a structured and formal opportunity for bidders to raise questions and clarify any of the proposal requirements. The date, time and location are provided as follows:

DATE: November 12, 2019

TIME: Immediately following the site visit, commencing at 10:00AM

LOCATION: NJMS Cancer Center  
205 South Orange Avenue, B-Level  
Conference Room B1120  
Newark, NJ 07101-1709

CAUTION: Bids will be automatically rejected from any bidder that was not represented or failed to properly register at the Mandatory Pre-bid Conference.

It is the responsibility of the bidder to identify and address any additional requirements or information needed to submit a proposal. No special consideration shall be given to any bidder, because of the bidder's failure to be knowledgeable of all the requirements of the proposal after the pre-bid conference date.

### 1.3.3. Site-Visit

A mandatory Site Visit has been scheduled for this procurement. The purpose of the Site Visit is to provide a structured and formal opportunity for the bidders to raise questions and clarify any of the proposal requirements. The date, time and location are provided as follows:

DATE: November 12, 2019

TIME: 10:00AM

LOCATION: NJMS Cancer Center  
205 South Orange Avenue, B-Level  
Conference Room B1120  
Newark, NJ 07101-1709

CAUTION: Bids will be automatically rejected from any bidder that was not represented or failed to properly register at the mandatory Site Visit.

IMPORTANT NOTE: NO QUESTIONS OR INQUIRIES REGARDING THE SUBSTANCE OF THIS RFP WILL BE ACCEPTED OR ANSWERED DURING THE SITE VISIT. ALL QUESTIONS MUST BE HELD AND SUBMITTED IN ACCORDANCE WITH RFP SECTION 1.3.1

### 1.4. Additional Information for Bidders

#### 1.4.1. Revisions to this RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any RFP addendum will be distributed as follows:

Since a mandatory Pre-Bid Conference has been scheduled for this procurement, any addendum issued before the mandatory Pre-Bid Conference will be distributed to all bidders who were sent the initial RFP, and will be posted on the UH Bidding Opportunities web page: [http://www.uhnj.org/purchweb/vendors/vendor\\_current\\_bid.htm](http://www.uhnj.org/purchweb/vendors/vendor_current_bid.htm). UH will advertise all Addenda issued before the mandatory bid conference in the Newark Star Ledger and the Times of Trenton. Any addenda issued at the time of or after the mandatory Pre-Bid Conference will be distributed to those bidders represented and properly registered at the mandatory Pre-Bid Conference and posted on the UH Bidding Opportunities web page.

#### 1.4.2. Addendum as a Part of this RFP

Any addendum to this RFP shall become part of this RFP and part of any contract resulting from this RFP. **Notice to Bidders:** It is the responsibility of all potential bidders to check UH's web site [www.uhnj.org/purchweb/](http://www.uhnj.org/purchweb/) regularly and obtain all addenda that may be issued. UH is not responsible for direct distribution of addenda posted on the web site to all vendors who desire to submit a proposal.

#### 1.4.3. Issuing Office

This RFP is issued by the UH, Department of Purchasing Services. The buyer noted in Section 1.3.1 is the sole point of contact between the bidder and the UH for purposes of this RFP.

#### 1.4.4. Bidder Responsibility

The bidder assumes sole responsibility for the complete effort required in this RFP. No special consideration shall be given after bids are opened because of a bidder's failure to be knowledgeable of all the requirements of this RFP. By submitting a proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP.

#### 1.4.5. Cost Liability

UH assumes no responsibility and bears no liability for costs incurred by bidders in the preparation and submittal of proposals in response to this RFP.

#### 1.4.6. Contents of Bid Proposal

All information submitted by bidders in response to a bid solicitation is considered public information, except as may be exempted from disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law.

All bid proposals, as public records, with the exception of information determined by the courts or UH to be proprietary, are available for public inspection after contract award.

A bidder may designate specific information as confidential and not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. UH reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter.

UH will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary or confidential, and/or to claim copyright protection for its entire proposal. The bidder will be required to withdraw such designation before the bid proposal will be considered for contract award.

In the event of a challenge to the bidder's designation of confidentiality/proprietary materials, the bidder shall be solely responsible for defending its designation and UH shall have no responsibility therefore.

#### 1.4.7. Price Alterations

Bid prices must be typed or written in ink. Any price changes (including "white-outs") must be initialed. Failure to initial price changes may preclude an award being made to the bidder.

#### 1.4.8. Joint Venture

If a joint venture is submitting a bid, the agreement between the parties relating to such joint venture should be submitted with the joint venture's proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Affirmative Action Employee Information Report, MacBride Principles Certification, Disclosure of Investment Activities in Iran Form and, if applicable, foreign (out of State) corporate registration must be supplied for each party to the joint venture.

#### 1.4.9. Small Business Subcontractor Utilization Plan

Not applicable to this contract.

#### 1.4.10. Bid Bond

Not Applicable to this contract.

#### 1.4.11. Performance Bond

Not Applicable to this contract.

#### 1.4.12. HIPAA Compliance

As a State Agency, New Jersey State regulations require that we obtain documentation regarding our vendor “HIPAA Compliance” status. In order to be in compliance and conduct business with your company for the procurements of goods and/or services, it will be necessary for your company to complete a Business Associate Agreement. This agreement involves the access to protected health information that is considered protected pursuant to federal, state and/or local laws and regulations in accordance with the privacy requirements of the “HIPAA” – Health Insurance Portability and Accountability Act of 1996. The requirement is a precondition of entering into a valid and binding contract.

#### 1.4.13. Business Registration Notice

**All New Jersey and out of State business organizations must obtain a Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue, prior to conducting business with the State of New Jersey. Proof of valid business registration should be submitted by a bidder with its bid proposal. The business registration form (Form NJ-REG) may be found online at:**

<http://www.state.nj.us/treasury/revenue/busregcert.shtml>

##### 1.4.13.1. Definitions

For the purpose of the section, the following shall be defined as follows:

“Affiliate” means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. An entity controls another entity if it owns, directly or individually, more than 50% of the ownership in that entity.

“Business organization” means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof.

“Business registration” means a business registration certificate issued by the Department of the Treasury or such other form or verification that a contractor or subcontractor is registered with the Department of Treasury.

“Contractor” means a business organization that seeks to enter, or has entered into, a contract to provide goods or services with a contracting agency.

“Contracting agency” means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or University Hospital, any county college, or any local unit.

“Subcontractor” means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract.

#### 1.4.13.2. **Requirements Regarding Business Registration Form**

A contractor should submit a copy of its business registration at the time of submission of its bid proposal in response to this RFP.

A subcontractor shall provide a copy of its business registration to any contractor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor unless the subcontractor first provides proof of valid business registrations.

The contractor shall provide written notice to all subcontractors that they are required to submit a copy of their business registration to the contractor. The contractor shall maintain a list of the names of any subcontractors and their current addresses, updated as necessary during the course of the contract performance. The contractor shall submit to the contracting agency a copy of the list of subcontractors, updated as necessary during the course of performance of the contract. The contractor shall submit a complete and accurate list of the subcontractors to the contracting agency before a request for final payment is made to the using agency.

**The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Executive Director of the Division of Taxation in the Department of Treasury the use tax due pursuant to the “Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State.**

#### 1.4.14. Deficit Reduction Act

The University Hospital is committed to the prevention and detection of any fraud, waste, and abuse within the University Hospital related to all health care programs, including Federal and State programs.

To this end, UH maintains a vigorous compliance program geared in part to educating our community on the range of fraud and abuse laws, including the importance of submitting accurate claims and reports to the Federal and State governments. Our policies prohibit the knowing submission of a false claim for payment in relation to any health care program, including a Federal or State funded health care program. Such a submission is a violation of Federal and State law and can result in significant administrative and civil penalties under the Federal and State False Claims Acts.

To assist UH in meeting its legal and ethical obligations, any employee, contractor or agent who is aware of the preparation or submission of a false claim or report or reasonably suspects any other potential fraud, waste, or abuse in relation to a Federal or State funded health care program is required to report such information to his or her supervisor and UH’s Office of Ethics and Compliance. Any employee of UH who in good faith reports such information will be protected against retaliation for coming forward with such information both under UH’s internal compliance policies and procedures and United States and New Jersey law.

As an organization, UH obligates itself to investigate any such information swiftly and thoroughly through its internal compliance programs and mechanisms. Nonetheless, if an employee, contractor or agent believes that the organization's response is deficient and unresponsive, the employee shall bring these concerns to UH's Office of Ethics and Compliance. If such follow-up still does not trigger an investigation, after a reasonable period of time, the employee, contractor or agent has the ability to bring his/her concerns to the appropriate government agency under the relevant Federal and/or State laws.

This information shall be provided to all UH employees and all contractors and agents of UH.

## 2. DEFINITIONS

2.1. The following definitions shall be part of any contract awarded or order placed as a result of this RFP:

“Addendum” – Written clarification or revision to this RFP issued by UH, Purchasing Services.

“Amendment” – A change in scope of work to be performed by the contractor. An amendment is not effective until it is signed by the Executive Director of Supply Chain Management or Chief Financial Officer.

“Bidder” – An individual or business entity submitting a bid in response to this RFP.

“CFO” – University Hospital, Chief Financial Officer.

“Contract” – This RFP, any addendum to this RFP, and the bidder’s proposal submitted in response to this RFP and UH’s Contract Term Sheet.

“Contractor” – The contractor is the bidder awarded a contract.

“Evaluation Committee” – A committee established to review and evaluate bid proposals submitted in response to this RFP and to recommend a contract award to the Executive Director of Supply Chain Management.

“Executive Director” – The Executive Director of Supply Chain Management; the contracting officer for UH.

“HIPAA or HITECH Act” – Health Insurance Portability and Accountability Act of 1996, 1996 (“**HIPAA**”), the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009) (the “**HITECH Act**”), and regulations promulgated by the U.S. Department of Health and Human Services (the “**HHS**”) (hereinafter the “**HIPAA Regulations**” and the “**HITECH Regulations**,” respectively) and/or applicable state and/or local laws and regulations..

“Loaded Hourly Rates” - All-inclusive rates for each project requested.

“May” – Denotes that which is permissible, not mandatory.

“President” – University Hospital, President.

“Project” – The undertaking of services that are the subject of this RFP.

“Request for Proposal (RFP)” – This document, which establishes the bidding and contract requirements and solicits proposals to meet the purchase needs as identified herein.

“Shall” or “Must” or “Will” – Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a bid proposal as materially non-responsive.

“Should” – Denotes that which is recommended, not mandatory.

“Subtasks” – Detailed activities that comprise the actual performance of a task.

“Task” – A discrete unit of work to be performed.

“UH” – The University Hospital, Newark, New Jersey.

## 2.2. Definitions specific to this RFP:

ACC – University Hospital Ambulatory Care Center

ADA – Americans with Disabilities Act

Covered Entity – A hospital or other healthcare provider eligible to participate in the Federal 340B Drug Pricing Program.

DOH – Department of Health

DCA – Department of Consumer Affairs

DSH – A Disproportionate Share Hospital. These are hospitals which serve a significantly disproportionate number of low-income patients and receive payments from the Centers for Medicaid and Medicare Services to cover the costs of providing care to uninsured patients. DSH hospitals may be eligible to participate in the 340B Drug Pricing Program

DWG – The native file format for AutoCAD data files which contain Designs, Geometric data, Maps and Photos.

DXF – Drawing Exchange Format for a file extension graphic image format typically used with AutoCAD (Computer Assisted Drafting) software.

FQHC – An FQHC, or Federally Qualified Health Center, is a community-based organization that provides comprehensive primary care and preventive to persons of all ages, regardless of their ability to pay or health insurance status. An FHCQ is also a reimbursement designation from the Centers for Medicare and Medicaid Services (CMS) of the Federal Department of Health and Human Services.

340B Program - The 340B Drug Pricing Program which allows certain hospitals and other health care providers (“covered entities”) to obtain discounted prices on “covered outpatient drugs” (prescription drugs and biologics other than vaccines) from drug manufacturers.

### 3. SCOPE OF WORK

**Beneath each specification is a line stating: WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION \_\_\_\_\_. The bidder must indicate by putting a check mark in the appropriate box marked \_\_\_\_\_Y (Yes) \_\_\_\_\_N (No).**

**If any specified requirements cannot be fulfilled, the bidder must explain in Section 7.1 and propose an alternate means of meeting the requirements. Proposed alternate means must be, in the sole judgment of UH, equal to or better than the specified means.**

**The bidder must recognize that the inability to fulfill a required specification may result in the proposal being deemed non-responsive and thereby disqualify the proposal from contract award.**

University Hospital is seeking proposals for an experienced vendor to design, and manage a new outpatient pharmacy, which will include a robust 340B program. The pharmacy will be located in the UH main lobby, adjacent to the hospital Gift Shop, which may be incorporated into the space and become part of the pharmacy, including prior to substantial completion of the build-out. Approximately 1500 s.f. is available for the build-out. Drawings showing the location are attached as Attachment A. Pharmacy hours will be 8:00 AM to 8:00 PM, Monday through Saturday. There is potential to expand pharmacy hours at a future date.

The contractor shall be responsible for designing the pharmacy and shall provide UH with biddable construction drawings (sealed by an architect), all of which shall be subject to consultation with, and the prior written approval of, UH. In addition, the bidder shall obtain all necessary DCA and DOH approvals for same, to the extent not provided for by UH. UH will be responsible for constructing the pharmacy. Contractor shall assist UH in obtaining the occupancy certificate for the pharmacy.

When construction of the pharmacy is completed, the contractor shall be responsible for stocking, staffing, operating and managing the pharmacy. Patient counseling and patient compliance with medication regimen shall be a component of the policies and procedures of the contract pharmacy. The bidder chosen for award must demonstrate and document its experience in all aspects of design, and operation of outpatient pharmacies, specifically including outpatient 340B programs.

The bidder's proposal must include its proposed plans for design, start-up and ongoing operation of the pharmacy, including hiring and maintaining staffing. To the extent not obtained and maintained by UH, the contractor will be responsible for the acquisition of all required permits and licenses, initial and ongoing staffing. Notwithstanding the foregoing, each governmental approval, permit, registration and license shall be maintained in the Hospital's name.

Below and in Section 5.6 the bidder will find plans/reports that must be submitted with its bid proposal. UH intends to award a single contract to the bidder whose proposal offers the best value to UH, price and other factors considered. Please recognize that because UH will award a single contract to include design, start-up and operation of the pharmacy, the Evaluation Committee will

recommend award to the bidder presenting the **overall** plan, determined to provide the best value and be most advantageous to UH.

The sections below delineate the basics of what UH requires, but UH expects bidders to provide substantially more detailed, customized plans to provide the best services for the design, start-up and operation of this pharmacy.

Specifications listed as a “must” are mandatory requirements. Proposals that do not meet a mandatory requirement will be determined to be non-responsive. Specifications listed as a “should” are strongly preferred. Proposals that do not meet a preferred requirement may be marked down in the bid evaluation process.

Unless specifically stated otherwise in its proposal, UH will expect the bidder to meet all bullet pointed preferences included in the Scope of Work, along with each of the mandated requirements.

A successful proposal will encompass and detail all aspects of the above. Additionally, the proposal must include references (with contact names and information) to document bidder’s successful experience in fulfilling similar contracts, as stated in Section 5, and all costs as specified in Section 8.

All bidders whose proposals are determined to be responsive to all of the mandatory requirements and within the competitive range will be invited to make oral presentations to the Evaluation Committee. Following the oral presentations, UH may enter into negotiations with one or multiple bidders. The primary purpose of these negotiations is to maximize UH’s ability to obtain the best value based on the mandatory requirements, preferred requirements, evaluation criteria, and cost. At the discretion of UH, multiple rounds of negotiations may be conducted with one or more bidders. Negotiations will be structured to safeguard information and ensure that all bidders are treated fairly.

### 3.1 Design:

Contractor must provide:

- Fundamental recommendations for pharmacy space, layout and workflow design;
- Fixture design principles and sourcing;
- Plan for obtaining all required permits and licenses for construction;
- All other potential aspects of design that the contractor feels will enhance pharmacy operation.

Contractor must provide all necessary professional design services required to complete the project, including, but not limited to:

- 3.1.1 Review UH record construction documents and field-verify existing site conditions, with particular attention to clear dimensions and the adequacy of building systems.
- 3.1.2 Meet with team members from the Pharmacy Department, Physical Plant Department and various other UH departments to determine users' needs and verify programmatic information, where necessary, collected by various departments.
- 3.1.3 Prepare a Project Schedule showing major milestones for planning, all phases of design, estimated regulatory review and approval time, equipment manufacture and installation, phasing, construction, and occupancy.
- 3.1.4 Provide schematic design for the renovations, if necessary, to the mechanical control room and affected areas.
- 3.1.5 Provide a complete code analysis for the project, including issues relevant to ADA compliance, DOH/DCA licensing, NJ State Board of Pharmacy permitting, and all Joint Commission and CMS requirements.
- 3.1.6 Provide full scope architectural and engineering services for the project, including design and construction documents, as described here.
- 3.1.7 Develop Division 1, General Construction Requirements, as well as the technical Divisions 2-16 of the Project Manual in consultation with appropriate UH Departments.
- 3.1.8 Advise UH regarding the organization of the construction phase of the project.
- 3.1.9 Prepare documents, attend meetings, submit reports and perform other services required to represent UH in securing approvals and final Certificate of Occupancy from regulatory agencies, including the Department of Community Affairs.
- 3.1.10 Provide three complete sets of project record drawings, and three (3) copies of the project manual, complete with addenda and change order documentation. Provide electronic copies of all drawing files and project manual on CD-ROM or flash drive with a hard-copy list of file names and a description of their contents. Files must be submitted in the □DWG□ format compatible with AutoCAD 13, if possible, or the □DXF□ format if the □DWG□ format is not possible.
- 3.1.11 All architectural and engineering services shall be provided by professionals licensed in the State of New Jersey to provide such services.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.1 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

### 3.2 Construction Services

UH will be responsible, at its sole cost, for pharmacy construction. UH intends to solicit quotes from general contractors on UH contract UH-P17-018, General Contracting Services. Contractor shall assist UH in conducting the Request for Quotations by attending the pre-bid conference and site visit, and by providing, at UH request, responses to questions regarding the design and construction plans, the General Construction Requirements, and the Project Manual. During the construction phase, Contractor shall also provide, at UH request, responses to questions from the general contractor regarding the design and construction plans, the General Construction Requirements, and the Project Manual, as required by UH.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.2 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

### 3.3 Services that the Contractor Shall Provide to UH Before and During Start-up.

- All aspects of project management;
- Federal and state licensing assistance;
- All permits and licensing for operation;
- Third party application assistance;
- Staff hiring;
- Staff training;
- Procedures Management manual;

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.3 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

### 3.4 Pharmacy Management Services that Contractor Shall Provide.

3.4.1 Contractor shall be fully responsible for all pharmacy operations and management, under direction of the UH Director of Pharmaceutical Services. This includes, but is not limited to:

- Developing all processes, policies and procedures for operating the pharmacy, subject to approval of the UH Director of Pharmaceutical Services;
- Acquiring, implementing and managing, all information technology (IT) systems bidder proposes using to manage the pharmacy, subject to approval of the UH Director of Pharmaceutical Services and Chief Information Officer; including software used by the proposed pharmacy. UH uses Epic for its electronic health records system, and prefers to uses Epic software for the pharmacy, but will consider other systems (including, but not limited to, IT systems for inventory

management, online billing and adjudication of prescriptions to third-party covered patients and charges for self-pay patients). (See note at end of Section 3.5 regarding the use of Sentrex software to manage 340B inventory.)

- Purchasing all pharmaceuticals from distributor or distributors designated by UH (currently Cardinal Health), on UH's account;
- Implementing and managing all inventory management processes and systems;
- Hiring, training and managing all pharmacy staff, subject to approval of the UH Director of Pharmaceutical Services;
- Providing patient counseling, patient care services, and specialized disease state management programs;
- Providing a Meds-to-Beds program (bedside delivery of prescriptions prior to discharge) and other programs designed to increase medication compliance at and beyond time off discharge;
- Providing a Meds-to-Emergency Room program for ED patients being discharged, to increase medication compliance at and beyond time of discharge;
- Complying with UH policies related to maximum day supplies, lost prescriptions, acceptable refill intervals, non-formulary drug requests, and other relevant prescription dispensing activities;
- Operating a robust 340B program, including all required registrations;
- Collecting all required patient payments at point of sale;
- Billing, adjudicating claims, and collecting payments from all third-party payors;
- Reconciling and accurately documenting all payor and patient claims;
- Providing detailed financial reporting to UH;
- Providing monthly reports for prescriptions filled, billed and collected;
- Providing monthly reports of outstanding accounts receivable and accounts payable;
- Providing all 340B inventory management practices and systems, patient eligibility tracking systems, record keeping and auditable documentation;
- Compliance with all Federal and State laws and regulations (The NJ State Board of Pharmacy regulations are available here: <http://www.njconsumeraffairs.gov/regulations/Chapter-39-State-Board-of-Pharmacy.pdf>);
- Complying with all PBM and third-party payor contractual requirements related to the submission of both 340B and non-340B prescription claims; and
- Assisting with obtaining prior authorizations from PBMs and third-party payors when required.

3.4.2 Contractor may propose to offer for sale to customers a limited assortment of non-prescription items: over the counter (OTC) drugs, durable medical equipment (DME), and/or other items. Should UH decide to stock such items, contractor shall set the assortment, in consultation with UH, and shall be responsible for all purchasing, merchandising, and inventory management functions.

- 3.4.3 Contractor shall remit all pharmacy cash receipts to UH monthly, or on such other schedule as mutually agreed to by UH and Contractor.
- 3.4.4 Contractor will be reimbursed by UH for all pharmacy operating expenses not paid for directly by UH.
- 3.4.5 UH shall have the right to conduct periodic physical inventories of all pharmaceuticals and non-pharmaceuticals on hand and to audit contractor's compliance with its agreement with UH. Physical inventories and audits shall be scheduled at UH's discretion. Contractor must reimburse UH for any inventory shortages and audit discrepancies. UH shall have the right to offset any amounts due and owing to UH from any amounts due and owing from UH to contractor
- 3.4.6 Contractor shall reimburse and hold harmless UH for and against any damages, monetary penalties or fines imposed by the NJ State Board of Pharmacy or other State or Federal regulatory agencies for failure to comply with all applicable laws and regulations.
- 3.4.7 At its discretion, UH reserves the right of final approval of the project manager, the pharmacy manager, and all pharmacy staff, but all pharmacy managers and on-site staff shall be employees of the contractor, not UH. The Contractor's on-site staff must complete University Hospital orientation training and health screening, must receive all UH-required immunizations, and must be registered with Symplr, or other vendor credentialing agency, subject to acceptance by UH. University Hospital will pay for health screening, which includes: a physical exam to determine fitness to perform duties; viral titers for measles, mumps, rubella, varicella and HBV; Tuberculosis surveillance testing, including baseline 2-step Mantoux testing, and a drug screen.
- 3.4.8 Contractor and all staff providing pharmacy services must be eligible to participate in all federal health care programs (as defined under 42 U.S.C. §1320a-7b(f)) and must not be: (i) named, or excluded, on, or from, any of the following lists: (x) HHS/OIG List of Excluded Individuals/Entities; (y) GSA's System for Award Management, which was formerly known as the GSA List of Parties Excluded from Federal Programs; and (z) OFAC "SDN and Blocked Individuals"; or (ii) under investigation or otherwise aware of any circumstances which would result in bidder or such staff being excluded from participation in any such federal health care program.

- 3.4.9 The contractor must provide a prescription delivery service if needed to accommodate patient needs and compete with other pharmacies which provide similar services.
- 3.4.10 The contractor shall comply with cold chain management of pharmaceuticals, which is a temperature-controlled supply chain. An unbroken cold chain is an uninterrupted series of refrigerated production, storage and distribution activities, along with associated equipment and logistics, which maintain a desired low-temperature range.
- 3.4.11 The contractor must comply with Risk Evaluation and Mitigation Strategies | REMS requirements. A Risk Evaluation and Mitigation Strategy (REMS) is a drug safety program that the U.S. Food and Drug Administration (FDA) can require for certain medications with serious safety concerns to help ensure the benefits of the medication outweigh its risks.
- 3.4.12 The contractor must be accredited by at least one of the following Agencies:
- ACHC [www.achc.org](http://www.achc.org)
  - Center for Pharmacy Practice Accreditation (CPPA) <http://pharmacypracticeaccredit.org>
  - URAC [www.urac.org](http://www.urac.org)

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.4 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

### 3.5 340B Program

The 340B Program is intended to be structured as a bill to/ship to arrangement, in which Covered Drugs are shipped to the designated pharmacy location and all invoices for Covered Drug inventory are sent directly to UH. contractor must provide the following 340B services:

- (a) Receive shipment at the designated pharmacy location, maintain inventory and controls, dispense Covered Drugs on behalf of UH only to Eligible Patients, and charge and collect for Covered Drugs on behalf of UH, in compliance with applicable laws and regulations;
- (b) Dispense and deliver Covered Drugs to Eligible Patients in accordance with all applicable State and Federal laws and regulations and Section 340B guidelines;

- (c) Maintain all records and reports required under this Agreement, Section 340B, and by any applicable Federal and State laws and regulations. All records of shipment, receipts, and dispensing of Covered Drugs shall be retained for not less than three (3) years after the expiration of this Agreement or such period as required by law, whichever is greater, and shall be available for inspection or audit by UH, or its representatives, and as otherwise required or permitted by law and this Agreement;
- (d) Perform Eligible Patient drug utilization review;
- (e) Perform formulary maintenance, including attending meetings of UH's Contracted Pharmacy and Therapeutics Committee and other meetings as required by UH, providing drug-related information services to UH personnel, and consulting with UH on the purchase and use of Covered Drugs upon request;
- (f) Identify and dispose of Covered Drugs in its inventory which are out of date;
- (g) Maintain Eligible Patient drug profiles;
- (h) Counsel and advise Eligible Patients of UH, consistent with applicable laws and the rules, limitations, and privileges incident to the pharmacy-patient relationship;
- (i) Provide monthly reconciliation of all 340B prescriptions filled;
- (j) Place orders in the name of UH as necessary with one or more pharmaceutical suppliers (currently, Cardinal Health) to maintain and replenish Covered Drugs dispensed. Contracted Pharmacy shall arrange with each pharmaceutical supplier to ship directly to the pharmacy location at UH. In addition, Contracted Pharmacy shall compare all shipments received to the orders and resolve any discrepancy with the pharmaceutical supplier. As between Contracted Pharmacy and UH, UH at all times shall have exclusive ownership of all Covered Drugs prior to dispensing;
- (k) In the event of a delay in implementation or an interruption of contractor's 340B administration and compliance software, contractor shall manually track, record and provide to UH all information required by HRSA and by UH to ensure that each patient served and each prescription filled under the contract is in fact eligible for the 340B program until such time as system functionality is implemented or restored.
  - (1) Contractor shall protect the inventory of Covered Drugs against intentional or unintentional dispensing to anyone other than Eligible Patients and against the possibility of other occurrences of drug diversion. Contractor shall maintain such records, separate from its own operations, as are adequate for contractor to prepare the reports required by UH, and to permit UH, the United States Department of Health and Human Services ("HHS"), and any eligible drug manufacturer to determine upon audit to whom such Covered Drugs are dispensed. Upon expiration or termination of the agreement with UH, contractor shall deliver all unused items of Covered Drug inventory purchased by or on behalf of UH under the agreement

to UH, if UH has a valid pharmacy permit, or, in the absence of such a permit, return them to the pharmaceutical suppliers for credit to UH, if possible, or destroy them, if they cannot be returned or transferred within thirty days following termination;

(2) Contractor shall maintain all records of reimbursement, shipment, receipts, and dispensing of Covered Drugs, separate from its own operations, for audit during its business hours for a period of three (3) years following date of provision of services or as required by law, whichever is greater. Contractor shall allow HHS and the manufacturer of a Covered Drug to audit, at their own expense, records that directly pertain to Clinic's compliance with HRSA;

(l) Contractor agrees that a copy of the portion of the agreement with UH that pertains to the 340B program will be provided, upon request, to a drug manufacturer, which has signed a purchasing agreement with DHHS. If contracted receives such a request, contractor shall immediately inform UH in writing.

(m) Both UH and contractor must comply with all HRSA rules and regulations. Refer to Section 3.5 for contractor responsibilities regarding required recordkeeping and 340B prescription reconciliation.

Note that UH uses Sentrex software, provided by Sentry Data Systems, Inc. to determine eligibility, manage procurement, inventory, replenishment, financial reporting and drug cost savings for inpatient 340B pharmaceuticals, and will require use of Sentrex by the Contractor. UH will provide this software, at UH expense.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.5 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

### 3.6 Audit and Self-Assessment

3.6.1 The contractor shall perform or have performed an annual self-assessment/audit to determine whether all HRSA mandated requirements are being met. The contractor shall provide the results of each assessment/audit and the final assessment/audit report to UH.

Attachment B is an example of what would be expected by HRSA (and therefore UH) when the vendor performed its own compliance self-assessment/audit. UH reserves the right to contract itself with an outside firm for this type of self-assessment and pass the cost on to the Contractor, and contractor agrees to pay such cost.

The contractor shall be responsible for the cost of all corrective actions required to remediate audit exceptions identified in self-assessments, HRSA audits and other external audits, such as PBM, manufacturer, and United States Drug Enforcement Agency (DEA) audits.

3.6.2 The contractor shall provide performance metrics such as, but not limited to:

- Dispensing Accuracy: Percentage of prescriptions filled with the correct drug, correct strength, correct dosage form, and correct labeling.
- Dispense Time: Mean number of days between receipt of a clean prescription and scheduling shipment.
- Inventory Outs: Out-of-stock rate per quarter, excluding manufacturer(s) short supply, allocation, and backorder of specialty medications beyond the pharmacy's control.
- On-time Delivery: Percentage of prescriptions received by the member or physician on the scheduled delivery date.
- Reships: Percentage of reshipped prescriptions in comparison to the total number of prescriptions shipped.
- Response to Escalated Complaints: Percentage of escalated complaints call to the pharmacy.
- Response to Written Complaints: Percentage of written inquiries responded to within five (5) business days.
- Participant Satisfaction: Percentage of responses categorized as satisfied or completely satisfied.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS AND OR PROVIDE THE REQUESTED INFORMATION OF SECTION 3.6 \_\_\_\_\_Y (YES) \_\_\_\_\_N (NO)**

**As noted above, “shall” and “must” items are mandatory; “should” items are not, but are strongly preferred. Any of the preferred items listed above that are not met within the bidder’s proposal are likely to count against the bidder during evaluation. These preferences are expected to be included within the terms of any final agreement.**

#### 4. SPECIAL CONTRACTUAL TERMS AND CONDITIONS

##### 4.1. Contract Term and Extension Option

###### 4.1.1. Contract Term

The contract will be awarded for a period to provide for the design, build out/construction, operation development, and staffing of the retail pharmacy. The contract will have a three (3) year term for the pharmacy management services of the retail pharmacy, which will commence immediately after the design, build out/construction, and staffing of the retail pharmacy is complete, available for go live/opening, and accepted by an authorized University Hospital Staff Member. If delays in the bid process result in an adjustment of the anticipated contract effective date, the bidder agrees to accept a contract for the full term of the contract.

###### 4.1.2. Contract Extension Option

This contract may be extended for all or part of two (2) one (1) year terms. Any extension of this contract under this provision will be put into effect by mutual agreement between the University Hospital and the Contractor, with written notification being provided to the Contractor by the University Hospital. The original terms and conditions will remain in effect for any extension period. Unless otherwise noted in this RFP (or any Addendum thereto), pricing for each optional year is to remain the same as the final year of the original contract term.

##### 4.2. Contract Transition

In the event services end by either contract expiration or termination, it shall be incumbent upon the Contractor to continue services, if requested by the Executive Director, until new services can be completely operational. The Contractor acknowledges its responsibility to cooperate fully with the replacement Contractor and UH to ensure a smooth and timely transition to the replacement Contractor. Such transitional period shall not extend more than one hundred eighty (180) days beyond the expiration date of the contract, or any extension thereof. The Contractor will be reimbursed for services during the transitional period at the rate in effect when the transitional period clause is invoked by UH.

##### 4.3. Precedence of the University Hospital's Standard Terms and Conditions

The contract resulting from this procurement shall consist of the following documents, listed in order of precedence:

- UH's Contract Term Sheet;
- Business Associate Agreement (if applicable);
- Any addendum to this RFP;

- This RFP, which hereby incorporates UH’s Standard Terms and Conditions;
- The Contractor’s Bid Proposal;

**In the event of a conflict between the provisions of this RFP, including any addendum to this RFP, and the bidder’s proposal, the RFP and/or the addendum shall govern.**

#### 4.4. Agreement for Design Services

Any architect and/or engineer engaged by contractor to provide design services must hold a current license to practice architecture or engineering in the State of New Jersey. Contractor’s agreement with its architect and/or engineer must include a provision naming UH as a third-party beneficiary.

#### 4.5. Departure From Bid Specifications or Terms and Conditions

Notwithstanding the forgoing, a bidder's proposal may be deemed **NON-COMPLIANT AND BE REJECTED** and/or be found **NON-RESPONSIVE** if the change is a material departure from the bid specifications or the terms and conditions of this RFP. A material departure occurs when the change increases the likelihood that the waiver from compliance with the RFP is capable of giving the appearance of corruption or favoritism, or encouraging excessive spending or is likely to affect the amount or price of the bid or to influence any potential bidder to refrain from bidding or is capable of affecting the ability of the University Hospital to make a bid comparison, or is unacceptable to the University Hospital. The determination of material departure shall be made by UH in accordance with applicable law.

#### 4.6. Insurance

The Contractor shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this contract. The Contractor shall carry the insurance coverages specified in this Section 4.6 to protect from any property damage or bodily injury claims arising out of the contracted work. Evidence of current insurance coverage shall be provided in the form of a Certificate of Insurance, which shall include UH as an additional insured except for the workers’ compensation insurance. The Certificate of Insurance shall be submitted no later than ten (10) days after receipt of notice of intent to award contract. The Certificate of Insurance should include the solicitation identification number and title of the solicitation. No contract will be issued to the successful bidder until such time as the Contractor has supplied UH with a Certificate of Insurance verifying the above-indicated coverage. The Contractor is not authorized to begin service until UH is in receipt of said certificate.

The above insurance must remain in effect for the duration of the contract, including any extensions, and for ninety (90) days following termination of all work.

In order to prevent any unnecessary delay, bidders may submit evidence of required insurance with their bid.

The insurance to be provided by the Contractor shall be as follows:

- **Commercial General Liability Insurance** - including contractual liability endorsement, with limits of liability not less than combined Primary coverage and Umbrella Coverage of \$10,000,000 per occurrence/\$10,000,000 annual aggregate. If applicable, XCU coverage may be required;

- **Automobile Liability Insurance** – covering owned, non-owned and hired vehicles with not less than \$1,000,000 for bodily injury and property damage;

- **Workers' Compensation Insurance** - statutory coverage and including employers liability coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate;

- **Additional Insured** - UH to be named as additional insured by endorsement ATIMA with respect to Commercial General, Automobile and Excess Liability Insurance provided by contractor pursuant to this proposal/contract;

- **Professional Liability/Pharmacist Liability/Errors and Omissions Liability insurance** - with limits of \$10,000,000 per claim and annual aggregate, covering all acts, errors, omissions, negligence, infringement of intellectual property, (except patent and trade secret) and network privacy risks including coverage for unauthorized access, failure of security, breach of privacy perils, wrongful disclosure of information, as well as notification costs and regulatory defense in the performance of services for UH or on behalf of UH hereunder. The policy shall contain an affirmative coverage grant for the contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided. UH shall be named as additional insured ATIMA with respect to services provided by contractor pursuant to this contract. Such insurance shall be maintained in force at all times during the term of the agreement and for a period of (6) years thereafter for services completed during the term of the agreement.

- All insurers affording coverage are to be rated not less than A- by A.M. Best Insurance Rating Service.

- **UH is to be named as certificate holder with respect to all aforementioned insurance coverages (except for workers compensation insurance).** UH shall be given at least 30 days' notice of the cancellation or expiration of the aforementioned insurance for any reason.

- **Except as provided above with respect to the professional liability/pharmacist liability/errors and omissions liability insurance, all insurance coverages shall remain in effect throughout the course of the contract. Contractor shall be responsible for any and all future claims, litigation, damages, liabilities, whatsoever, which may arise as a result of Contractor's performance of services pursuant to this contractual agreement.**

All required commercial general liability insurance coverage shall be maintained throughout the course of the project. Failure to maintain said insurance coverage shall be deemed sufficient cause

to immediately terminate the contract without having to show additional cause. **A Certificate of Insurance must be provided to the UH Contract Administrator for each year of the contract award.**

Further, to the extent said liability insurance coverages are issued on a “claims made” basis, such insurance coverages shall be subject to an extended reporting period of not less than six years following the completion of the contract/project and, also, shall include completed operations coverage for a period of not less than six years following the completion of the project /contract.

#### 4.7. Contract Amendment

Any changes or modifications to the terms of the contract shall only be valid when they have been reduced to writing and executed by the Contractor and the Executive Director.

#### 4.8. Contractor Responsibilities

The Contractor shall have sole responsibility for the complete effort specified in the contract. Payment will be made only to the Contractor. The Contractor shall have sole responsibility for all payments due any subcontractor.

The Contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under the contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services.

The approval of deliverables furnished under this contract shall not in any way relieve the Contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that UH may have arising out of the Contractor’s performance of this contract.

#### 4.9. Substitution of Staff

If it becomes necessary for the Contractor to substitute any management, supervisory or key personnel, the Contractor will identify the substitute personnel and the work to be performed.

The Contractor must provide detailed justification documenting the necessity for the substitution. Résumés must be submitted evidencing that the individual(s) proposed as substitution(s) have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned.

The Contractor shall forward a request to substitute staff to the Executive Director, through the University Hospital’s Project Manager, for consideration and approval. No substitute personnel are authorized to begin work until the Contractor has received written approval to proceed from the Executive Director, through the University Hospital’s Project Manager.

#### 4.10. Substitution or Addition of Subcontractor(s)

If it becomes necessary for the Contractor to substitute and/or add a subcontractor, the Contractor will identify the proposed new subcontractor and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution or addition.

The Contractor must provide detailed résumés of the proposed subcontractor's management, supervisory and other key personnel that demonstrate knowledge ability and experience relevant to that part of the work, which the subcontractor is to undertake.

In the event a subcontractor is proposed as a substitution, the proposed subcontractor must equal or exceed the qualifications and experience of the subcontractor being replaced. In the event the subcontractor is proposed as an addition, the proposed subcontractor's qualifications and experience must equal or exceed that of a similar subcontractor proposed by the Contractor in its bid proposal.

The Contractor shall forward a request to substitute/add a subcontractor to the Executive Director, through the University Hospital's Project Manager, for consideration and approval. No substitution or addition of a subcontractor is authorized until the Contractor has received written approval to proceed from the Executive Director, through the University Hospital's Project Manager.

#### 4.11. Ownership of Material

All patient files, data, technical information, materials gathered, oriented, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of UH and shall be delivered to UH upon 30 days' notice by UH.

With respect to software computer programs and/or source codes developed for UH, the work shall be considered "work for hire," i.e., UH, not the Contractor or subcontractor, shall have full and complete ownership of, and all rights to, all software computer programs and/or source codes developed.

#### 4.12. Data Confidentiality

All financial, statistical, personnel and/or technical data supplied by UH to the Contractor are confidential. The Contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of this contract and

may result in contract termination and the Contractor's suspension or debarment from UH contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

4.13. News Releases

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this contract without prior written consent of the Executive Director.

4.14. Advertising

The Contractor shall not use UH's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Executive Director.

4.15. License and Permits

Unless previously obtained and maintained by UH, the Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The Contractor shall supply UH with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to the contract award. All costs associated with any such licenses, permits and authorizations shall have been included by the Contractor in its bid proposal.

4.16. Claims and Remedies

4.16.1. Claims

The following shall govern claims made by the Contractor regarding contract award rescission, contract interpretation, Contractor performance and/or suspension or termination.

Final decisions concerning all disputes relating to contract award rescission, contract interpretation Contractor performance and/or reduction, suspension or termination are to be made in a manner consistent with N.J.A.C. 17:12-1.1, et seq. The Executive Director's final decision shall be deemed a final agency action reviewable by the Superior Court of New Jersey, Appellate Division.

All claims asserted against UH by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq.

However, any claim against UH relating to a final decision by the Executive Director regarding contract award rescission, contract interpretation, Contractor performance and/or contract reduction, suspension or termination shall not accrue, and the time period for performing any act required by N.J.S.A. 59:8-8 or 59:13-5 shall not commence, until a decision is rendered by the

Superior Court of New Jersey, Appellate Division (or by the Supreme Court of New Jersey, if appealed) that such final decision by the Executive Director was improper.

#### 4.16.2. Remedies

Nothing in the contract shall be construed to be a waiver by UH of any warranty, expressed or implied, or any remedy at law or equity, except as specifically and expressly stated in writing executed by the Executive Director.

#### 4.17. Form of Compensation and Payment

UH's payment terms are Net 45 days.

The Contractor must submit invoices to UH with supporting documentation evidencing that work for which payment is sought has been satisfactorily completed. Invoices must reference the contract or purchase order number and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheet. When applicable, invoices should reference the appropriate RFP price sheet line number from the Contractor's bid proposal. All invoices must be approved by UH before payment will be authorized.

Invoices must also be submitted for any special projects, additional work or other items properly authorized and satisfactorily completed under the contract. Invoices shall be submitted according to the payment schedule agreed upon when the work was authorized and approved. Payment can only be made for work when it has received all required written approvals and has been satisfactorily completed.

#### 4.18. Additional Work and/or Special Projects

The Contractor shall not begin performing any additional work or special projects without first obtaining written approval from the Executive Director, Supply Chain Management.

In the event that the need for additional work and/or a special project arises, UH will submit such a request to the Contractor in writing. The Contractor must present a written proposal to perform the additional work/special project to UH. The proposal should provide justification for the necessity of the additional work/special project. The relationship between the additional work/special project being requested and the work required by the Contractor under the base contract must be clearly established by the Contractor in its proposal for performing the additional work/special project. The Contractor's written proposal must provide a detailed description of the work to be performed, broken down by task and subtask. The proposal should contain details on the level of effort, including hours, labor categories, etc., necessary to complete the additional work.

The written proposal must detail the cost necessary to complete the additional work in a manner consistent with the contract. The written cost proposal must be based upon the hourly rates, unit costs or other cost elements submitted by the Contractor in the Contractor's original bid proposal

submitted in response to this RFP. Whenever possible, the cost proposal should be a firm, fixed cost to perform the required work. The firm fixed price should specifically reference and be tied directly to costs submitted by the Contractor in its original bid proposal. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt of the Contractor's written proposal, it shall be forwarded to the Executive Director for written approval. Complete documentation from the using agency, confirming the need for the additional work/special project, must be submitted.

No additional work and/or special project may commence without the Executive Director's written approval. In the event the Contractor proceeds with additional work and/or special projects without the written approval of the Executive Director, it shall be at the Contractor's sole risk. UH shall be under no obligation to pay for work done without the Executive Director's written approval.

#### 4.19. Option to Reduce Scope of Work

UH has the option, in its sole discretion, to reduce the scope of work for any task or subtask called for under this contract. In such an event, the Executive Director shall provide advanced, written notice to the Contractor.

Upon receipt of such written notice, the Contractor will submit, within five (5) working days to the Executive Director, an itemization of the work effort already completed by task or subtasks. The Contractor shall be compensated for such work effort according to the applicable portions of its cost proposal.

#### 4.20. Suspension of Work

The Executive Director may, for valid reason, issue a stop order directing the Contractor to suspend work under the contract for a specific time. The Contractor shall be paid until the effective date of the stop order. The Contractor shall resume work upon the date specified in the stop order or upon such other date as the Executive Director may thereafter direct in writing. The period of suspension shall be deemed added to the Contractor's approved schedule of performance. The Executive Director and the Contractor shall negotiate an equitable adjustment, if any, to the contract price.

#### 4.21. Change in Law

Whenever an unforeseen change in applicable law or regulation affects the services that are the subject of this contract, the Contractor shall advise the Executive Director in writing and include in such written transmittal any estimated increase or decrease in the cost of its performance of the services as a result of such change in law or regulation. The Executive Director and the Contractor shall negotiate an equitable adjustment, if any, to the contract price.

4.22. Performance Bond

Not applicable under this contract.

4.23. Late Delivery and Liquidated Damages

Not applicable under this contract.

4.24. Retainage

Not applicable under this contract.

4.25. Small Business Subcontractor Utilization Plan

Not applicable under this contract.

4.26. Requirements of PL 2005, Chapter 51/ Executive Order 117 Vendor Certification and Disclosure of Political Contributions

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Public Law 2005, c.51, was signed into law on March 22, 2005. On September 24, 2008, Governor Corzine issued Executive Order 117, which is designed to enhance New Jersey's efforts to protect the integrity of procurement decisions and increase the public's confidence in procurement. The Executive Order builds upon the provisions of Chapter 51.

Pursuant to the requirements of Public Law 2005, c.51, and Executive Order 117, all bidders must submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions with their bid proposal. See Section 9 of this RFP for the certification form. The form and instructions for completion of the form may be found at: [http://.uhnj.org/purchweb/employees/employ36\\_forms\\_policies.htm](http://.uhnj.org/purchweb/employees/employ36_forms_policies.htm).

4.26.1. State Treasurer Review

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the Contractor. If the State Treasurer determines that any contribution or action by the Contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation the State Treasurer shall disqualify the Business Entity from award of such contract.

4.27. New Jersey Election Law Enforcement Commission Requirement

The Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, section 3) if the Contractor receives in excess of \$50,000 from a public entity in a calendar year. It is the Contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

#### 4.28. Federal and State Laws and Regulations Regarding Healthcare

The University Hospital is committed to compliance with all federal and state regulations regarding healthcare, including but not limited to licensing, Stark and anti-kickback laws, Medicare and Medicaid regulations. All services provided under this bid and the contract award under this bid must comply with all applicable laws. In addition, if a violation comes to the attention of either party, or any changes in the laws or regulations occurs which make the bid or contract entered into between the parties as a result of the bid, to be in violation of any applicable law, then the agreement shall be amended to address the violation or to comply with the change, or terminated if amending will not resolve the violation. The University Hospital shall have the option to amend the contract resulting from the RFP in order to comply with all applicable local, State and Federal laws, rules and regulations.

## 5. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

### 5.1. General

The bidder must follow instructions contained in this RFP and in the bid cover sheet in preparing and submitting its bid proposal. The bidder is advised to read thoroughly and to follow all instructions.

The information required to be submitted in response to this RFP has been determined to be essential in the bid evaluation and contract award process. Any qualifying statements made by the bidder to the RFP's requirements could result in a determination that the bidder's proposal is materially non-responsive. Each bidder is given wide latitude in the degree of detail it elects to offer or the extent to which plans, designs, systems, processes and procedures are revealed. Each bidder is cautioned, however, that insufficient detail may result in a determination that the bid proposal is materially non-responsive or, in the alternative, may result in a low technical score being given to the bid proposal.

The bidder is instructed to clearly identify any requirement of this RFP that the bidder cannot satisfy.

### 5.2. Proposal Delivery & Identification

In order to be considered, a bid proposal must arrive at the Department of Purchasing Services in accordance with the instructions on the RFP cover sheet. Bidders submitting proposals are cautioned to allow adequate delivery time to ensure timely delivery of proposals. UH regulations mandate that late proposals are ineligible for consideration. **The exterior of all bid proposal packages must be labeled with the Request for Proposal identification number, final bid opening date, and the buyer's name.**

### 5.3. Number of Bid Proposal Copies

**Each bidder must submit one (1) complete original bid proposal, clearly marked as the "ORIGINAL" bid proposal in hard copy format and one (1) in electronic format, such as compact disc (CD) or thumb drive. Each bidder should also submit three (3), complete and exact hard copies of the original.** The copies required are necessary in the evaluation of the bid. It is suggested that the bidder make and retain a complete copy of its bid proposal.

### 5.4. Proposal Form and Content

The proposal should follow the format indicated in the following Sections of this RFP. The bidder should limit its response to one volume, if at all possible, with that volume divided into four (4) sections as indicated below.

### 5.5. Section 1 – Forms

#### 5.5.1 Ownership Disclosure Form

The bidder must complete the attached Ownership Disclosure Form. A complete Ownership Disclosure Form must be received prior to, or accompanying, the bid. Failure to do so will preclude the award of a contract.

#### 5.5.2 Affirmative Action

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information or a Federal Letter of Approval must complete the 29 Affirmative Action Employee Information Report (AA-302) located on the web at [http://www.nj.gov/treasury/purchase/forms/AA\\_%20Supplement.pdf](http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf). The requirement is a precondition of entering into a valid and binding contract.

#### 5.5.3 Set-Aside Contracts

Not Applicable to this procurement.

#### 5.5.4 Bid Bond

Not applicable to this procurement.

#### 5.5.5 Performance Bond

Not applicable to this procurement.

#### 5.5.6 Business Associate Agreement

The bidder should complete the attached Business Associate Agreement, involving the access to protected health information that is considered protected pursuant to federal, state and/or local laws and regulations in accordance with the privacy requirements of the “HIPAA” – Health Insurance Portability and Accountability Act of 1996. The requirement is a precondition of entering into a valid and binding contract.

#### 5.5.7 Business Registration Notice

In accordance with N.J.S.A. 52:32-44(b), a bidder and its named subcontractors must have a valid Business Registration Certificate (“BRC”) issued by the Department of Treasury, Division of Revenue prior to the award of a contract. To facilitate the proposal evaluation and contract award

process, the bidder should submit a copy of its valid BRC and those of any named subcontractors with its proposal.

Any bidder, inclusive of any named subcontractors, which does not have a valid business registration at the time of the proposal submission opening or whose BRC was revoked prior to the submission of the proposal, should proceed immediately to register its business or seek reinstatement of a revoked BRC. Bidders are cautioned that it may require a significant amount of time to secure the re-instatement of a revoked BRC. The process can require actions by both the Division of Revenue and the Division of Taxation. For this reason, a bidder's early attention to this requirement is highly recommended. The bidder and its named subcontractors may register with the Division of Revenue, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

A bidder otherwise identified by the Purchasing Services as a responsive and responsible bidder, inclusive of any named subcontractors, but that was not business registered at the time of submission of its proposal must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Purchasing Services. A bidder which fails to comply with this requirement by the deadline specified by the Purchasing Services will be deemed ineligible for contract award. Under any circumstance, Purchasing Services will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration

#### 5.5.8 Requirements of PL 2005, Chapter 51/ Executive Order 117 Vendor Certification and Disclosure of Political Contributions

Pursuant to the requirements of Public Law 2005, c.51, and Executive Order 117, all bidders should submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions with their bid proposal. See Section 9 of this RFP for the certification/ownership disclosure form. Instructions for completion of the form may be found at: [http://www.uhnj.org/purchweb/employees/employ36\\_forms\\_policies.htm](http://www.uhnj.org/purchweb/employees/employ36_forms_policies.htm).

#### 5.5.9 Disclosure of Investment Activities in Iran Form

Pursuant to N.J.S.A. 52:32-58, the Bidder must submit with its proposal the Disclosure of Investment Activities in Iran form to certify that neither the Bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Bidder, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Bidder is unable to so certify, the Bidder shall provide a detailed and precise description of such activities as directed on the form. A Bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as nonresponsive and preclude the award of a contract to Bidder. See Section 9 of this RFP for the form. The List of Persons or Entities Engaging in Prohibited

Investment Activities in Iran may be found here:  
<http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>

## 5.6 Section 2 – Technical Proposal

In this Section, the bidder shall describe its approach and plans for accomplishing the work outlined in the Scope of Work, Section 3.0. The bidder must set forth its understanding of the requirements of this RFP and its ability to successfully complete the contract.

Mere reiterations of RFP tasks and subtasks are strongly discouraged, as they do not provide insight into the bidder's ability to complete the contract. The bidder's response to this Section should be designed to convince UH that the bidder's detailed plans and approach proposed to complete the Scope of Work are realistic, attainable and appropriate, and that the bidder's proposal will lead to successful contract completion.

This section of the proposal should contain at least the following information:

### 5.6.2 Management Overview

The bidder shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format. This narrative should convince UH that the bidder understands the objectives that the contract is intended to meet, the nature of the required work, and the level of effort necessary to successfully complete the contract. The narrative should convince UH that the bidder's general approach and plans to undertake and complete the contract are appropriate to the tasks and subtasks involved.

The bidder shall include in this section a Business Assessment Analysis, including, but not limited to: prescription volume estimates; estimates of inventory and staffing requirements; *pro forma* annual financial statements setting forth gross sales, variable and fixed costs, income and potential profits during each year of the term of the agreement; and anything else that the bidder feels will explain or enhance its analysis and help the Evaluation Committee to assess the full impact of its proposal.

Simplified *pro forma* financial statements must also be submitted in Section 8 as part of the bidder's price proposal. The two must agree, but the statements submitted as part of the technical plan should provide significantly more detail than the Section 8 statements.

### 5.6.3 Contract Management

The bidder shall describe its proposed plans to manage, control and supervise the contract to ensure satisfactory contract completion according to the required schedule, including specific plans for design, construction, permitting and licensing, initial and ongoing staffing, start-up and ongoing operation of the pharmacy. These plans should detail the bidder's approach to communicate with UH through each contract phase, including, but not limited to, project meetings and status reports.

This section should include the following specifics regarding each phase of the contract:

5.6.3.1 Pharmacy Design – Bidder should provide:

- A proposed work plan to be used and time schedule for completion of each of the phases of pharmacy design detailed in Sections 3.1, including verification of tasks, design, construction documents preparation, agency review, bidding and construction timetables, with UH reviews at appropriate stages.
- Information demonstrating that bidder has the expertise required to successfully complete the design and construction of the pharmacy, in a renovation setting.
- Information regarding bidder’s pharmacy design principles.

Bidder should also provide any additional documentation that the bidder believes demonstrates its expertise, experience, or competitive advantage in designing and constructing outpatient retail pharmacies.

Note that bidders may be required to coordinate and provide one site visit for UH representatives at a pharmacy designed by the bidder.

5.6.3.2 Start-up – Bidder should describe its plans to provide:

- All aspects of project management;
- Federal and state licensing assistance;
  - All permits and licensing for operation that are not provided for by UH (including, but not limited to, all board of pharmacy permits and licenses and registrations and U.S. Drug Enforcement Agency registrations);
- Third party application assistance;
- Staff hiring;
- Staff training;
- Access by UH to pharmacy staff;
- Procedures Management manual;
- Compliance manual to satisfy the requirements of the 340B program, the Health Insurance Portability and Accountability Act, as amended, and all applicable State and Federal statutes and regulations;
- Pharmacy access to manufacturers, specialty distributors and payors.

Bidder should also provide any additional documentation that the bidder believes demonstrates its expertise, experience, or competitive advantage in providing an efficient and problem-free opening for the pharmacy.

5.6.3.3 Pharmacy Management – Bidder should provide a descriptive list of all pharmacy services that bidder plans to provide. Within this section, the bidder must demonstrate its

capabilities to manage the pharmacy and add additional services to make the pharmacy thrive. At minimum the list should include:

- Description of bidder's processes, policies and procedures for operating the pharmacy, including all privacy, security, and 340B program policies and procedures;
- Description of all information technology systems bidder proposes using to manage the pharmacy;
- Description of bidder's inventory management processes and systems;
- Description of bidder's inventory tracking system to prevent the diversion of drugs, including, but not limited to, the diversion of Covered Drugs to individuals who are not Eligible Patients for purposes of the 340B program;
- Description of bidder's processes to prevent duplicate manufacturer discounts and rebates related to UH claims and prescription claim data.
- Description of bidder's practices regarding staff management;
- Description of all patient counseling, patient care services, medication adherence programs, and specialized disease state management programs bidder proposes to offer;
- Description of bidder's patient drug profile system that provides concurrent information to the dispensing pharmacist on patient-specific drug-drug interactions, drug-nutrient interactions, and potential adverse effects;
- Description of bidder's proposed Meds-to-Beds program and other programs bidder proposes offering to increase medication compliance at and beyond time off discharge;
- Methods and description of financial reporting between UH and the contractor;
- Examples of all management and financial reports used by the bidder to successfully manage operations and to report pharmacy performance to UH, including but not limited to revenue cycle management (billing and reimbursement/collections), inventory management, and staff management, and a description of the timing of all such reports;
- Bidder's business development, marketing and promotion policies and plans.
- A complete template/plan for a robust 340B program, including all required registrations. The bidder must describe its 340B inventory management practices and systems, patient eligibility tracking systems, record keeping and auditable documentation. The bidder should include copies of all reports used to track patient eligibility, prescriptions filled, billing and collections.
- Additional documentation that the bidder believes demonstrates its expertise, experience or competitive advantage in managing a thriving and efficient pharmacy operation.

Note that bidders may be required to coordinate and provide one site visit for UH representatives at a pharmacy currently managed by the bidder.

#### 5.6.4 Contract Schedule

The bidder should include a contract schedule, including timelines for each phase of the contract. If key dates are a part of this RFP, the bidder's schedule should incorporate such key dates and should identify the completion date for each task and sub-task required by the Scope of Work. Such schedule should also identify the associated deliverable items(s) to be submitted as evidence of completion of each task and/or subtask. The bidder should identify the contract scheduling and control methodology to be used and should provide the rationale for choosing such methodology.

#### 5.6.5 Implementation Plan

It is essential that UH move forward quickly to complete this project. The timeframe for project implementation and pharmacy opening will be an important element of proposal evaluation. Therefore, the bidder must include as part of its proposal an implementation plan, beginning with the date of notification of contract award.

The implementation plan should include the following elements:

5.6.5.1 Detailed timelines for design, construction, and pharmacy opening. Timelines should be aggressive, but achievable. The bidder should discuss typical time ranges and any potential problems it foresees. The timetable should be designed to demonstrate to the Evaluation Committee how the bidder will meet its proposed timeline. Regarding construction, the bidder should allow 30 days for UH to conduct the RFQ to engage a general contractor.

5.6.5.2 The bidder's plan for the deployment and use of management, supervisory or other key personnel during the implementation period. The plan should show all management, supervisory and key personnel that will be assigned to manage, supervise and monitor the bidder's implementation of the contract within the periods specified, and should identify which personnel are: responsible, accountable, consulted and informed.

NOTE: The bidder should clearly identify management, supervisory or other key staff that will be assigned only during the implementation period, as well as those that will be assigned for the full term of the contract. The bidder should also identify management, supervisory or other key staff that will be assigned only during specific contract phases: design, start-up, or pharmacy management.

5.6.5.3 The bidder should submit a plan for recruitment of staff required to provide all services required by the RFP.

5.6.5.4 The bidder should submit a plan for the purchase and delivery of all equipment, inventory, supplies, materials, etc., that will be required to meet the contract timelines.

5.6.5.5 The bidder should submit a plan to engage all required manufacturers, specialty distributors and payors, and provide estimates of what percentage of each will be online prior to the pharmacy opening, and by three, six, 12 and 24-months post-opening.

#### 5.6.6 Budget

The bidder should submit the budget it has developed for providing the services required by this RFP. *This information will be used for evaluation purposes only*, and is intended to provide UH with perspective on how the bidder will allocate financial resources in undertaking the work required by this RFP.

#### 5.6.7 Potential Problems

The bidder should set forth a summary of any and all problems that the bidder anticipates during the term of the contract. For each problem identified, the bidder should provide its proposed solution.

#### 5.6.8 Section 3 – Organizational Support, Experience and References

The bidder should include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers, evidencing the bidder's qualifications and capabilities to perform the services required by this RFP. The bidder should include references specific to both pharmacy design and management.

#### 5.6.9 Location

The bidder should include the location of the bidder's office that will be responsible for managing the contract. The bidder should include the telephone number and name of the individual to contact.

#### 5.6.10 Organizational Chart (Contract Specific)

The bidder should include a contract organizational chart, with names showing management, supervisory and other key personnel (including subcontractor's management, supervisory or other key personnel) to be assigned to the contract. The chart should include the labor category and title of each such individual, and should identify which personnel are: responsible, accountable, consulted and informed.

#### 5.6.11 Résumés

Detailed current résumés should be submitted for all management, supervisory and key personnel to be assigned to the contract. Résumés should be structured to emphasize relevant qualifications and experience of these individuals in successfully completing contracts of a similar size and scope to those required by this RFP. Résumés should clearly identify previous experience in completing similar contracts. Beginning and ending dates should be given for each similar contract. A

description of the contracts should be given and should demonstrate how the individual's work on the completed contract relates to the individual's ability to contribute to the successfully providing the services required by this RFP.

#### 5.6.12 Backup Staff

The bidder should include a list of backup staff that may be called upon to assist or replace primary individuals assigned. Backup staff must clearly be identified in the proposal as backup staff.

#### 5.6.13 Organization Chart (Entire Firm)

The bidder should include an organizational chart showing the bidder's entire organizational structure. This chart should show the relationship of the individuals assigned the contract to the bidder's overall organizational structure.

#### 5.6.14 Experience of Bidder on Contracts of Similar Size and Scope

The bidder should provide a comprehensive listing of current or recent contracts of similar size and scope that it has successfully completed, as evidence of the bidder's ability to successfully complete the services required by this RFP.

Bidder should also have specific experience in working with DSH hospitals or FQHCs, and demonstrate such experience clearly.

Bidder should include recent retail pharmacies (preferably hospital retail pharmacies) designed by the firm, or currently under construction.

Bidder should also include a list of hospital retail pharmacies presently managed by the bidder, and particularly those owned by Covered Entities, filling outpatient 340B prescriptions. Emphasis should be placed on contracts that are similar in size and scope to those required by this RFP.

A description of all such contracts should include and should show how such contracts relate to the ability of the firm to complete the services required by this RFP. For each such contract, the bidder should provide the name and telephone number of a contact person for the other contract party. Beginning and ending dates should also be given for each contract. The bidder should provide contact information for both designed and managed pharmacies.

#### 5.6.15 Financial Capability of the Bidder

The bidder should provide proof of its financial capabilities to undertake and successfully complete the contract. A certified financial statement for the most recent fiscal year and current bank reference(s) are acceptable. If a bidder chooses not to include this information with its bid, this information may be requested from the bidder during the evaluation process. If the bidder is

requested to submit this information during the evaluation process, the bidder will be required to submit it, and failure to do so will be cause for finding the bid non-responsive.

#### 5.6.16 Subcontractor(s)

5.6.16.1 Should the bidder propose to utilize a subcontractor(s) to fulfill any of its obligations, the bidder shall be responsible for the subcontractor's(s): (a) performance; (b) compliance with all of the terms and conditions of the contract; and, (c) compliance with the requirements of all applicable laws.

5.6.16.2 The bidder should provide detailed description of services to be provided by each subcontractor, referencing the applicable Section or subsection of this RFP.

5.6.16.3 The bidder should provide detailed résumés for each subcontractor's management supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work, which the subcontractor is designated to perform.

5.6.16.4 The bidder should provide documented experience demonstrating that each subcontractor has successfully performed work on contracts of a similar size and scope to the work that the subcontractor is designated to perform in the bidder's proposal. A description of all such contracts should include and should show how such contracts relate to the ability of the firm to complete the services required by this RFP. For each such contract, the bidder should provide the name and telephone number of a contact person for the other contract party. Beginning and ending dates should also be given for each contract.

5.6.16.5 The bidder should provide proof that each subcontractor required to be licensed in the State of New Jersey (such as an architect or engineer) does in fact hold a current State license.

#### 5.7 Section 4- Fee Proposal

Bidders must submit their fee proposal in accordance with the Price Sheet(s) included in this RFP as Section 8.0.

5.7.1 Failure to submit all information required will result in your bid being considered non-responsive. Each bidder is requested to hold its prices firm for a minimum of one hundred twenty (120) days so that an award can be made.

5.7.2 Each bidder should also provide a comprehensive listing of all labor categories that may be used to perform additional work and/or special projects or according to the additional work and/or special project clause(s) of this RFP. Loaded hourly rates are to be submitted for all labor categories that the bidder anticipates may be required to perform additional work and/or special projects.

5.7.3 Each bidder may also submit any additional price or cost information that the bidder feels may be required to perform any additional work and/or special projects required by this RFP.

ONLY price and costing information provided by the bidder in its original bid proposal submitted in response to this RFP may later be used for additional work and/or special projects to be paid against the contract resulting from this RFP.

## 6.0 PROPOSAL EVALUATION AND CONTRACT AWARD

### 6.1 Proposal Evaluation Committee

Proposals may be evaluated by an Evaluation Committee composed of members of affected departments together with representative(s) from the Department of Purchasing Services. Representatives from other governmental agencies may also serve on the Evaluation Committee. On occasion, the Evaluation Committee may choose to make use of the expertise of an outside consultant in an advisory role.

### 6.2 Oral Presentation and/or Clarification of Bids

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its bid proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid.

The purpose of such communication with a bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid. The original bid, as submitted, however, cannot be supplemented, changed, or corrected in any way during the evaluation process. No comments regarding other bids are permitted. Bidders may not attend presentations made by their competitors.

It is within the Evaluation Committee's discretion whether to require a bidder to give an oral presentation or require a bidder to submit written responses to questions regarding its bid. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a bid. The Purchasing Services' buyer is the sole point of contact regarding any request for an oral presentation or written clarification.

### 6.3 Evaluation Criteria

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate bid proposals received in response to this RFP. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process. UH reserves the right to award based on data and information received while evaluating the bid proposals that was not available at the time of publishing the RFP.

6.3.1 The bidder's general approach and plans to meet the requirements of this RFP.

6.3.2 The bidder's detailed approach and plans to perform the services required by the Scope of Work Section of this RFP.

- 6.3.3 The bidder's documented experience in successfully completing contracts of a similar size and scope of those required by this RFP.
- 6.3.4 The bidder's proposed timeline to pharmacy opening, and demonstrated ability to meet that timeline.
- 6.3.5 The qualifications and experience of the bidder's management, supervisory or other key personnel assigned to the contract, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to those required by this RFP.
- 6.3.6 The overall ability of the bidder to mobilize, undertake and successfully complete the contract. This judgment will include, but not be limited to, the following factors: the number and qualifications of management, supervisory and other staff proposed by the bidder to complete the contract, the availability and commitment to the contract of the bidder's management, supervisory and other staff proposed, and the bidder's contract management plan, including the bidder's contract organizational chart.
- 6.3.7 The bidder's fee proposal.

#### 6.4 University Hospital's Right to Consider Additional Information

- 6.4.1 The Executive Director may obtain any information determined to be appropriate regarding the ability of the bidder to supply and/or render the service required by this RFP.
- 6.4.2 The Executive Director may consider such other factors that, in the opinion of the Executive Director, are important in evaluating the bidder's proposal and awarding contracts as determined to be in the best interest of the University Hospital.
- 6.4.3 The UH reserves the right to request all bidders to explain the method used to arrive at any or all cost or pricing figures.
- 6.4.4 When making the contract award decision, the University Hospital may consider evidence of formal or other complaints against any bidder(s) by the University Hospital for contracts held in the past or present by the bidder.
- 6.4.5 UH reserves the right to check the bidder's financial capacity and ability to successfully undertake and provide the services required by this RFP by any means deemed appropriate.
- 6.4.6 UH reserves the right to conduct site inspections of any facility(s) serviced by the bidder(s) to assist in judging the bidder's ability to provide the services required by this RFP. This applies to all facilities serviced by the bidder or any sub-contractor to the bidder. This right extends to all facilities of which the University Hospital is aware, or about which it becomes aware, that the bidder is servicing, whether or not the facility is listed in the bidder's proposal.

## 6.5 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

After evaluating bid proposals, the evaluation committee may enter into negotiations with each bidder in the competitive range, unless there are too many highly rated proposals to evaluate efficiently. In this situation, UH may limit the competitive range to the number of proposals that will permit efficient competition among the most highly rated proposals. The primary purpose of negotiations is to maximize UH's ability to get the best value, based on the requirements and evaluation criteria set forth in the RFP. Negotiations may involve the identification of significant proposal weaknesses, ambiguities and other deficiencies that could limit a bidder's award potential, including payments. More rounds of negotiations may be held with one bidder in the competitive range than with another. Negotiations will be structured to safeguard information and ensure that all bidders in the competitive range are treated fairly. When the evaluation committee determines to conclude negotiations, all bidders in the competitive range will be so notified and advised of the time and place for submission of best and final offers. The best and final offer can modify any aspect of the bid proposal, provided mandatory RFP requirements are satisfied and further provided that the revised cost proposal is not higher than the original cost proposal. Any revised cost proposal that is not equal to or less expensive than the original cost proposal will be rejected as non-responsive.

Evaluation of the best and final offers will be on the basis of payment and the evaluation criteria set forth in the RFP. If, after review of the best and final offers, clarification is required, it may be sought from the bidders. If further negotiation is desired after evaluation of the revised proposals, it will be followed by another BAFO opportunity. UH reserves the right to reassess the competitive range before proceeding with a subsequent round of negotiations and BAFO submissions and to remove from the competitive range any proposal that is no longer considered to be a leading contender for award. After evaluation of the final BAFO submissions, the evaluation committee will recommend to the Executive Director for award the responsible bidder whose bid proposal, conforming to the RFP, is most advantageous to UH, payment and other factors considered.

The Executive Director may accept, reject or modify the recommendation of the Evaluation Committee. The Executive Director may negotiate further cost reductions with the selected bidder. Negotiations will only be conducted in those circumstances where they are deemed by UH to be in UH's best interests and to maximize the UH's ability to get the best value. Therefore, bidders are advised to submit their best technical and cost proposals in response to this RFP, because the UH may, after evaluation, make a contract award based on the content of these initial submissions, without further negotiation with any bidder.

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or payment proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

**NOTE: Because UH contemplates negotiation, proposal prices will not be publicly read at the proposal submission opening. Only the name and address of each bidder will be publicly announced at the proposal submission opening.**

#### 6.6 Right to Waive

The Executive Director reserves the right to waive minor irregularities. The Executive Director also reserves the right to waive a requirement provided that:

- (1) The requirement is not mandated by law;
- (2) All of the otherwise responsive proposals failed to meet the requirement; and
- (3) In the sole discretion of the Executive Director, the failure to comply with the requirement does not materially affect the procurement or UH's interests associated with the procurement.

#### 6.7 Contract Award

The contract shall be awarded with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to UH, price and other factors considered. Any or all bids may be rejected when the Executive Director determines that it is in the public interest to do so.

#### 6.8 Bidder's Right to Challenge a Contract Award

Except in cases of emergency, bidders have the right to protest a proposed contract award.

A bidder's protest must be submitted to the buyer of record with a copy to the Executive Director of Supply Chain Management ("Executive Director") within ten (10) days of receipt of notice to the bidder that it did not receive a contract award for its submitted bid proposal or notice that an award had been made to another bidder. The protest period may be shortened by the Executive Director of Supply Chain Management. If the protest period is shortened or a protest period is not authorized due to emergency, all bidders will receive notice of the shortened protest period or emergency in the notice sent to bidder on the award of the contract.

Notices of contract award under this section may be faxed, e-mailed, sent by regular mail or by any other means, excluding telephonic communication, conducive to transmitting the notice. If notice is sent by regular mail, the recipient is deemed to have received the notice three (3) days after mailing.

If a bidder files a protest to a contract award under this section, the bidder must set forth in writing with specificity the basis of the protest. At the time of the protest filing, the bidder must also submit

all documentation supporting the basis of the protest. Failure to comply with these requirements may lead to rejection of the protest and UH award of the contract.

The protest will be reviewed and addressed with reasonable promptness. If deemed necessary by Executive Director, a hearing may be held on the merits of the protest. In all cases, the Executive Director will notify the bidder of the final determination on the protest

7 BIDDER’S DATA SHEETS (FORMS TO BE COMPLETED BY BIDDER)

Not applicable to this procurement.

7.1 BIDDER’S INFORMATION

BIDDER’S RESPONSE OF “NO” TO SCOPE OF WORK REQUIREMENTS

The bidder should provide information for which a “NO” answer is given to any of the Scope of Work Requirements in Section 3.0. The information should include a thorough explanation for not meeting the requirement and propose an alternate means of meeting the requirement. Proposed alternate means must be, in the sole judgment of UH, equal to or better than the specified means, and cannot conflict with any of the RFP’s terms. The bidder must recognize that the inability to fulfill a required specification as written may result in the proposal being deemed non-responsive and thereby disqualify the proposal from a contract award. A “NO” answer without an explanation shall automatically result in a proposal being disqualified.

Section 3.1

---

Section 3.2

---

Section 3.3

---

Section 3.4

---

Section 3.5

---

Section 3.6

---

## 8 PRICE SHEET AND SUPPORTING DETAIL

Bidder's Name \_\_\_\_\_

### 8.1 Design

Bidder to provide a firm, fixed lump sum amount to include all incidentals for retail pharmacy design services.

Lump Sum Amount \$ \_\_\_\_\_

Bidder should provide as an attachment, a separate breakdown of all budgeted design costs included in bidder's firm fixed price for design.

### 8.2 Start-Up Management

Bidder to provide a firm, fixed lump sum amount to include all incidentals for management of the pharmacy start-up.

Lump Sum Amount \$ \_\_\_\_\_

Bidder should provide as an attachment, a separate breakdown of all budgeted costs included in bidder's firm fixed price for start-up management.

### 8.3 Pharmacy Management

Bidder *must* submit its proposed pharmacy management fee using Attachment C. Bidder *may* submit an alternative proposal using Attachment D.

#### 8.3.1 Firm Fixed Management Fee

8.3.1.1 Using Attachment C, each bidder **MUST** submit a firm, fixed annual management fee, stated in Dollars, to manage the pharmacy.

8.3.1.2 The Management Fee structure contemplates that UH will cover all operating costs of the pharmacy, except as expressly stated in this RFP.

8.3.1.3 Bidder must submit, on Attachment C the simplified *pro forma* Profit and Loss Statement, fully reflecting the proposed management fee and all anticipated operating costs.

8.3.1.4 Bidder must also submit a detailed *pro forma P&L* which ties to the simplified *pro forma* provided on Attachment C.

### 8.3.2 Percentage of Gross Sales Structure

8.3.2.1 Using Attachment D, each Bidder **MAY** submit an alternative proposal, based upon a percentage of gross sales model.

8.3.2.2 The proposal must state the percentage of gross sales to be retained by Contractor as its management fee.

8.3.2.3 The Gross Sales structure contemplates UH covering all operating costs, except those expressly assumed by the Contractor under the terms of this RFP.

8.3.2.4 Bidder must also submit a detailed *pro forma* P&L which ties to the simplified *pro forma* provided on Attachment D. The detailed *pro forma* P&L must include all anticipated operating costs.

8.3.3 Proposed Staffing Plan - Bidder must provide as a separate attachment, a budget detailing its proposed staffing plan, showing all proposed staff, with titles, hours worked and anticipated costs. Staffing plan totals must tie to the bidder's *pro forma* P&Ls.

8.6 Retail Pharmacy Professional Services Hourly Rate for Additional Work

Provide hourly rate and description of service for any additional Retail Pharmacy Professional Services outside of the Scope of Work in Section 3.0 of the RFP.

Job Title	1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	First Extension 4 <sup>th</sup> Year	Second Extension 5 <sup>th</sup> Year
_____	_____	_____	_____	_____	_____
Description of Service _____					

Job Title	1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	4 <sup>th</sup> Year	5 <sup>th</sup> Year
_____	_____	_____	_____	_____	_____
Description of Service _____					

Job Title	1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	4 <sup>th</sup> Year	5 <sup>th</sup> Year
_____	_____	_____	_____	_____	_____
Description of Service _____					

Job Title	1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	4 <sup>th</sup> Year	5 <sup>th</sup> Year
_____	_____	_____	_____	_____	_____
Description of Service _____					

BIDDER'S NAME: \_\_\_\_\_

## 9 **REQUIRED FORMS**

9.1 The following forms shall be submitted with bidder's proposal:

- Completed- **SIGNED** - RFP Cover Sheet
- Section 3.0 Scope of Work with \_\_\_\_ Yes or \_\_\_\_ No checked and accompanying explanation for any areas checked "No".
- Ownership Disclosure Form – Attached
- Disclosure of Investment Activities in Iran Form:  
<http://www.nj.gov/treasury/purchase/forms/DisclosureofInvestmentActivitiesinIran.pdf>
- Terms and Conditions – Attached

9.2 The following forms are required before Contract award and may be submitted with bidder's proposal:

- Certificate of Employee Information Report:  
[http://www.uhnj.org/purchweb/documents/Compliete-AA\\_%20Supplement.pdf](http://www.uhnj.org/purchweb/documents/Compliete-AA_%20Supplement.pdf)
- Business Associate Agreement-attached
- Two-Year Chapter 51 / Executive Order 117 Vendor Certification and Disclosure of Political Contributions (Ownership Disclosure) Form:  
[http://www.uhnj.org/purchweb/vendors/vendor\\_06\\_E0134.htm](http://www.uhnj.org/purchweb/vendors/vendor_06_E0134.htm)
- Certificate of Liability Insurance
- Business Registration Certificate (BRC)- The bidder **must** be registered prior to award of the contract: <http://www.state.nj.us/treasury/revenue/busregcert.shtml>
- W-9 Form: [http://www.uhnj.org/purchweb/words\\_download/W-9.pdf](http://www.uhnj.org/purchweb/words_download/W-9.pdf)

**OWNERSHIP DISCLOSURE FORM**

**Name of Firm:** \_\_\_\_\_

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, offices held and any ownership interest of all officers of the firm named above. If addition space is necessary, provide on an attached sheet.

Name	Home Address	Date of Birth	Office Held	Ownership Interest

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on any attached sheet. If there are no owners with 10% or more interest in your firm, enter "None" below. Complete the certification at the bottom of this form. If this form has previously been submitted to the UH, Purchasing Department in connection with another bid, indicate changes, if any, where appropriate, and complete the certification below.

Name	Home Address	Date of Birth	Office Held	Ownership Interest

**COMPLETE ALL QUESTIONS BELOW**

Within the past five years has another company or corporation had a 10% or greater interest in the firm identified above? (If yes complete and attach a separate disclosure form reflecting previous ownership interests.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any person listed in this form or its attachments ever been arrested, charged, indicted, plead guilty or been convicted in a criminal or disorderly persons matter by the State of New Jersey, any other Political subdivision state or the U.S. Government? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any person or entity listed in this form or its attachments ever been excluded suspended, debarred or otherwise declared ineligible by any agency of government from bidding or Contracting to provide services, labor, material or supplies? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Are there now any criminal matters, suspension or debarment proceedings pending in which the firm and/or its officers and/or managers are involved? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any federal, state or local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? (If yes to any part of this question, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

CERTIFICATION: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing or any changes to the answers or information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option, may declare any contract(s) resulting from this certification void and unenforceable.

I, being duly authorized, certify that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge. I certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. (Print or Type)

Date: \_\_\_\_\_ Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

FEIN # \_\_\_\_\_

*Request for Proposal: [RETAIL PHARMACY DESIGN, CONSTRUCTION, START-UP, AND OPERATION]  
(RFP # UH-P20-006)*

**SUPPLIER DIVERSITY AND VENDOR DEVELOPMENT PROGRAM**  
**DIVERSITY VENDOR POLICY/REQUIREMENTS**

**I. PURPOSE**

To outline goals and action plans to support and enhance the University Hospital's vendor base toward eradicating racial, ethnic, and gender discrimination from society at large through the New Jersey Set-Aside Program.

**II. DEFINITIONS**

Vendor Diversity Program - The University Hospital's commitment to ensure that a fair percentage of the total purchases for supplies, equipment, services, and construction is placed with, small businesses which include minority and women-owned businesses. The University Hospital has established a 25 percent goal for Small Businesses.

Small Businesses - A small business is now defined as having its principal place of business in New Jersey, gross annual revenues of \$12 million or less and no more than 100 full time employees.

A. New Jersey Business – this may be calculated in one of two ways:

- 1) 51% or more of its employees work in New Jersey as evidenced by payment of New Jersey unemployment taxes; or
- 2) 51% or more of its business activities take place in New Jersey as evidenced by payment of New Jersey income/business taxes.

B. 100 or fewer employees – a sole proprietorship, partnership or corporation having 100 or fewer employees, not including seasonal and part-time employees who work less than 90 days annually, if seasonal and part-time employees are normal to the industry. This does not include a consultant engaged by the business for work to be performed on a contract not related to the contract for which the small business is seeking eligibility.

C. Gross annual revenues may not exceed \$12 million.

Construction Contract - any contract involving any construction, renovation, reconstruction, rehabilitation, alteration, conversion, extension, demolition, repair or other changes or improvements of any kind whatsoever of any structure or facility. The term also includes the supervision, inspection and other on-site functions incidental to actual construction.

### III. **IMPLEMENTING DOCUMENT**

#### A. Requirements:

##### 1. General Guidelines:

- a. As part of its Supplier Diversity Program encompassing small businesses, the University Hospital is committed to actively and affirmatively seek diverse business relations. The goal is to ensure that an equitable portion of the University Hospital's total purchases for construction, goods, equipment and services is placed with diverse businesses. Vendors are to complete the Sub-Contractor Utilization Report in order to comply with target goals set by the University Hospital.
- b. All academic, healthcare and administrative units of the University Hospital are encouraged to consider vendor diversity in their purchases.

##### 2. UH Vendor Diversity Program Goals and Targets:

A total of 25% of all contracts should be awarded to registered small businesses; which include minorities and women:

- 10% to firms whose gross annual revenues do not exceed \$500,000
- 10% to firms whose gross annual revenues do not exceed \$5 million
- 5% to firms whose gross annual revenues do not exceed \$12 million

A small business may be registered in one of three categories, based upon its annual gross revenues. These categories are:

- up to \$500,000
- up to \$5 million
- up to \$12 million

##### 3. Program Requirements

Public contracting entities are now subject to meeting a 25% minimum overall goal collectively for the three categories of small business.

##### 4. New Reporting Requirement

Public contracting authorities must now report annually on their outreach efforts.

5. Important Process Change

In order to be eligible to bid, a firm must now be registered as a small business as of the date of the bid opening. This is a change from previous requirements, which required a firm to have submitted an application one-day prior to bid opening.

6. Other UH Policies and Procedures:

The UH Vendor Diversity Program requirements shall apply to all other policies and procedures of the UH Department of Purchasing Services.

B. Responsibilities

All departments are responsible for integration of supplier diversity into their operations.

Revised 1/23/04  
8/23/05

**Small Business Sub-Contractor Utilization Report**

Project Name	
Date	Purchase Order #
Project Coordinator	
Representative	
Address	
Phone #	

Prime Vendor Representative - Please fill in the following sub-contractor information (If applicable). List small business subcontractor vendor type as follows: (1) up to \$500,000, (2) up to \$5 million, (3) up to \$12 million. Photocopy this form as needed to list all subcontractors you will be utilizing for this awarded contract.

Sub-Contractor/Vendor Name	Type: __
Contact Person	
Address	
Phone #	
* Amt. \$ Pd. To Sub-contractor	
Scope/Type of Service	
Fed. ID #	

Sub-Contractor/Vendor Name	Type: __
Contact Person	
Address	
Phone #	
* Amt. \$ Pd. To Sub-contractor	
Scope/Type of Service	
Duration period of Sub-Contract	

Prepared By: \_\_\_\_\_ Phone #: \_\_\_\_\_  
                   Print Name  
                   \_\_\_\_\_ Bid/Bid #: \_\_\_\_\_  
                   Print Title  
                   \_\_\_\_\_ Term of  
                   Signature Contract: \_\_\_\_\_

Return to: UH Executive Director of Supply Chain                   \*Amount Paid to Subcontractor by  
                   65 Bergen Street, 12<sup>th</sup> Floor                                   invoice: By-Weekly, Monthly, etc.  
                   Newark, New Jersey 07103

## **Business Associate Agreement**

This Business Associate Agreement (“BAA”) is entered into as of \_\_\_\_\_ (“Effective Date”) by and between University Hospital, a body corporate and politic, and an instrumentality of the State of New Jersey, having its principal offices at 150 Bergen Street, Newark, New Jersey 07103 (hereinafter referred to as “Covered Entity”) and \_\_\_\_\_, having its principal offices at \_\_\_\_\_ (hereinafter referred to as “Business Associate”) (the “Covered Entity” and “Business Associate” hereinafter individually referred to as a “Party” and collectively referred to as the “Parties”).

The Parties also have entered into a \_\_\_\_\_ made effective on \_\_\_\_\_ (“Underlying Agreement”). Any conflict between the terms of this BAA and the Underlying Agreement between the Parties shall be governed by the terms of this BAA.

### **WITNESSETH**

**WHEREAS**, the purpose of this BAA is to satisfy certain requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009) (“HITECH”), and associated federal rules that requires the Covered Entity to obtain written assurances from the Business Associate that the Business Associate will appropriately safeguard protected health information (“PHI”) as defined under the HIPAA Rules referenced below; and

**WHEREAS**, the Business Associate recognizes and is willing to comply with the specific requirements pursuant to HIPAA, HITECH, and the Omnibus Final Rule (2013); and

**WHEREAS**, in connection with the Underlying Agreement, the Covered Entity has or shall engage the Business Associate to provide services involving the use or disclosure of PHI;

**NOW, THEREFORE**, in consideration of the promises and mutual covenants set forth in the Underlying Agreement and contained herein, the Parties, intending to be legally bound, hereby agree as follows:

#### **1. Definitions**

1.1. General. The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Business Associate, Covered Entity, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, PHI, Required By Law, Secretary, Security Incident, Subcontractor, and Unsecured PHI. Terms used, but not otherwise defined in this BAA, shall have the same meaning as those terms are given when defined in the HIPAA Rules.

1.2. Specific Definition. "HIPAA Rules" shall mean the regulations promulgated under HIPAA by the United States Department of Health and Human Services including, but not limited to, the HIPAA Privacy Regulations (45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E); the HIPAA Security Regulations (45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and C); and the HIPAA Breach Notification Regulations (45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and D); all as amended by the HIPAA Omnibus Final Rule, and as otherwise may be amended from time to time.

## **2. Obligations and Duties of Business Associate**

The Business Associate agrees to:

2.1. Not use or disclose PHI other than as permitted or required by this BAA or as Required by Law.

2.2. Use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this BAA.

2.3. In accordance with this Section 2.3, immediately report to the Covered Entity any use or disclosure of PHI by the Business Associate and/or its Subcontractors not provided for by this BAA of which it becomes aware, including, but not limited to, Breaches of Unsecured PHI as required at 45 C.F.R. §164.410, and any Security Incident of which it becomes aware. Upon discovery a Breach of PHI or a Security Incident, Business Associate shall provide immediate oral notification of the Breach or Security Incident to the Privacy Officer of the Covered Entity. Business Associate shall also provide written notification of the Breach to the Covered Entity, no later than five (5) days after discovery of the Breach or Security Incident, and the content of such notice shall be consistent with 45 CFR § 164.410. If Business Associate has been advised, orally or in writing, by law enforcement officials that notification of affected individuals may impede a criminal investigation, Business Associate shall so inform the Covered Entity. Notwithstanding any other provision of this BAA, Business Associate agrees to reimburse the Covered Entity for any and all reasonable expenses (e.g., cost of mailing, media, credit monitoring, etc.) incurred by the Covered Entity in carrying out the obligations of the Covered Entity under the HIPAA Rules to notify individuals affected by a Breach or Security Incident of Business Associate or its Subcontractor. In the alternative and upon agreement of the Parties, Business Associate may directly undertake all or parts of such obligations and expenses in lieu of the herein provided reimbursement.

2.4. Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate, or a Subcontractor of Business Associate, in violation of the requirements of this BAA, and consult with the Covered Entity regarding such mitigation.

2.5. In accordance with 45 C.F.R. §§164.502(e) (1) (ii) and 164.308(b) (2), if applicable, Business Associate shall require any subcontractors (including, without limitation,

independent contractors or agents, (“Subcontractor”)) that create, receive, maintain, or transmit PHI on behalf of the Business Associate to enter into a written agreement with Business Associate whereby Subcontractor agrees to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such PHI. Such agreement shall identify the Covered Entity as a third-party beneficiary with rights of enforcement in the event of any violations. If Business Associate discovers a material breach or violation of the agreement between itself and any Subcontractor, Business Associate must require the Subcontractor to correct the violation, or terminate said agreement. The Business Associate shall be permitted to engage the use of a Subcontractor to perform or assist in the performance of the services that involve use or disclosure of PHI to the Subcontractor or creation of PHI by the Subcontractor only if approved in writing by the Covered Entity.

2.6. Make available PHI in a Designated Record Set to the Covered Entity or, as directed by the Covered Entity, to an Individual as necessary to satisfy the Covered Entity’s obligations under 45 C.F.R. §164.524, no later than thirty (30) days from the date on which the Covered Entity makes the request. Business Associate agrees, upon the direction of the Covered Entity, to provide an Individual with a copy of his or her Electronic Health Record in electronic format.

2.7. Make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. §164.526, or take other measures as necessary to satisfy the Covered Entity’s obligations under 45 C.F.R. §164.526, no later than fifteen (15) days from the date on which the Covered Entity makes the request.

2.8. Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy the Covered Entity’s obligations under 45 C.F.R. §164.528.

2.9. To the extent the Business Associate is to carry out one or more of the Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

2.10. Make its internal practices, books, and records available to the Secretary of HHS for purposes of determining compliance with the HIPAA Rules.

2.11. In the event the Business Associate receives a request from an Individual in connection with any of such Individual’s PHI (whether a request for access, amendment, accounting of disclosures or any other request of any nature or description), the Business Associate shall immediately notify the Covered Entity of such request and cooperate with the Covered Entity’s instructions in responding to such request.

2.12. The Business Associate shall immediately cooperate with the Covered Entity to amend, restrict or change any use or disclosure of any Individual’s PHI in the Business Associate’s control or within the control of a Subcontractor.

2.13. Business Associate shall implement and use such technologies and methodologies, including without limitation, Encryption and Destruction, which the Secretary of HHS identifies from time to time as rendering PHI unusable, unreadable, or indecipherable to unauthorized individuals, as appropriate to safeguard PHI.

### **3. Permitted Uses and Disclosures by Business Associate**

3.1. Except as otherwise limited in this BAA, Business Associate may use and/or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such uses and/or disclosures would not violate the requirements of the HIPAA Rules, if done by Covered Entity.

3.2. Since the Business Associate is providing or shall provide services as necessary to perform its obligations to the Covered Entity as set forth in the Underlying Agreement that may involve the receipt, creation, or other uses of any nature or description of PHI, the Business Associate agrees, except as otherwise provided in this BAA, to use or disclose PHI only as necessary to perform services for the Covered Entity.

3.3. The Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's Minimum Necessary policies and/or procedures.

3.4. The Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are Required By Law, or the Business Associate obtains the following:

3.4.1. Written approval from the Covered Entity; and

3.4.2. Reasonable assurances from the person to whom the PHI is disclosed that (i) the PHI will remain confidential and used or further disclosed only as Required By Law or for the purposes for which it was disclosed to the person, and (ii) the person will immediately notify the Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been Breached.

3.5. Business Associate may provide Data Aggregation services relating to the Health Care Operations of the Covered Entity if requested by the Covered Entity in writing.

3.6. The Business Associate shall not use de-identified PHI in any manner without the express written authorization of the Covered Entity.

### **4. Remedies in Event of Breach; Indemnification**

4.1. Business Associate agrees and acknowledges that irreparable harm will result to Covered Entity and to its business, in the event of a breach by Business Associate of any covenants, duties, obligations and assurances in this BAA, and further agrees that remedy at law

for any such breach may be inadequate and that damages resulting therefrom are not susceptible to being measured in monetary terms. In the event of any such breach or threatened breach by Business Associate, Covered Entity shall be entitled to (i) immediately enjoin and restrain Business Associate from any continuing violations and (ii) reimbursement for reasonable attorneys' fees, costs and expenses incurred as a proximate result of the breach. The remedies in this Section 4 shall be in addition to any action for damages and/or other remedy available to Covered Entity for such breach.

4.2. Business Associate shall defend, indemnify, and hold Covered Entity and Covered Entity's owners, governors, trustees, shareholders, members, partners, directors, managers, officers, employees, agents, representatives, successors and assigns (collectively, the "Covered Entity Parties") harmless from and against any and all claims, demands, losses, expenses, costs, obligations, damages, liabilities, of any nature or description including, without limitation, interest, penalties and reasonable attorneys' fees which the Covered Entity Parties may incur, suffer or sustain, which arise, result from or relate to any breach of or action by Business Associate or a Subcontractor to perform any of such party's representations, warranties, covenants, or agreements under this BAA. The obligations of Business Associate under this Section shall survive termination of this BAA.

## **5. Term and Termination**

5.1. Term. The term of this BAA shall commence on the Effective Date of the BAA and shall terminate upon the expiration of the Underlying Agreement, provided that if it is infeasible to return or destroy PHI in a manner rendering it unrecoverable after termination of the BAA, Business Associate will continue to safeguard the PHI in accordance with Section 5.3 below.

5.2. Termination by Covered Entity. The Covered Entity may terminate this BAA upon five (5) days' written notice, if the Covered Entity determines that the Business Associate has violated a material term of this BAA and the Business Associate has not cured the breach to the satisfaction of the Covered Entity during then five (5) day notice period.

5.3. Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, the Business Associate, with respect to PHI received from the Covered Entity, or created, maintained, or received by the Business Associate on behalf of the Covered Entity, shall: (i) retain only that PHI which is necessary for the Business Associate to continue its proper management and administration or to carry out its legal responsibilities as approved by the Covered Entity in writing after the Covered Entity has an opportunity to consider whether any PHI must be reasonably retained by the Business Associate for such purposes; (ii) return to the Covered Entity or, if agreed to by the Covered Entity in writing, destroy the remaining PHI that the Business Associate and/or any Subcontractors still maintain in any form; (iii) continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as the Business Associate retains any PHI as approved by the Covered Entity in

writing; (iv) not use or disclose the PHI retained by the Business Associate (and ensure that any Subcontractors agree to also not use or disclose) other than for the purposes for which such PHI was retained and subject to the same conditions set forth in this Section 5.3, and in accordance with all protections and restrictions on the use and disclosure of PHI as contained in this BAA; and (v) return to the Covered Entity (or, if agreed to by the Covered Entity in writing, destroy the PHI) retained by the Business Associate when it is no longer needed by the Business Associate for its proper management and administration or to carry out its legal responsibilities.

5.4. Survival. The obligations of Business Associate under this Section 5 shall survive the termination of this BAA.

## **6. No Third Party Rights**

Except as expressly provided in Section 2.5 above, nothing in this BAA, expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation, association, or legal entity other than the Parties, any rights, remedies or other benefits under or by reason of the BAA. Accordingly, no third party shall have the right to enforce the provisions of the BAA or any other document relating to this BAA.

## **7. Miscellaneous**

7.1. Severability. In the event that any provision of this BAA is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this BAA will remain in full force and effect.

7.2. Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended.

7.3. Interpretation. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.

7.4. Notices. Any notice required or permitted under this BAA to be given, unless otherwise specified, shall be made in writing and shall be sent either by hand delivery and/or by overnight mail through a courier with a reliable system for tracking delivery to:

### **To UNIVERSITY HOSPITAL**

Name/Title: Privacy Officer  
Office of Ethics & Compliance

Address: University Hospital  
65 Bergen Street, Suite 1214  
Newark, NJ 07101-6750

### **To BUSINESS ASSOCIATE**

Name/Title:

Address:

7.5. Assignment. This BAA applies to the services being provided by Business Associate and may not be assigned without the written consent of Covered Entity. An agreement with a Subcontractor that complies with the requirements of this BAA shall not be an assignment for the purposes of this BAA.

7.6. Governing Law; Venue. This BAA shall be governed by, construed, interpreted and enforced under the laws of the State of New Jersey, without regard to its choice of law provisions.

7.7. Modification. This BAA may only be modified by a writing signed by the Parties. The Parties agree to take such action subsequent to this BAA as necessary to amend the BAA from time to time as necessary for the Parties to comply with the requirements of any applicable law.

7.8. Headings. Section headings contained in this BAA are for convenience or reference only and shall not be deemed a part of this BAA or have any binding legal effect.

7.9. Counterparts. This BAA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*(Signatures begin on the next page)*

**IN WITNESS WHEREOF**, the Parties hereto agree to the above as written.

**COVERED ENTITY:**  
UNIVERSITY HOSPITAL

**BUSINESS ASSOCIATE:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**UNIVERSITY HOSPITAL  
STANDARD TERMS AND CONDITIONS**

**Section A: Terms and Conditions Governing All Contracts**

**1. REFERENCE TO LAWS**

1.1. Compliance – Laws

The Contractor must comply with all local, state, and federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

1.2. Compliance – State Laws

It is agreed and understood that any orders placed shall be governed and construed and the rights and obligations of the parties shall be determined in accordance with the laws of the State of New Jersey.

This contract is subject to the New Jersey Tort Claims Act N.J.S.A. 59: 1-1, et seq.

1.3. Compliance – Codes

The Contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building Code, OSHA and all applicable codes for this requirement. The Contractor will be responsible for securing and paying all necessary permits, where applicable.

1.4. Compliance Obligations

Each party certifies that it shall not violate the federal anti-kickback statute, set forth at 42 U.S.C. §1320a-7b (b) ("Anti-Kickback Statute"), or the federal "Stark Law," set forth at 42 U.S.C. § 1395nn ("Stark Law"), with respect to the performance of its obligations under this Agreement.

Contractor has received a copy of University Hospital's Code of Conduct and University Hospital's Stark Law and Anti-Kickback Statute Policies and Procedures. University Hospital's Code of Conduct is available at <http://www.uhnj.org/compliance>.

Each party shall ensure that its individuals providing service under the agreement who meet the definition of "Covered Persons" (as such term is defined in the "Corporate Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and the University Hospital" available at [http://www.uhnj.org/compliance/docs/8\\_16\\_2013/umdnj09252009.pdf](http://www.uhnj.org/compliance/docs/8_16_2013/umdnj09252009.pdf) shall comply with University Hospital's Compliance Program, including the training related to the Anti-Kickback Statute and the Stark Law.

1.5. Anti-Discrimination

The Contractor or Subcontractor agrees to comply with the laws and regulations pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., the Civil Rights Act of 1964, Title VII, 42 U.S.C.A. S200e et seq., the Age Discrimination in Employment Act, 29 U.S.C.A. S621 et seq., the Americans with Disabilities Act, 42 U.S.C.A. S12101 et seq., and all other laws guaranteeing equal employment.

1.6. The Worker and Community Right to Know Act

The provisions of N.J.S.A. 34:5A-1 et seq. which requires the labeling of all containers of hazardous substances is applicable to this contract. Therefore, all goods offered for purchase to University Hospital must be labeled by the Contractor in compliance with the provisions of the Act.

1.7. Notice to All State Vendors of Set-Off for State Tax

Please be advised that pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction project to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set-off so much of that payment as shall be necessary to satisfy the indebtedness. The amount of the set-off shall not allow for the deduction of any expense or other deduction which might be attributable to the taxpayer, partner, or shareholder subject to set-off under this Act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-18. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness. Interest that may be payable by the State pursuant to N.J.S.A. 52:32-32 et seq.) to the taxpayer shall be stayed.

1.8. Corporate Authority

All New Jersey corporations must obtain a Certificate of Incorporation from the Department of the Treasury, Division of Revenue, prior to conducting business in the State of New Jersey.

1.9. Prevailing Wage Act

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every contract entered into on behalf of University Hospital through the Department of Purchasing Services, except those contracts which are not within the contemplation of the Act.

The contractor guarantees that neither it nor any subcontractors it might employ to perform work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor, for violation of the provisions of the Prevailing Wage Act.

1.10. Ownership Disclosure

All contractors are required to submit an Ownership Disclosure Form. Refer to N.J.S.A. 52:25-24.2.

**2. PRECEDENCE OF STANDARD TERMS AND CONDITIONS**

All of University Hospital's terms and conditions will become a part of any contract(s) or order(s) awarded as a result of the solicitation document, whether stated in part, in summary, or by reference. In the event the contractor's terms and conditions conflict with University Hospital's terms and conditions will prevail, unless the contractor is notified in writing of University Hospital's acceptance of the contractor's terms and conditions.

**3. INDEPENDENT STATUS OF CONTRACTOR**

If awarded a contract or purchase agreement, the Contractor's status shall be that of an independent principal and not as an employee of University Hospital.

3.1. Subcontracting or Assignment

The contract may not be subcontracted or assigned by the Contractor, in whole or in part, without the prior written consent of the Executive Director of Supply Chain Management. Such consent, if granted, shall not relieve the Contractor of any of its responsibility under the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and University Hospital's.

3.2. Mergers and Acquisitions

If the Contractor shall merge with, or be acquired by, another firm, the following documents must be submitted to the Executive Director of Supply Chain Management:

- (a) Corporate resolutions prepared by the awarded Contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; and,
- (b) Vendor Federal Employer Identification Number.

The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract pursuant to the provisions of these Standard Terms and Conditions.

If the Contractor's partnership or corporation shall dissolve, the Executive Director of Supply Chain Management must be so notified. All responsible parties of the dissolved partnership or corporation must submit to the Executive Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment will be made until all parties to the dissolved partnership or corporation submit the required documents to the Executive Director.

#### **4. LIABILITIES**

##### **4.1. Liability – Copyright**

The Contractor shall hold and save University Hospital's, its officers, agents, servants and employees, harmless from liability of any nature or kind for, or on account of, the use of any copyrighted or uncopied compositions, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

##### **4.2. Indemnification**

The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless University Hospital's and its directors, officers, and employees from and against any and all claims, demands, suits, actions, recoveries, judgments and cost and expenses in connection therewith on account of the loss of life, property, or injury or damage to the person, body of property of any person or persons whatsoever including University Hospital and its directors, officers, employees, which shall arise from or result directly or indirectly from the services and/or materials supplied under this contract and all fines, penalties and loss incurred, for or by the reason of the violation of any city or borough ordinance, regulation or laws of the State of New Jersey, or the United States, while said work is in progress. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement. This agreement shall be subject to all the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and all other laws applicable to the parties involved.

##### **4.3. Insurance**

The Contractor shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this contract. The Contractor shall carry sufficient insurance to protect it and University Hospital, its directors, officer and employees from any property damage or bodily injury claims arising out of the contracted work. Evidence of current insurance coverage shall be provided in the form of a Certificate of Insurance, which shall be submitted no later than ten (10) days after receipt of notice of intent to award contract.

The Certificate of Insurance should include the solicitation identification number and title of the solicitation. In order to prevent any unnecessary delay, bidders may submit evidence of required insurance with their bid.

The insurance to be provided by the Contractor shall be as follows:

**Commercial General Liability Insurance** - including contractual liability endorsement, subject to primary limits of coverage of not less than \$1,000,000 per occurrence/\$1,000,000 annual aggregate. If applicable, XCU coverage may be required;

**Automobile Liability Insurance** – covering owned, non-owned and hired vehicles with not less than \$1,000,000 for bodily injury and property damage;

**Excess Liability Insurance** - subject to an additional limit of liability of not less than \$1,000,000 per occurrence/\$1,000,000 aggregate excess of the primary policy;

**Workers' Compensation Insurance** - statutory coverage and including employers' liability coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate;

**Errors and Omissions Liability insurance** - with limits of \$1million/\$1million; University Hospital to be named as additional insured ATIMA with respect to services provided by contractor pursuant to the proposal or contract.

**Additional Insured** - University Hospital's to be named as additional insured ATIMA with respect to Commercial General, Automobile and Excess Liability Insurance provided by contractor pursuant to this proposal/contract;

All insurers affording coverage are to be licensed to conduct the business of insurance within the State of New Jersey and to be rated not less than A- by Bests Insurance Rating Service.

**University Hospital's** is to be named as certificate holder with respect to all afore-mentioned insurance coverages.

**Liability Insurance MUST remain in effect for the duration of the Contract, including any extensions, and for ninety (90) days following termination of all work.**

No contract will be issued to the successful bidder until such time as the Contractor has supplied University Hospital's with a Certificate of Insurance verifying the above-indicated coverage. The Contractor is not authorized to begin service until University Hospital's is in receipt of said certificate.

## **5. MISCELLANEOUS TERMS**

### **5.1. Termination of Contract**

### 5.1.1. Change of Circumstances

University Hospital's may terminate the contract at any time, in whole or in part, for the convenience of University Hospital's, upon no less than thirty (30) days written notice to the contractor.

In the event of such termination, the Contractor shall furnish to University Hospital's, free of charge, such reports as may be required.

### 5.1.2. For Cause

Where a Contractor fails to perform or comply with a contract, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Executive Director of Supply Chain Management may terminate the contract upon ten (10) days' notice to the Contractor with an opportunity to respond.

Where a Contractor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping, etc., so that the Executive Director of Supply Chain Management is repeatedly required to use the complaints procedure in N.J.A.C. 17:12 4.2 et seq. the Executive Director may terminate the contract upon ten (10) days' notice to the Contractor with an opportunity to respond.

In cases of emergency the Executive Director of Supply Chain Management may shorten the time periods of notification and may dispense with an opportunity to respond.

In the event of termination under this section, the Contractor will be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

### 5.2. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment provided by Contractor and covered by this contract and agrees to deliver same free from any claim, liens, or charges, and agrees further that neither he nor any other person, firm or corporation shall have any right to lien upon said materials, supplies and equipment.

### 5.3. Title and Risk of Loss

Unless this contract specifically provides for earlier passage of title and/or risk of loss, title to supplies covered by this contract shall pass to University Hospital's upon formal acceptance, regardless of when or where University Hospital's takes physical possession.

The risk of loss or damage to supplies which so fail to conform to the contract as to give a right of rejection shall remain with the Contractor until cured or until accepted by University Hospital.

#### 5.4. Increased or Decreased Quantity

University Hospital may increase or decrease the quantity of supplies called for herein at the unit price specified in the Contractor's response proposal.

#### 5.5. Tax Exempt Status

#### 5.6. Payment Terms

University Hospital's will issue payment for goods and services within forty-five (45) days of the receipt and acceptance of goods and services by the using department, whichever is later. Vendors shall not submit an invoice to Accounts Payable until the vendor receives a Purchase Order from University Hospital's for the goods and services. Vendors shall also not date an invoice that is before the date the Purchase Order is issued by University Hospital's.

Vendors may propose a discount for payments made before the 45 day period. University Hospital's may exercise the discretion to take advantage of such early payment terms.

##### 5.6.1. Availability of Funds

University Hospital's obligation to pay the Contractor is contingent upon the availability of appropriate funds from which payment for contract purposes can be made. No legal liability in the part of University Hospital's for payment of any money shall arise unless funds are made available each fiscal year to University Hospital's by the State Legislature.

#### 5.7. Discounts

In connection with any discount offered, time will be computed from date of delivery and acceptance at the University Hospital destination.

#### 5.8. Performance Security

If performance security is required, the Contractor shall furnish performance security in such amount on any award of a term contract line item purchase, see N.J.A.C. 17:12-2.5. The security shall be irrevocable; binding the Contractor to provide faithful performance of the contract, and shall be in the amount listed in the solicitation document, payable to the Chief Financial Officer, University Hospital. Acceptable forms of performance security are as follows:

(a) A properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey; or, (b) a certified or cashier's check drawn to the order of the University Hospital; or, (c) an irrevocable letter of credit drawn naming the University Hospital as beneficiary, issued by a federally-insured financial institution.

The performance security must be submitted to University Hospital within thirty (30) days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of the contract for cause, pursuant to the provisions of these standard terms and conditions, as well as non-payment for work performed.

#### 5.9. Performance Guarantee of Contractor

The Contractor hereby certifies that:

- 5.9.1. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.
- 5.9.2. All equipment supplied to University Hospital and operated by electrical current is UL listed where applicable.
- 5.9.3. All new machines are to be guaranteed as fully operational for the period stated in the solicitation document from time of written acceptance by University Hospital. The Contractor will render prompt service without charge, regardless of geographic location.
- 5.9.4. Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.
- 5.9.5. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a forty-eight (48) hour period or within the time accepted as industry practice.
- 5.9.6. During the warranty period, the Contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract.
- 5.9.7. All services rendered to University Hospital shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by University Hospital is rendered.

#### 5.10. Delivery Guarantees

Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the solicitation document.

The Contractor shall be responsible for the delivery of material in first class condition to University Hospital under this contract, and in accordance with good commercial practice.

Items delivered must be strictly in accordance with the solicitation document.

Mere acceptance of delivery shall not constitute acceptance on behalf of University Hospital.

In the event delivery goods or services is not made within the number of days stipulated or under the schedule defined in the solicitation document, University Hospital reserves the right to obtain the material or service from any available source, with the difference in price, if any, to be paid by the Contractor for its failure to meet its contractual commitments.

#### 5.11. Maintenance of Records

The Contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment. Such records shall be made available to University Hospital upon request for purposes of conducting an audit or for ascertaining information regarding dollar volume or number of transactions, and shall also be made available to the New Jersey Office of the State Comptroller upon request.

#### 5.12. Auditing

University Hospital reserves the right to audit, or cause to be audited, the Contractor's books and accounts pertaining to University Hospital at any time during the term of the contract and for five (5) years thereafter.

#### 5.13. Contractor Reporting

University Hospital may request the Contractor to report, from time to time, on the number and nature of purchasing transactions being handled under this contract. This information may include, but is not limited to, the number of items purchased, the dollar value of items purchased, etc.

#### 5.14. Computation of Time

Time, if stated as a number of days, will include weekends and holidays.

#### 5.15. Warranty of Supplies

5.15.1. Notwithstanding inspection and acceptance by the University Hospital of supplies under the contract or any provision of this contract concerning the conclusiveness of any provision of this contract that at time of delivery:

- (a) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the specifications and all other requirements of this contract; and,
- (b) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform to the requirements of this contract.

5.15.2. Upon written notice of any breach of warranty, University Hospital may either:

- (a) By written notice require the prompt correction or replacement of any supplies or part thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract; or
- (b) Retain such supplies, whereupon the contract price thereof shall be reduced by an amount equitable under the circumstances and the Contractor shall promptly make appropriate repayment.

5.15.3. If the contract provides for inspection of supplies by sampling procedures, University Hospital may, at its option, determine the quantity of supplies or parts thereof which are subject to this paragraph in accordance with such sampling procedures.

5.15.4. When return, correction or replacement is required, University Hospital shall return the supplies and transportation charges and responsibility for such supplies while in transit shall be borne by the Contractor.

5.15.5. If the Contractor fails or refuses to correct or replace the non-conforming supplies within a period of ten (10 days) (or such longer period as University Hospital may authorize in writing) after receipt of notice from University Hospital specifying such failure or refusal, University Hospital may, by contract or otherwise, correct or replace them with similar supplies and charge the Contractor for the cost.. In addition, if the Contractor fails to furnish timely disposition instructions, University Hospital may dispose of the non-conforming supplies for the Contractor's account in a reasonable manner, in which case University Hospital is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expenses of the care and disposition of the non-conforming supplies, as well as for excess costs incurred or to be incurred.

5.15.6. Any supplies or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the extent as supplies initially delivered.

5.15.7. The word "supplies" as used herein includes related services.

5.15.8. The rights and remedies of University Hospital provided in this clause are in addition to and do not limit any rights afforded to University Hospital by any other clause of the contract or by law.

5.15.9. Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

5.16. Material and Workmanship

Unless otherwise specifically provided in this contract, all equipment, material, and articles covered by this contract are to be new and of the most suitable grade for the purpose intended. The Contractor shall number all other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment, which the Contractor contemplates incorporating in the work. When required by this contract or when called for by University Hospital, the Contractor shall furnish for approval by University Hospital full information concerning the material or articles (including, but not limited to, items such as Material Safety Data (MSD) sheets), which the Contractor contemplates incorporating in the work. No materials will be accepted unless MSD's have been provided and the containers are labeled according to OSHA 29CFR 1910, 1200 and the New Jersey Right to Know Law. When so directed, samples shall be submitted for approval, and this shall be done at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

5.17. Inspections and Tests

All supplies shall be subject to inspection and test by University Hospital.

5.18. Price Fluctuation During Contract

Unless otherwise approved in writing by University Hospital, all prices quoted shall be firm through issuance of a contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or Contractor's price decreases during the contract period, University Hospital shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Executive Director of Supply Chain Management must be notified in writing of any price reduction within five (5) days of the effective date.

Failure to report price reductions will result in cancellation of contract for cause, pursuant to the provisions of these Standard Terms and Conditions.

5.19. Delivery Costs

All shipments must be made "F.O.B. Destination." Regardless of the method of quoting shipments, the Contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to University Hospital.

“F.O.B. Destination” does not cover “spotting, but does include delivery on the receiving platform at any destination within University Hospital, unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Contractor’s convenience when a single shipment is ordered. The weights and measures of University Hospital shall govern.

5.20. Non-Exclusivity

The contract is non-exclusive and University Hospital may retain other vendors to provide the same or similar products or services.

**6. STANDARDS PROHIBITING CONFLICTS OF INTEREST**

No bidder or contractor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fees commission, compensation, gift, gratuity, or other thing of value of any kind to any University Hospital director, officer or employee as defined by N.J.S.A. 52:13D-13b. with which such bidder or contractor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13013i., of any such University Hospital director, officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such director, officer or employee has an interest within the meaning of N.J.S.A. 52:130-13g.

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any University Hospital director, officer or employee from any bidder or contractor shall be reported in writing forthwith by the bidder or contractor to the Attorney General and the New Jersey Executive Commission on Ethical Standards.

No bidder or contractor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such bidder or contractor to, any University Hospital director, officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to University Hospital or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the University Hospital director, officer or employee or upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No bidder or contractor shall influence, or attempt to influence or cause to be influenced, any University Hospital director, officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said director, officer or employee.

No bidder or contractor shall cause or influence, or attempt to cause or influence, any University Hospital director, officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the bidder or contractor or any other person, bidder, contractor or corporation.

The provisions cited above shall not be construed to prohibit a University Hospital director, officer or employee from receiving gifts from or contracting with bidder or contractor under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines promulgated by the New Jersey Executive Commission on Ethical Standards. University Hospital reserves the right to take any or all of the following actions upon bidder's or contractor's violation of any of the foregoing provisions:

- (a) Immediate termination of this or any contract between University Hospital, the bidder or contractor;
- (b) Disqualification of bidder or contractor from any future contracts, bids or requests for bid; and,
- (c) Any other action, at law or in equity.

## **SECTION B. TERMS AND CONDITIONS GOVERNING BIDS AND PROPOSALS**

### **1.0 APPLICABILITY OF STANDARD TERMS AND CONDITIONS**

Unless the bidder is specifically instructed otherwise in the solicitation document (i.e., Request for Proposal (RFP), or Invitation for Bids (IFB), or request for Quotation (RFQ)), the following terms and conditions will apply to all contracts or purchase agreements made with the University Hospital. These terms are in addition to the terms and conditions set forth in the solicitation document and should be read in conjunction with same unless the solicitation document specifically indicates otherwise. If a bidder proposes changes or modifications or takes exception to any University Hospital's terms and conditions, the bidder must so state specifically in writing in the bid proposal. Any proposed change, modification, or exception in University Hospital's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement.

### **2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS**

#### **2.1 Corporate Authority**

All New Jersey corporations must obtain a Certificate of Incorporation from the Department of the Treasury, Division of Revenue, prior to conducting business in the State of New Jersey.

If a bidder receiving a notice of intent to award is the proposed contract awardee and such bidder is a corporation incorporated in a state other than New Jersey, such bidder must provide either a copy of its Certificate of Authority to do business in New Jersey, issued by the New Jersey Department of the Treasury, Division of Revenue, or evidence of its application to the Division of Revenue for such Certificate of Authority, within seven (7) days of the notice of intent to award.

If a bidder awarded a contract or purchase agreement is an individual not residing in this state or a partnership organized under the laws of another state, then the bidder shall execute a power of attorney designating the State Treasurer as its true and lawful attorney to receive process in any civil actions which may arise out of the performance of this contract or agreement. This appointment of the State Treasurer shall be irrevocable and binding upon the bidder, its heirs, executors, administrators, successors or assigns. Within ten (10) days of receipt of this process, the Treasurer shall forward same to the bidder at the address designated herein.

### **3.0 PROPOSALS TERMS**

#### **3.1 Contract Amount**

The estimated amount of the contract(s), when stated in the solicitation document, shall not be construed as either the maximum or minimum amount which University Hospital shall be obliged to order as the result of this solicitation document or any contract entered into as a result of this

solicitation document.

### **3.2 Executive Director's Right of Final Bid Acceptance**

The contract shall be awarded to that responsible bidder whose bid, conforming to the solicitation document, will be most advantageous to University Hospital, price and other factors considered. Awards will not be based on any discounts offered by the bidder. The Executive Director reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the best interest of University Hospital to do so.

### **3.3 Causes for Automatic Rejection of Bids**

Bids may be automatically rejected for the following reasons:

**3.3.1** No signature on at least one copy of the bid;

**3.3.2** Bid not received on or before the scheduled time, date specified, and place designated on the bid request form (or as amended during the procurement process via addendum);

**3.3.3** Failure to attend a mandatory pre-bid conference and/or mandatory site inspection;

**3.3.4** Failure to initial a price alteration. If a unit price in the bid has been altered, the bidder's initials must appear adjacent to the alteration. Examples of alterations include, but are not limited to, cross-outs and erasures, with re-entered prices. If the alteration has not been so initialed, that particular item only in the bid will be automatically rejected, except as follows: If the extended price is correct and does not contain alterations, it shall be considered the bid price. If the extended total price does not contain alterations and the altered unit price is not initialed, the extended total price is considered as the bid price. In the event of an automatic rejection of a price (or prices), when the bid contains multiple items, the remainder of the bid will be evaluated;

**3.3.5** If information essential to a bid evaluation, including, but not limited to, price, terms, and product description is submitted in pencil;

### **3.4 University Hospital's Right to Inspect Bidder's Facilities**

University Hospital reserves the right to inspect the bidder's establishment before making an award, for the purposes of ascertaining whether the bidder has the necessary facilities for performing the contract.

### **3.5 University Hospital's Right to Request Further Information**

The Executive Director of Supply Chain Management reserves the right to request all information which may assist in making a contract award, including factors necessary to evaluate the bidder's financial ability.

Further, the Executive Director of Supply Chain Management reserves the right to request a bidder to explain in detail how the bid price was determined. Section 952 of the Omnibus Reconciliation Act of 1980 (P.L. 96-499) requires that providers include in contracts for services a provision allowing the Federal Government to have access to all documents and records that are needed to verify the Contractor's cost, if the value of the contract over 12 months is at least \$10,000.

### **3.6 Brand Name Specification**

When a specification requires a particular manufacturer or brand, it indicates the quality and characteristics of the item being specified. Failure on the part of the bidder to confirm its provision of the manufacturer and/or brand specified shall be construed by University Hospital to mean that the bidder will furnish the brand as specified. In instances where manufacturer or brand are specified, the bidder may offer the brand specified, or may offer an "equal" item, provided that the item is similar to the specified brand in all essential characteristics in terms of quality and functionality.

### **3.7 Samples**

University Hospital reserves the right to require the bidder/Contractor to submit samples for approval. University Hospital shall be the sole judge as to whether said materials meet its requirements. All literature and/or samples submitted in connection with this bid shall become the property of University Hospital.

When "Samples Required" is indicated in a solicitation document, it shall be understood that all bidders shall furnish and deliver samples for each item where specified.

Sample(s) shall be delivered to University Hospital at the time of bid submission.

Sample(s) delivered shall be tagged indicating the name of the bidder; the University Hospital bid number, bid item number and complete description of item.

Failure to submit samples required may disqualify a bid.

### **3.8 Corrections**

Erasures or other changes in bids must be explained or otherwise noted over signature of bidder.

### **3.9 Bid Security**

#### **3.9.1 Bid Security**

If bid security is required, such security must be submitted with the bid in the amount listed in the solicitation document, see N.J.A.C. 17:12-2.4.

Acceptable forms of bid security are as follows:

- (a) A properly executed individual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey; or,
- (b) A certified or cashier's check drawn to the order of University Hospital; or,
- (c) An irrevocable letter of credit drawn naming the University Hospital as beneficiary issued by a federally-insured financial institution.

University Hospital will hold all bid security during the evaluation process. As soon as is practicable after completion of the evaluation, University Hospital will:

- (a) Issue an award notice for those offers accepted by University Hospital; and,
- (b) Return all bond securities to those who have not been issued an award notice.

All bid security from Contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc.). If the Contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the Contractor may be found in default and the contract terminated by University Hospital. In case of default, University Hospital reserves all rights, inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the Contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

### **3.10 Complaints**

Where a bidder has a history of performance problems as demonstrated by formal complaints or contract cancellations for cause, a bidder may be bypassed for this award. See N.J.A.C. 17:12 – 2.8.

### **3.11 Subcontractor of Assignment**

In the event the bidder proposes to subcontract for the services to be performed under the terms of the contract award it shall state so in its bid and attach for approval a list of said subcontractors and an itemization of the products and/or services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and University Hospital.

## **4.0 TERMS RELATING TO PRICE QUOTATION**

### **4.1 Delivery Costs**

Unless otherwise noted in the solicitation document, all prices for items in bid proposals are to be submitted "F.O.B. Destination." Proposals submitted other than "F.O.B. Destination" may not be considered. Regardless of the method of quoting shipments, the Contractor shall assume all costs,

liability and responsibility for the delivery of merchandise in good condition to University Hospital.

“F.O.B. Destination” does not cover “spotting,” but does include delivery on the receiving platform at any destination within University Hospital, unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Contractor’s convenience when a single shipment is ordered. The weights and measures of University Hospital shall govern.

**4.2 C.O.D. Terms**

C.O.D. terms are not acceptable as part of a bid proposal and will be cause for rejection of a bid

Acknowledged and agreed to by:

Name of Firm: \_\_\_\_\_

By: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **AFFIRMATIVE ACTION DOCUMENTATION**

Dear Vendor:

As a State Agency, New Jersey State Regulations N.J.A.C. 17:27 requires us to obtain documentation regarding our vendors' "Affirmative Action" status. In order for us to be in compliance and do business with your company for the procurement of goods and services, it will be necessary for you to provide only one of the following documents with your bid/proposal response.

A State of New Jersey "Certificate of Employee Information Report Approval," or

A Form AA/302 Affirmative Action Employee Information Report, with proof your request has been sent to the State for the certificate.

Please understand the importance of this request. Although you may have already submitted this information, our files must be updated annually with current employment statistics. Your noncompliance of this request may result in suspension of any future business with your company.

Sincerely,

Purchasing Services

