



A Florida KidCare Partner

THE FLORIDA HEALTHY KIDS CORPORATION

REQUEST FOR PROPOSALS 2019-03 FOR COMMUNITY ENGAGEMENT AND EDUCATION MARKETING SERVICES (Florida KidCare Program)

November 4, 2019

**Florida Healthy Kids Corporation
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www.healthykids.org

This RFP, future amendments, notices, etc., related to the RFP will be available and accessible through the Florida Healthy Kids Corporation website at <https://www.healthykids.org/news/calendar/procurement/>. It is the responsibility of the interested individuals to check <https://www.healthykids.org/news/calendar/procurement/> for future postings under this RFP.

Florida Healthy Kids Corporation
Request for Proposals 2019-03

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Florida Healthy Kids Corporation Request for Proposals (RFP)

1. INTRODUCTION

A. Purpose

The Florida Healthy Kids Corporation (the “Corporation” or “FHKC”) is pleased to announce a competitive opportunity for public relations, advertising, and marketing firms (“Respondents”) to submit a proposal for educational marketing services to highlight the benefits of the Florida KidCare program to non-citizen families and those who may not speak English as a first language, to include but not limited to Spanish-speaking Hispanic families, in central and south Florida for purposes of increasing awareness of and enrollment in the Florida KidCare program.

The primary goal will be to effectively and efficiently leverage existing community resources, trusted third-party validators, person-to-person marketing, and/or paid advertising as a way of demystifying the Florida KidCare program, debunking myths about the program, and disseminating accurate information into relevant Florida communities in central and south Florida. This marketing services campaign is anticipated to be scheduled from December 16, 2019, through December 16, 2020, in an amount not exceeding \$200,000.

FHKC intends to award a contract to the Responsible and Responsive Respondent that scores the highest during the evaluation process.

B. Responsiveness

To be considered Responsive, Respondents submitting proposals to this RFP must comply with all instructions and requirements for information and documentation and provide complete responses for all items set forth in Section 2.A.

By submitting a proposal for this RFP, Respondents understand and agree to all procurement rights of FHKC as set forth in this RFP, as well as all terms, conditions, funding contingencies, and requirements of this RFP, including all appendices.

C. Background: Florida Healthy Kids Corporation | Florida KidCare

FHKC is a private, nonprofit organization created to advance access to affordable, high-quality health and dental insurance for Florida children. FHKC administers the Florida Healthy Kids health and dental insurance plans for Florida children aged five through the end of age 18. FHKC also provides marketing, customer service, and administrative services for Florida KidCare, the umbrella brand for the four government-sponsored health insurance programs serving Florida children – Medicaid, Florida Healthy Kids, MediKids, and the Children’s Medical Services Managed Care Plan.

Florida KidCare offers subsidized and non-subsidized health insurance coverage for nearly all Florida children. Eligibility for subsidized coverage is based on family income as a percentage of the federal poverty level (FPL); the age of the child; and, for some children, special medical conditions. The FPL is calculated based on annual family income and the number of household members.

To apply for coverage, families may fill out an online application at floridakidcare.org, download the application and mail it in, or apply over the telephone by calling 1-888-540-5437.

For families who qualify, subsidized coverage is free or costs as little as \$15 or \$20 per month and includes all children in the household. Families whose annual household incomes exceed the eligibility criteria for the subsidized plan can secure coverage for their children through one of Florida KidCare's competitively priced, full-pay plans.

There are two full-pay options under Florida KidCare: MediKids (serving children ages 1-4) costs \$157/month per child for health and dental insurance coverage, and Florida Healthy Kids (serving children ages 5-18) costs either \$215/month per child with health-only coverage or \$230/month per child with both health and dental coverage.

To qualify for Florida KidCare, a child must:

- Be under age 19
- Meet income eligibility requirements ([View general annual income guidelines for Florida KidCare program eligibility](#))
- Be a [U.S. citizen or qualified non-citizen](#)
- Not be in a public institution

Additional information can be found at www.floridakidcare.org/.

D. Goals of the RFP

The goal of this RFP is to engage a vendor to develop and execute a culturally relevant community outreach and marketing campaign promoting Florida KidCare to non-citizen and non-English speaking families with uninsured children in central and south Florida. The campaign should be multi-faceted to include demographic insights that inform recommended campaign components for community engagement and/or partnerships with third-party validators who can include thought leaders, media personalities/talent, and influencers who are trusted resources to the identified populations in these targeted Florida areas. The campaign must also include components that convert the added awareness into increased enrollment in the Florida KidCare program. While paid advertising components are not required, Respondents should consider the use of paid advertising to complement other community outreach and marketing efforts to further the goals of the RFP.

The Florida KidCare program operates statewide, and the greatest concentration of uninsured children in Florida can be found in five counties: Broward, Hillsborough, Miami-Dade, Orange, and Palm Beach. These five counties are considered applicable to the general targeted areas of central and south Florida in this RFP. Respondents can locate uninsured zip code, county, and enrollment data for counties at healthykids.org/data/. Respondents may include additional counties in its proposal.

Every proposed campaign component should consider the following insights regarding potential reasons for why non-citizen and non-English speaking families in Florida may not apply to receive health and dental insurance coverage for their children through the Florida KidCare program:

- Families may be unaware that the Florida KidCare program exists
- Families may fear using government-sponsored programs, especially in situations where it could impact citizenship
- Families may not feel they have the necessary documentation/income to qualify
- Families may not know about the various ways available to apply (online, by phone, printed application)
- Families may not know resources are available in other languages to help them in the application process, i.e. English, Spanish and Haitian Creole.
- Families may not realize one-on-one personal assistance may be available locally to help them complete an application

Another factor for why immigrant or non-citizen families may not know they can enroll in Florida KidCare is that they may be unaware of a Florida law passed in 2016 eliminating the five-year waiting period to be eligible to apply for Florida KidCare coverage for their children. Prior to this change, some non-citizen children living in Florida had to be lawfully in the United States for at least five years before they qualified for health insurance through the Florida KidCare program. Since the law went into effect on July 1, 2016, there is no longer a waiting period for these children.

More information and FAQs can be found in the following locations on the Florida Healthy Kids Corporation's website: <https://www.healthykids.org/kidcare/citizenship/index.php>, <https://www.healthykids.org/kidcare/citizenship/LawfullyResidingChart.pdf>

As a niche campaign directed to a specific non-citizen and non-English speaking audience, Respondents are asked to create a holistic and innovative approach to advancing the goals of this RFP.

The success of the overall campaign will be measured against the number and effectiveness of strategic partnerships and advocacy efforts utilized, the targeted reach of public education efforts through community outreach, the analysis of data-driven metrics surrounding any paid advertising components, as well as growth in application volume and enrollment in the Florida KidCare program among the targeted populations.

FHKC intends to award a contract(s) to the Responsive and Responsible Respondent(s) that is determined to be the most advantageous to the Corporation after completion of the evaluation process set forth in Section 4.

E. Anticipated Calendar of Events and Deadlines

An anticipated Calendar of Events and Deadlines has been established for the RFP process. The Calendar of Events and Deadlines is subject to change by FHKC. Changes to this timeline may be posted to the FHKC website at [healthykids.org/news/calendar/procurement/](https://www.healthykids.org/news/calendar/procurement/). It is the responsibility of Respondents to check this website for addenda, notices, and/or other postings relevant to this RFP.

Written questions and/or suggested edits to the draft Contract will be accepted only during a specified period outlined in Section 1.E. Calendar of Events and Deadlines.

Event	Date (All times are Eastern)
FHKC releases this RFP	November 4, 2019
Questions / Written edits to Draft Contract due to FHKC	November 12, 2019
FHKC Posts Answers to Respondents' questions and edits to Draft Contract	November 15, 2019
Respondent proposals due to FHKC	December 4, 2019 By 5:00 p.m.
Oral Presentations, if necessary	December 11-12, 2019
Anticipated Notice of Contract Award	December 13, 2019
Implementation Date	December 16, 2019 – December 16, 2020

F. Definitions

1. “Confidential Information” is information contained in any document or record that Respondent asserts is trade secret, confidential, or otherwise not subject to disclosure in response to a Public Records Request.
2. “FHKC Intended Decision” pertains to the following: (1) the specifications or addenda of this RFP, (2) Notice of Contract Award; (3) withdrawal of the solicitation; or (4) rejection of all proposals.
3. “File” means to submit to FHKC by email at connect@healthykids.org and by hand delivery at 1203 Governors Square Boulevard, Suite 400, Tallahassee, FL 32301.
4. “Request for Proposals” or “RFP” means this solicitation for competitive sealed proposals to select one Respondent to enter into a contract for services.
5. “Notice of Contract Award” means the final decision to award a Contract pursuant to this RFP.
6. “Post,” “Posted,” or “Posting” in reference to the solicitation procedures of this RFP means the noticing on FHKC’s designated website, of FHKC Intended Decisions or any other matters relating to this RFP.
7. “Public Records Request” means a request for documents, data, or records pursuant to Chapter 119, Florida Statutes, the Florida Constitution, or other authority.
8. “Respondent” means those parties that respond or intend to respond to this RFP.
9. “Responsible” means a vendor who has the capability in all respects to fully perform the Contract requirements and the integrity and reliability that will assure good faith performance.
10. “Responsive” in reference to a proposal means a proposal submitted by a Respondent that conforms in all material respects to the solicitation. “Responsive” in reference to a Respondent means a Respondent that has submitted a proposal that conforms in all material respects to the solicitation.

G. Anticipated Contract Term

FHKC anticipates that the Contract will be executed on December 16, 2019. It is anticipated that the initial term of the contract would expire in one year, with a potential to renew the contract for up to one year. Renewal shall be at FHKC's sole discretion; renewal value TBD.

2. PROPOSAL REQUIREMENTS

A. Overview of Proposals

Proposals should provide a straightforward, concise description of the Respondent's ability to provide the services sought by this procurement. Respondents will be responsible for preparing and translating all related talking points, memos, advertisements, etc., as necessary to support their proposal. Graphic design support will be provided by FHKC's Agency of Record on an as-needed basis. The awarded Respondent will be provided a copy of FHKC's Florida KidCare branding guidelines and must adhere to FHKC's branding guidelines at all times, for all items.

Respondents must prepare a comprehensive proposal that details a community outreach and marketing campaign targeting non-citizen and non-English speaking families with uninsured children in the central and south Florida areas to help increase enrollment in the Florida KidCare program.

Proposals submitted by Respondents must detail a holistic community outreach and marketing campaign that will incorporate all phases of the planning, implementation, and execution of the campaign during the contract timeframe. Components of a multi-faceted and diverse campaign are at the sole discretion of the Respondent, but should consider: third-party validation, community town hall meetings, paid advertising, direct mail marketing, education seminars with related professional organizations, community events, etc.

Respondents must defend their proposed campaign within the submitted proposal using data-driven techniques to show qualitative and quantitative return on investment, especially as it relates to increasing the number of Florida KidCare completed applications and enrollment from the targeted non-citizen and non-English speaking populations within the central and south Florida areas.

Proposals must be organized as set forth in items 1 through 8, below, and contain all information requested. Each Respondent is responsible for ensuring that all elements of the proposal are provided in the format requested and are organized in a concise fashion.

1. Submission Checklist / Attestation Statement (Appendix 1)

Respondents must submit a completed and signed submission checklist / attestation statement.

2. Cover Page (max 1 page)

Respondents must provide a cover page that contains the following information:

- a. Respondent organization's legal name and Federal Employer Identification (FEID) Number

- b. Contact name for Respondent (the contact person must be available to respond to inquiries during the RFP review period) along with his or her phone/fax numbers and email address
- c. Mailing address
- d. Street address, if different from mailing address
- e. Brief description of the organization, type of business, and services offered

3. Minimum Qualifications

Respondents must meet the minimum qualifications. In its proposal, each Respondent must reproduce verbatim the minimum qualifications one through four, below, including each statement and box. Respondents must select either “Yes” or “No” for all items.

Responses of “No,” deviations, and/or caveats to the minimum qualifications shall result in the rejection of the overall proposal at FHKC’s sole discretion and will not receive further consideration.

- 1. Respondent agrees to all terms and conditions set forth in this RFP, including all Appendices.

Yes No

- 2. Respondent agrees to accept all terms as set forth in Appendix 2: Florida Healthy Kids Corporation Agreement for Community Engagement and Education Marketing Services, including all its attachments, without modification.

Yes No

- 3. Respondent confirms it is registered with the Florida Department of State, Division of Corporations, or will be within seven (7) calendar days of Contract award, to transact business in the State of Florida. If Respondent is currently registered, Respondent must submit proof of such registration.

Yes No

- 4. Respondent confirms that it has not filed for bankruptcy or receivership within the last five years.

Yes No

4. Abstract (max of 1 page)

Respondents must provide an abstract describing Respondent’s proposal to accomplish the objectives of this RFP at a high level.

5. Project Design and Implementation (max of 5 pages)

Respondents must detail its project design and implementation, including the following

information:

- a. A detailed, comprehensive description of the objectives, components, distribution, activities, performance metrics, tracking, and timeline for Respondent's proposed campaign.
- b. Identification of each vendor, if any, with which Respondent intends to subcontract, including the name of the organization, contact name, contact information, and the work to be performed under the subcontract. Subcontracts must also submit documentation from previous marketing/advertising campaigns that demonstrate prior experience promoting the subject matter or similar subject matters of this RFP.

6. Project Budget (max of 2 pages)

Respondents must provide a detailed line-item budget and justification for the proposed campaign, including a breakout of costs for every component of proposed campaign. Estimates are acceptable.

Project budgets should not exceed \$200,000. Respondents may charge an overall project fee of no more than 15% of the total \$200,000 budget.

7. Respondent Appendices (max of 15 pages)

Respondents must provide all documentation necessary to support the proposed campaign as the most advantageous to the Corporation.

Respondents must also include relevant letters of reference from previous marketing/advertising campaigns that demonstrate prior experience successfully modifying public behavior and opinion through similar educational campaigns in topic areas relevant to this RFP (e.g., health insurance, federal public benefit programs, immigration services) for another organization. Supporting examples of the Respondent's prior marketing/advertising work must be included as part of the Respondent's Appendices.

B. Submission Requirements

Proposals or any portions thereof that do not offer required services, fail to meet the minimum qualifications, change FHKC's goals, or otherwise fail to meet the submission requirements of this RFP may be considered non-Responsive and disqualified at FHKC's sole discretion. Respondent's proposal may not apply any conditions or exceptions to any mandatory requirements of this procurement. FHKC will not evaluate a proposal if the proposal does not meet the minimum requirements set forth in this subsection.

The proposal submission must include the required format and number of copies and must be submitted by the date identified in Section 1.E, Anticipated Calendar of Events. Other minimum requirements are as follows:

- a. All copies of the proposal must contain the sections set forth in Section 2.A.
- b. The proposal text must be at least 11-point Calibri, Arial, or Times New Roman font.
- c. The proposal must be timely submitted in hard-copy form as follows: one original and four copies, all in three-ring binders, with the RFP number and Respondent's official

and legal name, address, and contact information.

- d. A non-redacted copy of the proposal must be timely submitted in electronic form.
- e. If applicable, a redacted copy of the proposal must be timely submitted in electronic form. Any redacted materials must be appropriately marked as such.

3. GENERAL INSTRUCTIONS

A. Single Point of Contact

This procurement process will be under a cone of silence between the release of the RFP and the end of the 48-hour period following the Posting of the Notice of Contract Award, excluding Saturdays, Sundays, and FHKC holidays.

During the cone of silence, Respondents or persons acting on their behalf may only contact FHKC regarding this procurement by emailing the issuing office at connect@healthykids.org with "RFP 2019-03" in the subject line of the email. No faxes or telephone calls will be accepted.

Further, during the cone of silence Respondents or persons acting on their behalf may not contact any other FHKC employee, Board of Directors member, or committee member (including ad-hoc members); any employee of the executive branch; or any employee of the legislative branch, concerning any aspect of this solicitation. Violation of this provision may be grounds for rejecting a proposal.

Any contact by an agent of a Respondent, including an affiliate, a person with a relevant business relationship with the Respondent, or an existing or prospective subcontractor to a Respondent, will be presumed to be on behalf of a Respondent unless otherwise demonstrated.

B. Submittal of Proposals

Each Respondent is responsible for Filing five hard copies of its proposal to FHKC by the date and time identified in Section 1.E., Anticipated Calendar of Events and Deadlines. All proposals submitted after this time will be rejected.

Respondent must also file electronic copies of its proposal by to the FHKC issuing office at connect@healthykids.org the date and time identified in Section 1.E., Anticipated Calendar of Events and Deadlines, as follows:

- One electronic copy (one single file) of the entire proposal.
 - The file name must include the RFP number and the Respondent's name; for example, RFP 2019-03 Company A.
 - The table of contents for the proposal must contain active links to each "tabbed" section.
- If applicable and as described in Section 3.D., one electronic *redacted* copy of the entire proposal (including all attachments). The file name must include the RFP number, the Respondent's name, and "REDACTED COPY"; for example, RFP 2019-03 Company A REDACTED COPY.

As a courtesy and not as an indication of Responsiveness or timeliness, the FHKC issuing office will email a confirmation of receipt of the electronic proposal.

C. Questions Regarding the RFP and Proposed Revisions to the Florida Healthy Kids Corporation Services Agreement for Community Engagement and Education Marketing Services (“Draft Contract”)

Respondents may submit questions concerning the RFP and suggest edits to the Draft Contract. If a Respondent suggests revisions to the Draft Contract, the specific revisions must be requested in writing in a strikethrough and underline format of the original document (see Appendix 2) and provided.

Questions and suggested edits to the Draft Contract must be submitted to the issuing office at connect@healthykids.org with “RFP 2019-03 Question and/or Edits” in the subject line of the email by the deadline specified in Section 1.E, Anticipated Calendar of Events and Deadlines.

Responses to questions and any modification to the Draft Contract will be publicly posted on the Healthy Kids website: <https://www.healthykids.org/news/calendar/procurement/> on the date specified in Section 1.E, Anticipated Calendar of Events and Deadlines.

FHKC reserves the right to reject any or all requested changes in its sole discretion. FHKC may make awards with no revisions to the Draft Contract.

D. Public Records

Absent exemption, all documents and records submitted, received, or developed during this procurement process will become publicly available upon conclusion of the procurement process. Such documents and records include all elements of any document or record submitted by Respondents, the selection criteria, scoring system, materials developed by FHKC or its consultants, and results of this RFP.

Information contained in any document or record submitted, received, or developed during the procurement process is not available to the public or any Respondent until the RFP process is concluded, and the Contract has been awarded.

1. Information Exempt from Disclosure

If a Respondent asserts that **any portion of any document or record** submitted by the Respondent during the procurement process contains Confidential Information, the Respondent must take the following steps to protect the Confidential Information:

- a. Respondent shall submit a non-redacted copy of the document or record as follows:
 - i. For every page containing trade secret information, Respondents shall mark such page “**TRADE SECRET**” in red font, followed by the statutory basis for such claim. For example: “**TRADE SECRET** pursuant to Section 812.081, Florida Statutes.”
 - ii. For every page containing information that is not trade secret but is otherwise not subject to disclosure shall be marked “**EXEMPT**” in red font, followed by the statutory basis for such claim. For example: “**EXEMPT** pursuant to Section 119.071(3)(b), Florida Statutes.”

- b. In addition, Respondent shall submit a separate, redacted copy of the document or record as follows:
 - i. The redacted document shall contain the solicitation name, number, and the Respondent's name and shall be clearly titled "Redacted Copy."
 - ii. Documents provided electronically shall contain "REDACTED" at the end of the file name.
 - iii. Redacted copies should only contain redactions of those portions of material the Respondent claims contain Confidential Information. See Section 2.B for submission requirements.

A Respondent may **not** redact the entirety of its proposal, and FHKC may reject a proposal that is so marked. Respondents are solely responsible for protecting Confidential Information in accordance with this Section 3.D.1. A Respondent may **not** redact the entirety of its proposal, and FHKC may reject a proposal that is so marked.

2. FHKC's response to Public Records Requests

If a Public Records Request is submitted to FHKC for any document or record submitted by a Respondent during this solicitation, FHKC is authorized to release the redacted document or record without conducting any pre-release review of the redacted document or record.

Failure to identify and mark such portions of a document or record as directed in Section 3.D.1 shall constitute a waiver of any claimed exemption. **IF A RESPONDENT FAILS TO SUBMIT A REDACTED COPY OF ANY DOCUMENT OR RECORD, OR PORTIONS THEREOF, FOLLOWING THE INSTRUCTIONS SET FORTH IN THIS RFP, FHKC IS AUTHORIZED TO RELEASE THE DOCUMENT OR RECORD IN RESPONSE TO A PUBLIC RECORDS REQUEST WITHOUT NOTIFYING THE RESPONDENT.** FHKC will not attempt to discern which elements a Respondent was attempting to protect from disclosure.

Should FHKC receive a Public Records Request and assert a right to Confidential Information, FHKC will notify the Respondent that such an assertion has been made. It is the Respondent's responsibility to assert that the information in question is exempt from disclosure under Chapter 119, Florida Statutes, or other applicable law. If FHKC becomes subject to a demand for discovery or disclosure of the Confidential Information of the Respondent in a legal proceeding, FHKC shall give the Respondent prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). The Respondent is responsible for defending its determination that the redacted portions of its proposal or other documents are confidential, proprietary, trade secret, or otherwise not subject to disclosure. FHKC will not engage in any independent review or determination as to whether redacted or non-redacted information is Confidential Information.

3. Indemnification

Respondents that fail to identify information that is trade secret, exempt, or otherwise not subject to disclosure as directed herein acknowledge and agree that they waive any right or cause of action, civil or criminal, against FHKC, its employees, and its representatives for the release or disclosure of such information not so identified. Respondents acknowledge and agree to protect, defend, and indemnify FHKC for any and all claims arising from or relating to

the Confidentiality Agreement and/or Respondent's claim that its proposal or other documents are trade secret, confidential, or otherwise not subject to disclosure to the third party. FHKC may use counsel of its choosing to defend any claims, and the Respondent shall promptly pay FHKC's invoices for legal services on a monthly basis for all costs and expenses, including legal fees, incurred in defending such claims.

E. Receipt Statement

All methods of delivery or transmittal to FHKC are exclusively the responsibility of Respondents and the risk of non-receipt or delayed receipt shall be borne exclusively by Respondents.

F. Firm Proposal

By submitting a proposal, Respondents acknowledge and agree that their proposals shall remain firm and shall not be withdrawn until the resulting contract is executed. However, Respondents may request to withdraw proposals within three (3) business days after the due date for proposals. FHKC may approve such requests upon proof of the impossibility to perform based upon an obvious error as determined solely by FHKC.

G. Use of Proposal Content

All proposals become the property of FHKC and will not be returned to the Respondent. FHKC will have the right to use any or all ideas or adaptations of the ideas presented in the proposal. Selection or rejection of a proposal for award will not affect this right.

H. Right to Inspect, Investigate, and Rely on Information

FHKC reserves the right to inspect Respondent's facilities and operations, to investigate any Respondent representations, and to rely on information about a Respondent in FHKC's records or known to its personnel in making its Best Value determination.

I. Amendment of the RFP

FHKC reserves the right to amend any portion of the RFP at any time prior to the final decision on the Contract award. In any such event, all Respondents will be afforded an opportunity to revise their proposals to address only the amendment, if in FHKC's sole discretion, it determines such an amendment is necessary. Any amendment will be posted to healthykids.org/news/calendar/procurement/.

J. Waiver of Minor Irregularities

FHKC reserves the right to waive minor irregularities when to do so would be in the best interest of FHKC. A minor irregularity is a variation from the terms and conditions of this RFP that does not affect the price of the proposal or give the Respondent a substantial advantage over other Respondents and thereby restrict or stifle competition and does not adversely impact the interests of FHKC. At its option, FHKC may allow a Respondent to correct minor irregularities but is under no obligation to do so. In doing so, FHKC may request a Respondent to provide clarifying information or additional materials to correct the irregularity.

K. Requests for Additional Information

The Corporation reserves the right to ask any Respondent to provide additional information or clarification regarding its proposal. It is the Respondent's responsibility to reply to such requests on a timely basis.

L. Rejection of All Proposals

FHKC reserves the right to reject all proposals at any time, including after an award is made, when to do so would be in the best interest of FHKC, and by doing so FHKC will have no liability to any Respondent.

M. Withdrawal of RFP

FHKC reserves the right to withdraw the RFP at any time, including after an award is made, when to do so would be in the best interest of FHKC, and by doing so FHKC will have no liability to any Respondent.

N. Reserved Rights after Notice of Contract Award

FHKC reserves the right, after Posting notice thereof, to withdraw or amend its Notice of Contract Award at any time prior to execution of the Contract.

O. No Contract until Execution

An award or a Notice of Contract Award under this RFP shall not constitute or form any contract between the FHKC and a Respondent. No contract shall be formed until such time as a Respondent and FHKC formally execute the contract with requisite written signatures.

P. Announcements and Press Releases

Any announcements or press releases regarding a contract awarded under this RFP must be approved by FHKC prior to release.

Q. Filing a Protest

Any party that has standing to challenge an FHKC Intended Decision must comply with FHKC's protest procedures set forth in Appendix 3. The failure of a party or a Respondent to timely File a notice of intent to protest, formal written protest, and/or protest bond as set forth in Appendix 3 shall constitute a waiver of the party's or Respondent's right to challenge the FHKC Intended Decision.

4. EVALUATION OF PROPOSALS

The Corporation intends to award a contract to the Respondent whose proposal is determined to be the most advantageous to or in the best interest of the Corporation based upon the evaluation criteria set forth in this Section. The Corporation shall evaluate Respondents' proposals using the evaluation criteria specified below.

Before an award is made, the Corporation reserves the right to seek clarifications and/or to request any information deemed necessary for the evaluation of a Respondent's proposal. Respondents may be requested to make an oral presentation.

A. Respondent Evaluation Criteria

The proposals of Respondents that are determined to be Responsive and Responsible will be evaluated as follows:

- The proposals will be scored based on the scoring process set forth in subsection 4.B.
- The maximum points a Respondent's proposal can achieve is 100 points per evaluator.
- The evaluators' scores for a Respondent's proposal will then be totaled to determine the Respondent's total score.

B. Scoring Process

The Corporation will appoint independent evaluators to evaluate and score proposals. Each evaluator will be provided a copy of the proposals eligible for evaluation.

Each evaluator will separately score each Respondent's response as set forth in this subsection.

Evaluators will score each proposal item using the following scale:

5 = Superior. The response exhaustively addresses the question and demonstrates Respondent has extraordinary experience in performing the required services related to the question. The response indicates Respondent would provide exceptionally enhanced value to the Corporation. The response demonstrates the ability of the Respondent to exceed the Corporation's requirements, provide outstanding quality of service and/or implement innovative ideas to achieve the desired outcome.

4 = Good. The response extensively addresses the question and demonstrates exceptional experience in performing the required services related to the question. The response indicates Respondent would provide enhanced value to the Corporation.

3 = Adequate. The response adequately addresses the question and demonstrates Respondent has sufficient experience in performing the required services related to the question.

2 = Poor. The response minimally addresses the question or demonstrates Respondent has nominal experience in performing the required services related to the question.

1 = Unsatisfactory. The response inadequately addresses the question or demonstrates Respondent has very limited experience in performing the required services related to the question.

0 = Inadequate. The response is blank, does not address the question, or demonstrates Respondent has no experience in performing the required services related to the question.

The following proposal items will be scored by the evaluators using the 0-5 point scale:

1. Strategy and Overall Objectives

- Respondent's description of its community outreach and marketing campaign and plan of action to implement and execute that campaign. (15 total points available. This item is scored 0-5, and the score will be multiplied by 3.)
- Respondent's description of why it chose specific elements for the campaign and how it will provide greater awareness and promotion of the Florida KidCare program to the non-citizen and non-English speaking population within the central and south Florida areas of the state, and increase enrollment in the Florida KidCare program. (15 total points available. This item is scored 0-5, and the score will be multiplied by 3.)
- Respondent's description of how it will create strategic partnerships and engage with community leaders, influencers, and media personalities/talent to reach non-citizen and non-English speaking families in the targeted areas. (10 total points available. This item is scored 0-5, and the score will be multiplied by 2.)
- Respondent's proposed budget and budget justification for why Respondent's proposal is the most advantageous to the Corporation. (15 total points available. This item is scored 0-5, and the score will be multiplied by 3.)

2. Experience

- Respondent's description of its experience successfully modifying public behavior and opinion through similar educational campaigns in topic areas relevant to this RFP (e.g., health insurance, federal public benefit programs, immigration services, etc.) for another organization, including documentation (samples/reporting documents/creative elements, etc.) from these campaigns included as part of Respondent's. (15 total points available. This item is scored 0-5, and the score will be multiplied by 3.)
- Respondent's three references (name and contact information) for marketing/advertising/outreach clients that demonstrate prior experience promoting topic areas relevant to this RFP (e.g., health insurance, Florida KidCare, public benefit programs, federal health programs, immigration assistance programs, etc.). (5 total points available.)

3. Reporting & Tracking

- Description of how Respondent will track and measure the success of the marketing campaign, such as the number of strategic partnerships forged, advocacy efforts utilized, the targeted reach of community education efforts through outreach, and the analysis of data-driven metrics. (15 total points available. This item is scored 0-5, and the score will be multiplied by 3)

- Description of Respondent's intended reporting mechanisms for all soft/anecdotal data and hard data all of the marketing elements proposed. (5 total points available. This item is scored 0-5.)
- Respondent's description of how the proposed performance metrics will demonstrate increase enrollment in the Florida KidCare program. (5 total points available. This item is scored 0-5.)

Each proposal will receive a total score of up to 100 points from each evaluator. The total overall points for each Respondent's proposal will then be summed to determine the highest overall score.

5. AWARD

The award will be made to the Respondent whose paid proposal received the highest overall score.

In the event that the evaluation of proposals results in identical scoring from multiple Respondents, FHKC shall determine the award through oral presentations from the relevant Respondents. The award will be made to the Respondent that best articulates how its proposal meets the stated objectives and will achieve the desired outcome. The cost for any such interview or presentation shall be borne by the Respondent.

The Corporation anticipates awarding a single contract but reserves the right to award multiple contracts at its sole discretion.

FHKC anticipates Posting its Notice of Contract Award on the Healthy Kids website (healthykids.org) at the time and date indicated in Section 1.E, Anticipated Calendar of Events and Deadlines.

The highest scoring proposal may be modified prior to contract execution at the sole discretion of FHKC.

6. CERTIFICATION

Each proposal must be signed by the owner(s), corporate officers of the owner or the legal representatives of the owner. The corporate, trade, or partnership name must be either stamped, written or typewritten beside the actual signature(s). If a proposal is signed by a corporate officer or agent of the owner, written evidence of authority must accompany the proposal.

7. APPENDICES LIST

The following are appendices to this solicitation:

- Appendix 1: Submission Checklist / Attestation Statement
- Appendix 2: Florida Healthy Kids Corporation Services Agreement for Community Engagement and Education Marketing Services
- Appendix 3: FHKC Procurement and Protest Procedures

APPENDIX 1
SUBMISSION CHECKLIST / ATTESTATION STATEMENT

This form must be printed, completed, and included as the first page of your proposal submission. Check each applicable statement:

I certify that all elements of this proposal are completed as requested and have been organized and tabbed accordingly:

1. Signed RFP Including Submission Checklist and Signed Attestation Statement (Appendix 1)
2. Cover Page
3. Minimum Qualifications
4. Abstract
5. Project Design and Implementation
6. Project Budget
7. Respondent's Appendices (optional)

I have included a copy of my organization's Commercial General Liability insurance certificate.

By my signature, I certify that the checked statements above are included in _____ (Organization's Name) proposal submission.

I hereby certify as owner, officer, or authorized agent, that I have read the RFP in its entirety and agree to abide by all requirements and conditions contained therein. I further certify that this proposal constitutes my formal proposal in its entirety.

I understand that, should the organization I own or represent be awarded a contract resulting from this RFP and fail to adhere to the terms and conditions of this RFP, that FHKC may determine, in its sole discretion, to cease the contract execution process or withhold funds under the resulting contract.

Date: _____

Signed By: _____
(Signature Above)

Print Name: _____

Title: _____

APPENDIX 2
FLORIDA HEALTHY KIDS CORPORATION SERVICES CONTRACT FOR
COMMUNITY ENGAGEMENT AND EDUCATION MARKETING SERVICES

This Contract is entered into between Florida Healthy Kids Corporation (“FHKC”) and (INSERT NAME) (“Vendor”) (individually a “Party” or collectively the “Parties”) to provide community engagement and education marketing services for the Florida KidCare health and dental insurance program in the central and south Florida regional counties.

BACKGROUND

WHEREAS, Vendor is a public relations, advertising, and marketing firm operating in the State of Florida;

WHEREAS, FHKC desires to provide funding to the Vendor to develop and implement community engagement and education marketing services to inform eligible relevant non-citizen and non-English speaking audiences in the central and south Florida regional counties of the benefits of the Florida KidCare program;

WHEREAS, the primary goal of community engagement and education marketing services is to attract potential eligible new members to the Florida KidCare program; and

WHEREAS, the Vendor will ensure that the approved proposal is completed within the initial contract period of one year;

NOW THEREFORE, in consideration of the services to be performed and payments to be made, together with the mutual covenants and conditions hereinafter set forth, the Parties agree as follows:

Section 1 Definitions

- 1-1 “Applicant” means a parent or guardian of a child or a child whose disability of nonage has been removed under Chapter 743, who applies for determination of eligibility for health benefits coverage under ss. 409.810-409.820 F.S.
- 1-2 “Effective Date” means the date on which the last party signed this Contract.
- 1-3 “Member” means an individual who meets the Florida KidCare Program standards of eligibility and has been enrolled in the program.
- 1-4 “Program” means the program administered by the FHKC as created by and governed under sections 624.91, and 409.813, F.S. and related state and federal laws.

Section 2 Contract Term

This Contract is effective from the Effective Date until December 16, 2020, unless otherwise extended by the mutual written agreement of the Parties. The Contract may be renewed for up to one year.

Section 3 Fees and Costs

- 3-1 FHKC agrees to pay Vendor an amount not to exceed \$200,000 (Two Hundred Thousand Dollars and zero cents) for the specific deliverables listed in Section 4-1 of

this Contract. Vendor may use up to 15% of the total project fee of these funds to pay for administrative expenses pertaining to this Contract; however, Vendor shall remain fully responsible for all deliverables required under this Contract. Any funds that have been disbursed and not allocated by Vendor shall be returned to FHKC.

- 3-2 FHKC agrees to pay Vendor in accordance with the following schedule. FHKC will assess a late payment penalty of 10% per business day of the total for any individual reporting period if a report is submitted more than three business days after the above stated due date.

The FHKC will distribute payments to the Respondent selected for this RFP under the following conditions:

First payment – \$50,000
2019

Tentative Date: Week of December 16,

Issued within two weeks of a fully executed Contract between the FHKC and Respondent selected for this RFP and per the following conditions: 1) an invoice for the applicable amount must be provided to the FHKC prior to payment being made; invoices must include detailed information on the progress and activities completed toward achieving the deliverables.

Second payment – \$50,000
16, 2020

Tentative Date: Week of April

Issued per the following conditions: 1) an invoice for the applicable amount must be provided to the FHKC; 2) FHKC must have received and approved progress/activities provided in the Period 1 Report (due by April 10, 2020)

Third payment - \$50,000

Tentative Date: Week of August 22, 2020

Issued per the following conditions: 1) an invoice for the applicable amount must be provided to the FHKC; 2) FHKC must have received and approved progress/activities provided in the Period 2 Report (due by August 10, 2020)

Fourth & Final Payment - \$50,000 Tentative Date: Week of December 31, 2020

Issued per the following conditions: 1) an invoice for the applicable amount must be provided to the FHKC; 2) FHKC must have received and approved progress/activities provided in the Final Report (due by December 21, 2020)

- 3-3 In the event FHKC disagrees with or questions any amount due under an invoice, FHKC agrees to pay the amount not in disagreement in accordance with the terms of this Contract and communicate such disagreement to Vendor in writing within thirty (30) calendar days of the invoice date. Any claim not made within that period shall be deemed waived.
- 3-4 Vendor agrees to return to FHKC any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Agreement that were paid under this Contract. Vendor shall return any such funds to FHKC within forty-five (45) days of identification by FHKC or the Vendor.

3-5 Vendor agrees that no funds received under this Contract may be used for lobbying purposes.

Section 4 Duties of Vendor:

4-1 Deliverables

- A. Vendor shall plan, implement and monitor a regional community engagement and education marketing campaign targeting non-citizen and non-English speaking families with uninsured children in the central and south Florida areas to help increase enrollment in the Florida KidCare program.
- B. Vendor shall participate in all Contract-related meetings, conference calls, and conferences convened and designated as mandatory by FHKC during the Contract term.
- C. Vendor shall prepare and submit ad hoc reports as requested by FHKC.
- D. Vendor shall submit a total of six (6) bi-monthly progress reports, which must be provided in narrative form and specify the activities and deliverables performed under this Contract. Vendor must include copies of supporting documentation to show detailed event and/or training schedules, speaking engagements, advertising schedules, markets/regions, audience, CPI/and other commonly-known advertising metrics; any bonus value or matches to the advertising spend by the FHKC; and, pictures or screenshot images of actual placements as necessary.
- E. Vendor shall be subject to the following metric-related, key performance indicators [to be inserted based on Respondent’s advertising proposal but may include total new enrollees, cost per thousand impressions, cost per completed applications, total website visits, total advertisement clicks, etc.].
- F. Progress reports are due as follows:

<u>Period Covered by Report:</u>	<u>Due By*:</u>
Period One (covering all activities performed December 16, 2019 – January 31, 2020)	February 10, 2020
Period Two (covering all activities performed February 1, 2020 – March 31, 2020)	April 10, 2020
Period Three (covering all activities performed April 1, 2020 – May 31, 2020)	June 10, 2020
Period Four (covering all activities performed June 1, 2020 – July 31, 2020)	August 10, 2020
Period Five (covering all activities performed August 1, 2020 – September 30, 2020)	October 10, 2020

Period Six Report and Final Report

December 21, 2020

(covering all activities performed October 1, 2020 – December 16, 2020)

4-2 Records Retention and Accessibility

- A. Vendor agrees to maintain books, records, and documents in accordance with generally acceptable accounting principles that sufficiently and properly reflect all expenditures of funds provided by FHKC under this Contract.
- B. Vendor shall have all records used or produced in the course of the performance of this Contract available at all reasonable times for inspection, review, audit, or copying by FHKC, any “Vendor” contracted with FHKC, or any state or federal regulatory agency as authorized by law or FHKC. Access to such records will be during normal business hours and will be either through on-site review of records, by mail, or email. Vendor shall retain all records for a period of at least five (5) years following the term of this Contract, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all tasks are completed.
- C. Vendor agrees to cooperate in any evaluative efforts conducted by FHKC or an authorized subcontractor of FHKC both during and for a period of at least five (5) years following the term of this Agreement. These efforts may include a post-Contract audit.

4-3 Use of Subcontractors

Vendor may delegate performance of work required under this Contract to subcontractors with prior written approval from FHKC; however, Vendor maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this Contract. Vendor is responsible for all acts or omissions of subcontractors utilized by Vendor during the Contract Term. FHKC has no liability of any kind for any subcontractor demands, losses, damage, negligence, or direct or indirect expenses.

4-4 Lobbying Disclosure

Vendor shall comply with applicable state and federal requirements for the disclosure of information regarding lobbying activities of Vendor. Certification forms shall be filed by Vendor certifying that no state or federal funds have been or will be used in lobbying activities.

4-5 Insurance

Vendor shall not commence any work in connection with the Contract until it has obtained all types and levels of insurance required by this section. The payment for any deductibles or premium payments shall be the sole responsibility of Vendor and/or subcontractor holding such insurance. Failure to provide proof of coverage when requested may result in the Contract being terminated.

A. Commercial General Liability

Vendor shall secure and continuously maintain commercial general liability insurance (inclusive of any amounts provided by an umbrella or excess policy) in a face amount of

\$500,000. FHKC shall be listed as an additional insured in the commercial general liability coverage policy with respect to its liability for Vendor's acts. Each insurance certificate for such policy shall include an agreement that the insurer shall endeavor to provide thirty (30) Calendar Days prior written notice to FHKC of cancellation for any coverage.

B. Workers' Compensation Insurance

Vendor shall secure and continuously maintain workers' compensation insurance coverage as required under all relevant workers' compensation statutes. Such coverage shall comply fully with all applicable state and federal laws governing workers' compensation. The insurance shall cover all of Vendor's employees connected with the provision of services under this Contract. Should any work be subcontracted, Vendor shall require the subcontractor to provide workers' compensation coverage for all of the subcontractor's employees unless such employees are covered by the protection afforded by Vendor. For any employee engaged in hazardous work under this Contract who is not protected or otherwise covered under applicable workers' compensation statutes, Vendor shall provide, and require each subcontractor to provide, adequate insurance coverage for such employee that is satisfactory to FHKC.

Vendor may use a self-insurance program approved by the Florida DFS, Division of Workers' Compensation, or if a force majeure condition causes services to be provided by Vendor's employees located outside of the state, Vendor may use a self-insurance workers' compensation program approved by the state where the Services are performed, and Vendor's employees are located.

Section 5 General Terms and Conditions

5-1 Amendment

This Contract may be amended by mutual written consent of the Parties at any time. This Contract shall automatically be amended to the extent necessary from time to time to comply with state or federal laws or regulations or the requirements of FHKC's agreement with the Agency for Health Care Administration upon advance written notice by FHKC to Vendor to that effect.

5-2 Assignment

This Contract and the monies that may become due under it may not be assigned by Vendor without the prior written consent of FHKC, and such consent shall not be unreasonably withheld or delayed. Any purported assignment without such consent shall be deemed null and void.

5-3 Attachments and Other Documents Incorporated by Reference

Attachments A through D; the Florida Healthy Kids Corporation's Request for Proposals for Community Engagement and Education Marketing Services, RFP No. 2019-002; and Respondent's response to the Florida Healthy Kids Corporation's Request for Proposals for Community Engagement and Education Marketing Services, RFP No. 2019-002, are all incorporated into this Agreement by reference.

5-4 Bankruptcy

FHKC shall have the absolute right to elect to continue or terminate this Contract, at its sole discretion, in the event Vendor files a petition for bankruptcy or for approval of a plan of reorganization or arrangement under the Bankruptcy Act. Vendor shall give FHKC notice of the intent to petition for bankruptcy or reorganization or arrangement at the time of the filing and immediately provide a copy of such filing to FHKC. FHKC shall have thirty (30) calendar days from the date of receipt of such notice to elect continuation or termination of this Contract.

5-5 Confidentiality and Public Records

A. Confidentiality

Vendor shall treat all information obtained through its performance under this Contract as confidential to the extent such information is protected under Florida and federal law. Vendor shall not use any information except as necessary for the proper discharge of its obligations under this Contract.

Vendor shall not use or disclose any protected health information, personally identifiable information, or other identified information obtained through its performance under this Contract, except as allowed under this Contract and Florida and federal laws, including HIPAA; Sections 624.91 and 409.821, Florida Statutes; and Chapter 119, Florida Statutes. Such information shall not be disclosed without the written consent of FHKC, the Applicant, or the Member, except as otherwise required under Florida or federal law. Vendor shall execute a Business Associate Agreement, which is attached hereto as Attachment C.

This subsection does not prohibit the disclosure of information in summary, statistical, or other de-identified forms.

The Parties agree to maintain the integrity of the other Party's confidential, trade secret, or proprietary information to the extent provided under the law and this Contract. Neither Party will disclose or allow others to disclose the other Party's confidential, trade secret, or proprietary information except as provided by law or this Contract.

B. Redacted Copies of Confidential Information

Records produced or used in relation to the performance of this Contract may be subject to Chapter 119, Florida Statutes. If Vendor considers any portion of any documents, data, or records submitted to FHKC to be confidential, proprietary, trade secret, or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority ("Confidential Information"), Vendor must simultaneously provide FHKC with a separate, redacted copy of the information it claims as exempt and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Contract name and number and shall be clearly titled "Redacted Copy." The redacted copy should only redact those portions of material that Vendor claims are confidential, proprietary, trade secret, or otherwise not subject to disclosure. The following methods of redacting are not sufficient for designating information as confidential, proprietary, trade secret, or otherwise not subject to disclosure:

- a. Statements to the effect that the record “may” contain confidential, trade secret, proprietary, or exempt information;
- b. Designations outside the body of the record such as in an electronic document title or in the body of an email providing the record; or
- c. Placement or formatting that interferes with FHKC’s ability to access the information such as using an opaque watermark.

If Vendor fails to submit a redacted copy of information it claims is confidential, proprietary, trade secret, or otherwise not subject to disclosure, FHKC is authorized to produce the entire documents, data, or records in response to a public records request or other lawful request for those records.

Records in which the sole Confidential Information is protected health information or personally identifiable information are excluded from this redaction requirement.

C. Request for Confidential Information

In the event of a public records or other disclosure request pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents marked as “Redacted Copy” are responsive, FHKC will provide Vendor-redacted copies to the requestor. If a requestor asserts a right to the Confidential Information, FHKC will notify Vendor such an assertion has been made. It is Vendor’s responsibility to assert that the Confidential Information is not subject to disclosure under Chapter 119, Florida Statutes, or other applicable law. If FHKC becomes subject to a demand for discovery or disclosure under legal process regarding the Confidential Information, FHKC shall give Vendor prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). Vendor shall be responsible for defending its determination that the redacted portions of its records are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

D. Indemnification

Vendor shall protect, defend, and indemnify FHKC for any and all claims arising from or relating to Vendor’s determination that the redacted portions of records are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

E. Vendor as Agent

Vendor agrees to advise FHKC prior to the release of any information in response to a request for public records and, upon FHKC’s request, provide FHKC with a copy of the requested records at no cost. All records stored electronically must be provided to FHKC in a format that is compatible with the FHKC’s information technology systems.

Section 409.821, Florida Statutes, provides certain public records exemptions for Florida KidCare documents. If, under this Contract, Vendor is providing services and is acting on behalf of a public agency, as provided by Section 119.0701, Florida Statutes, Vendor shall:

- a) Keep and maintain public records required by the public agency to perform the service.
- b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if Vendor does not transfer the records to the public agency.
- d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Vendor or keep and maintain public records required by the public agency to perform the service. If Vendor transfers all public records to the public agency upon completion of the Contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the Contract, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- e) **IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE EMAIL ADDRESS AND MAILING ADDRESS PROVIDED FOR THE FHKC CONTACT IN SECTION 5-12 OF THIS AGREEMENT.**

5-6 Conflicts of Interest

A. Conflicts of Interest

Vendor confirms that to the best of its knowledge, the responsibilities and duties assumed pursuant to this Contract are not in conflict with any other interest to which Vendor is obligated or from which Vendor benefits. Further, Vendor agrees to inform FHKC immediately after becoming aware of any conflicts of interest that it may have with the interests of FHKC, as set forth in this Contract and which may occur in the future.

Within ten (10) days of the Effective Date, Vendor shall submit a disclosure form identifying any relationships, financial or otherwise, with any FHKC Board Member, FHKC Ad Hoc Board Member, FHKC committee member, or any employee of FHKC.

B. Gift Prohibitions

In accordance with FHKC corporate policies, Vendor affirms its understanding that FHKC Board Members, FHKC Ad Hoc Board Members, FHKC committee members, and FHKC Employees are prohibited from accepting any gifts, including but not limited to, any meal, service, or item of value even, *de minimus*, from those entities that conduct or seek to conduct business with FHKC.

C. Non-Solicitation

Vendor recognizes and acknowledges that because of this Contract, Vendor will come into contact with employees of FHKC and that these employees have received considerable training by FHKC. Vendor agrees not to solicit, recruit, or hire any individual who is or was employed by FHKC at any time during the term of this Contract. This prohibition shall be in effect until twelve (12) months following the termination of the Contract.

5-7 Entire Understanding

This Contract with all Attachments incorporated by reference embodies the entire understanding of the Parties relating to the subject matter hereof and supersedes all other agreements, negotiations, understanding, or representations, whether verbal or written, between the Parties relative to the subject matter hereof.

5-8 Force Majeure

Neither Party shall be responsible for delays or failure in performance of its obligations under this Contract resulting from acts beyond the control of the party. Such acts shall include, but are not limited to, blackouts, riots, acts of war, terrorism, epidemics, fire, communication line failure, power failure or shortage, fuel shortages, hurricanes, or natural disasters.

5-9 Governing Law; Venue

This Contract shall be governed by applicable State of Florida and federal laws and regulations as such may be amended during the term of the Contract, whether or not expressly included or referenced in this Contract.

Vendor agrees to comply with the following provisions:

- A. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color or national origin.
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.
- C. Title XI of the Education Amendments of 1972, as amended 29, U.S.C. 601 et seq., which prohibits discrimination on the basis of sex.
- D. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age.
- E. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9848, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, or political affiliation or beliefs.
- F. The Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires accommodation for persons with disabilities.

- G. Section 274A(e) of the Immigration and Nationalization Act, and FHKC shall consider the employment by any subcontractor of unauthorized aliens a violation of this Act.
- H. Title XXI of the federal Social Security Act.
- I. All applicable state and federal laws and regulations governing FHKC.
- J. All regulations, guidelines, and standards as are now or may be lawfully adopted under the above statutes.
- K. The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. Vendor shall employ individuals who may legally work in the United States – either U.S. Citizens or foreign citizens who are authorized to work in the United States. Vendor shall use the U.S. Department of Homeland Security’s E-Verify Employment Eligibility System to verify the employment status of all its employees and all persons (including subcontractors) who perform work pursuant to this Contract.

Vendor agrees that compliance with this assurance constitutes a condition of continued receipt of or benefit from funds provided through this Contract and such compliance is binding upon Vendor, its successors, transferees, subcontractors, and assignees for the period during which services are provided. Vendor further agrees that all contractors, sub-grantees or others with whom it arranges to provide goods, services, or benefits in connection with any of its programs and activities are not discriminating against either those whom they employ nor those to whom they provide goods, services, or benefits in violation of the above statutes, regulations, guidelines, and standards.

It is expressly understood that evidence of Vendor’s failure to substantially comply with this section, or anyone with whom Vendor affiliates in performing under this Contract, shall constitute a breach and renders this Contract subject to unilateral cancellation by FHKC.

Any legal action with respect to the provisions of this Contract shall be brought in federal or state court in Leon County, Florida.

5-10 Independent Contractor

The relationship of Vendor to FHKC shall be solely that of an independent contractor. The parties acknowledge and agree that neither party has the authority to make any representation, warranty or binding commitment on behalf of the other party, except as expressly provided in this Contract or as otherwise agreed to in writing by the parties, and nothing contained in this Contract shall be deemed or construed to (i) create a partnership or joint venture between the parties or any affiliate, employee or agent of a party; or (ii) constitute any party or any employee or agent of a party as an employee or agent of the other party.

5-11 Name and Address of Payee

The name and address of the official payee to whom the payment shall be made:

(INSERT LEGAL NAME OF VENDOR)

(INSERT MAILING ADDRESS)
(INSERT CITY, STATE, ZIP CODE)

5-12 Notice and Contact

All notices required under this section shall be in writing and may be delivered by certified mail with return receipt requested, by facsimile with proof of receipt, by electronic mail with proof of receipt or in person with proof of delivery.

Notice required or permitted under this Contract shall be directed as follows:

For: (LEGAL NAME OF VENDOR):

(INSERT CONTACT NAME)
(INSERT LEGAL NAME OF VENDOR)
(INSERT MAILING ADDRESS)
(INSERT CITY, STATE, ZIP CODE)

(INSERT CONTACT PHONE NUMBER)
(INSERT CONTACT EMAIL ADDRESS)

For Florida Healthy Kids Corporation:

Ashley Carr (contract manager)
Florida Healthy Kids Corporation
1203 Governors Square Blvd.
Suite 400
Tallahassee, FL 32301
850-701-6160 (Phone)
connect@healthykids.org

In the event that different contact persons are designated by either party after execution of this Contract, notice of the name and address of the new contact will be sent to the other party, and does not require an amendment to this Contract.

5-13 Pursuant to section 20.055(5), Florida Statutes, Vendor and any of its subcontractors or agents understand and will comply with their duty to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

5-14 Severability

If any of the provisions of this Contract are held to be inoperative by a court of competent jurisdiction, such a provision shall be severed from the remaining provisions of the Contract, which shall remain in full force and effect.

5-15 Survival

The provisions of the following sections: Records Retention and Accessibility; Confidentiality and Public Records; Conflicts of Interest; Non-Solicitation and Governing Law; and Venue shall survive termination or expiration of this Contract.

5-16 Termination of Contract

A. Termination for Lack of Funding

This Contract is subject to the continuation and approval of funding to FHKC from state, federal, and other sources. FHKC shall have the absolute right, in its sole discretion, to terminate this Contract if funding for the Program is to be changed or terminated such that this Contract could not be sustained. FHKC shall send Vendor notice of termination and include a termination date of not less than thirty (30) calendar days from the date of the notice.

B. Termination for Lack of Payment

If FHKC fails to make payments in accordance with the schedule included in this Contract, Vendor may suspend work and pursue the appropriate remedies for FHKC's breach of its payment obligations. Vendor must provide FHKC at least thirty (30) calendar days written notice of any suspension or termination due to lack of payment and allow FHKC an opportunity to correct the default prior to suspension of work or termination of this Contract.

C. Termination for Lack of Performance or Breach

The continuation of this Contract is contingent upon the satisfactory performance of the Vendor and corresponding evaluations by FHKC. If Vendor fails to make timely progress on the objectives of this Contract or fails to meet the deliverables described under this Contract in the time and manner prescribed, FHKC reserves the right to terminate this Contract, or any part herein, at its discretion, and such termination shall be effective at such times as is determined by FHKC. In its sole discretion, FHKC may allow Vendor to cure any performance deficiencies prior to termination. The Vendor will be granted thirty (30) days to cure any breach after receiving notice of such breach.

FHKC further reserves the right to immediately terminate this Contract by written notice to the Vendor for breach of any provision of the Contract by the Vendor, for the Vendor's failure to perform satisfactorily any requirement of this Contract, or for any defaults in performance of this Contract, as determined in FHKC's sole discretion.

Waiver of the failure to perform satisfactorily or of breach of any provision of this Contract by either party shall not be deemed to be a waiver of any other failure to perform or breach and shall not be construed to be a modification of the terms of this Contract.

D. Termination upon Revision of Applicable Law

FHKC and Vendor agree if federal or state revisions of any applicable laws or regulations restrict FHKC's ability to comply with the Contract, make such compliance impracticable, frustrate the purpose of the Contract, or place the Contract in conflict with FHKC's ability to adhere to its statutory purpose, FHKC may unilaterally terminate this Contract. FHKC shall send Vendor notice of

termination and include a termination date of not less than thirty (30) calendar days from the date of notice.

E. Termination upon Mutual Agreement

With the mutual agreement of both Parties, this Contract, or any part herein, may be terminated on an agreed date prior to the end of the Contract without penalty to either party.

F. Termination for Convenience

FHKC may terminate the Contract for convenience. FHKC shall send Vendor notice of termination and include a termination date of not less than thirty (30) calendar days from the date of notice.

5-18 Request for Proposal (RFP) No. 2019-03 for Community Engagement and Education Marketing Services and Respondent's response to the RFP are hereby incorporated for reference.

5-19 Identification and Association

Vendor may not identify themselves to any third party as a representative of the Florida KidCare program or FHKC.

5-20 Compliance with Marketing and Advertising Standards

Vendor shall comply with any marketing and advertising standards set forth by FHKC. This includes, but is not limited to, the use of truthful and accurate information as well as demonstrating legal and ethical conduct in the course of any marketing, outreach, or other activities conducted by Vendor.

5-21 Intellectual Property

Names, logos, and other corporate identities of both the Corporation and the Florida KidCare program are trademarked and protected. Intellectual property developed by Vendor specifically for FHKC under this Contract shall be the property of FHKC. FHKC shall have unlimited rights to use, disclose and duplicate all information and data developed, derived or provided by Vendor under this Contract regardless of whether such information and data is copyrightable, patentable or trademarkable.

5-22 In the event of any conflict among the Contract documents, the order of precedence is as follows:

- a) This Contract document;
- b) The attachments to this Contract;
- c) Florida Healthy Kids Corporation's Request for Proposals for Community Engagement and Education Marketing Services, RFP No. 2019-03, in reverse order as posted to the FHKC website; and
- d) Respondent's response to the Florida Healthy Kids Corporation's Request for Proposals for Community Engagement and Education Marketing Services, RFP No. 2019-03.

IN WITNESS WHEREOF, the Parties have caused this Contract, to be executed by their undersigned officials as duly authorized.

FOR

(INSERT LEGAL NAME OF ORGANIZATION):

NAME: (INSERT NAME OF EXECUTIVE OFFICER/AUTHORIZED AGENT OF THE ORGANIZATION)

TITLE: (INSERT TITLE)

DATE SIGNED: _____

STATE OF FLORIDA

COUNTY OF (INSERT NAME)

The foregoing instrument was acknowledged to me before this _____ day of _____, 2019, by (INSERT NAME OF EXECUTIVE OFFICER/AUTHORIZED AGENT OF THE ORGANIZATION, TITLE), on behalf of (INSERT LEGAL NAME OF ORGANIZATION). He/she is personally known to me or has produced _____ as identification.

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

FOR

FLORIDA HEALTHY KIDS CORPORATION:

NAME: Jeff Dykes
TITLE: Interim Chief Executive Officer
DATE SIGNED:

STATE OF FLORIDA

COUNTY OF LEON

The foregoing instrument was acknowledged to me before this _____ day of _____, 2019, by Jeff Dykes, as Interim Chief Executive Officer on behalf of the Florida Healthy Kids Corporation. He is personally known to me or has produced _____ as identification.

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

APPENDIX 3 FHKC PROCUREMENT AND PROTEST PROCEDURES

A. STANDARDS FOR PROTEST

1. A submission that amends or supplements a Respondent's proposal after FHKC announces its Notice of Contract Award, intent to reject all proposals, or withdraw the solicitation will not be considered by FHKC in a protest.
2. The protesting party has the burden of proof based on the preponderance of the evidence standard.
3. The protesting party must prove that the FHKC Intended Decision was illegal, arbitrary, dishonest, or fraudulent. Additionally, the protesting party must prove:
 - (a) In the event of a protest to an FHKC Intended Decision to issue procurement specifications, addenda, or any other procurement document, that the FHKC Intended Decision is contrary to FHKC's governing statutes, rules, or regulations; or
 - (b) In the event of a protest to the FHKC Notice of Contract Award, that the FHKC Intended Decision materially deviated from the specifications of the RFP.

II. PROTEST PROCEDURES**1. PROTESTING PARTY PROCEDURES**

- (a) A party that seeks to challenge an FHKC Intended Decision must electronically File a written notice of intent to protest within forty-eight (48) hours after the Posting of the FHKC Intended Decision, excluding weekends and FHKC-observed holidays¹. A party must have standing to challenge the FHKC Intended Decision.
- (b) The protesting party must electronically File a formal written protest within five (5) business days after the date of the notice of intent to protest is Filed. For all protests other than a protest to the specifications, the formal written protest must be accompanied with a protest bond in the amount of 1 percent of the contract amount. The bond shall be conditioned upon the payment of all FHKC's attorneys' fees, costs, and charges in the event the protesting party does not prevail in the protest process set forth in this ITN, any administrative or circuit court proceedings, and/or any subsequent appellate court proceedings. In lieu of a bond, FHKC will accept a cashier's check, official bank check, or money order. An original cashier's check, official bank check, or money order must be Filed in the same fashion as a protest bond.
- (c) The formal written protest must state, with particularity, the facts and law upon which the protest is based. The issues to be addressed in any proceeding conducted pursuant to subsections II.2 and II.3 are limited to those timely raised in any formal written protest.

¹ For 2019: November 11, November 28, November 29, December 24, December 25.

- (d) The notice of intent to protest, formal written protest, and any required bond or other security must be timely Filed with the issuing office at connect@healthykids.org.
- (e) The protesting party shall be responsible for all costs associated with the impartial decision maker.
- (f) A Respondent or potential Respondent may intervene in the protest proceedings by Filing a notice to intervene within three Business Days of the Posting of the initial notice of the protest by FHKC. An intervening party is subordinate to, and therefore does not have the rights granted to, FHKC or a protesting party that has Filed a timely notice of protest, written notice of intent to protest, and any required bond or other security.

2. FHKC PROCEDURES

FHKC must take the following steps:

- (a) Post the notice of intent to protest in the same manner as the solicitation specifications and/or the Notice of Contract Award were Posted.
- (b) Provide an opportunity to resolve the protest by mutual agreement between FHKC and the protesting party(ies) within seven Business Days of the Filing of the formal written protest. If the protest is not resolved by mutual agreement within the timeframe set forth in this paragraph or within an extended timeframe as mutually agreed upon by the parties, a protest proceeding must be conducted with the impartial decision maker as set forth in subsection II.3 below.
- (c) Engage an outside, impartial decision maker, such as a mediator, to hear the protest if the protest is not resolved in accordance with subsection II.2(b).

The filing of a notice of intent to protest or a formal written protest shall not stop the RFP process or award process, unless FHKC determines that doing so is in the best interest of FHKC.

3. PROTEST RESOLUTION

- (a) If the protest is not resolved pursuant to subsection II.2(b) above, the impartial decision maker must commence a protest proceeding within 15 Calendar Days of receipt of FHKC's decision to commence a protest proceeding. The provisions of this subsection may be waived only upon stipulation by FHKC and the non-intervening protesting party(ies).
- (b) The impartial decision maker must render a written decision within 30 Calendar Days of the commencement protest proceeding. The provisions of this paragraph may be waived only upon stipulation by FHKC and the non-intervening protesting party(ies).
 - 1. The impartial decision maker's written decision must include findings; based on these findings, the impartial decision maker may affirm or reject the FHKC Intended Decision.

2. If rejecting an FHKC Intended Decision, the impartial decision maker must issue a recommendation to FHKC supported by findings of fact and conclusions of law.
3. FHKC may either accept or reject the impartial decision maker's recommendation.
 - a. If FHKC rejects the impartial decision maker's recommendation, FHKC must Post the recommendation and resolution within five Business Days after receipt of the recommendation, in the same manner as the solicitation specifications and/or the Notice of Contract Award were Posted, and set forth the reason(s) for rejecting the recommendation. FHKC may restart the procurement process, continue the procurement process, or proceed with the FHKC Intended Decision consistent with its reason or reasons for rejecting the impartial decision maker's recommendation.
 - b. If FHKC accepts the impartial decision maker's recommendation, FHKC must Post the recommendation and resolution within five Business Days after receipt of the recommendation, in the same manner as the solicitation specifications and/or the Notice of Contract Award were Posted.
- (c) The impartial decision maker may permit the parties to submit proposed findings of fact, conclusions of law, draft orders, or memoranda.
- (d) A default must be entered against a party who fails to appear at a protest proceeding as directed by the impartial decision maker, unless at least one of the following conditions exists:
 1. Illness of a party, witness, or attorney that would prevent attendance at the protest proceeding;
 2. An act of God that would prevent attendance at the protest proceeding;
 3. A designated threat to public safety that would prevent attendance at the protest proceeding; or
 4. Any other circumstance in the opinion of the impartial decision maker that would warrant a continuance of the protest proceeding.

An entry of default against a party is deemed the final decision of the impartial decision maker.

III. GENERAL PROVISIONS

1. Failure of a party to file a notice of intent to protest, a formal written protest, or a bond or other security as set forth in this appendix shall constitute a waiver of any right to contest an FHKC Intended Decision.

2. Venue for any meeting, protest proceeding, court proceeding, appellate proceeding, administrative proceeding, or deposition shall be in Leon County, Florida. FHKC, in its sole discretion, may waive any requirement under this paragraph in whole or in part.
3. The procedures in chapters 120 and 287, Florida Statutes, do not apply to this ITN process.

ATTACHMENT A
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION

CONTRACTS AND SUBCONTRACTS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, signed February 18, 1986. The guidelines were published in the May 29, 1987, Federal Register (52 Fed. Reg., pages 20360-20369).

INSTRUCTIONS

- A. *Entities who audit federal programs must sign, regardless of the Contract amount. The Florida Healthy Kids Corporation cannot contract with these types of Entities if they are debarred or suspended by the federal government.*
- B. *This certification is a material representation of fact upon which reliance is placed when this Contract is entered into. If it is later determined that the signer knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment.*
- C. *(INSERT NAME) shall provide immediate written notice to the Contract manager at any time (INSERT NAME) learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.*
- D. *The terms “debarred,” “suspended,” “ineligible,” “person,” “principal,” and “voluntarily excluded,” as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Contract manager for assistance in obtaining a copy of those regulations.*
- E. *(INSERT NAME) agrees by submitting this certification that, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract or any subcontract unless authorized by the Federal Government.*
- F. *(INSERT NAME) further agrees by submitting this certification that it will require each subcontractor of this Contract whose payment will equal or exceed twenty-five thousand dollars (\$25,000) in federal monies, to submit a signed copy of this certification.*
- G. *The Florida Healthy Kids Corporation may rely upon a certification of the (INSERT NAME) that it is not debarred, suspended, ineligible, or voluntarily excluded from contracting/subcontracting unless it knows that the certification is erroneous.*
- H. *This signed certification must be kept in the Contract manager’s file. subcontractor certifications must be kept at the (INSERT NAME)’s business location.*

CERTIFICATION

(INSERT NAME) certifies, by signing this certification, that neither (INSERT NAME) nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal agency.

Where (INSERT NAME) is unable to certify to any of the statements in this certification, (INSERT NAME) shall attach an explanation to this certification.

Signature (Above)
Name and Title of Authorized Signatory

Date of Signature

(INSERT LEGAL NAME OF ORGANIZATION)
(INSERT MAILING ADDRESS)
(INSERT CITY, STATE, ZIP CODE)

ATTACHMENT B
CERTIFICATION REGARDING LOBBYING
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress or an employee of a member of congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative Agreement and the extension, continuation, renewal, amendment or modification of any federal Contract, grant, loan or cooperative Agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress or an employee of a member of congress in connection with this federal Contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and Contracts under grants, loans and cooperative Agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000.00) and not more than one hundred thousand dollars (\$100,000.00) for each such failure.

Signature (Above)

Date of Signature

(INSERT LEGAL NAME OF ORGANIZATION)
(INSERT MAILING ADDRESS)
(INSERT CITY, STATE, ZIP CODE)

ATTACHMENT C
REGARDING HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
1996 COMPLIANCE:
BUSINESS ASSOCIATE (BA) AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (“BAA”) is entered into by and between Florida Healthy Kids Corporation, a Florida non-profit corporation, (“FHKC” or “Covered Entity”) and (INSERT NAME) (the “BA”), and is incorporated in the Agreement (“Contract”) between FHKC and BA.

Section 1: HIPAA Compliance

FHKC and BA agree to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, codified at 42 U.S.C. §1320d through d-9, as amended from time to time (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”). BA recognizes and agrees that it is directly obligated by law, through the Contract, and through any other written agreement and this BAA to meet the applicable provisions of HIPAA and HITECH.

Section 2: Definitions for Use in this Attachment

Terms used but not otherwise defined in this BAA and the Contract shall have the same meaning as those terms in 45 C.F.R. Parts 160, 162 and 164.

“**Access**” means to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer System or network includes local and remote access.

Section 3: Obligations and Activities of BA (Privacy Rule)

3.1 Operation on Behalf of FHKC

The BA shall use and disclose Protected Health Information (“PHI”) only as shall be permitted by the Contract, this BAA or as required by law. BA shall have the same duty to protect FHKC’s PHI as such term is defined in the Contract and under HIPAA, and in furtherance of the duties therein.

3.2 Compliance with the Privacy Rule

BA agrees to fully comply with the requirements under the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) applicable to “business associates,” as that term is defined in the Privacy Rule, and not use or further disclose PHI other than as permitted or required by the Contract, this BAA or as required by law.

BA shall create and/or adopt policies and procedures to periodically audit BA’s adherence to all HIPAA regulations. BA acknowledges and promises to perform such audits pursuant to the terms and conditions set out herein. BA shall make such audit policies and procedures available to FHKC for review.

To the extent BA is to carry out one or more of FHKC’s obligations under the Privacy Rule, BA agrees to comply with the requirements of the Privacy Rule that apply to FHKC in the performance of such obligations. Except as otherwise allowed in this BAA and under HIPAA, BA shall not directly or indirectly receive remuneration in exchange for any

PHI of an individual unless the individual has provided a valid authorization compliant with HIPAA and state law.

3.3 Privacy Safeguards and Policies

BA agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Contract, any other ancillary agreement(s), this BAA, or as required by law.

3.4 Mitigation of Harmful Effect of Violations

BA agrees to inform FHKC without unreasonable delay and mitigate, to the extent practicable, any harmful effect that is known to BA resulting from Access, use, or disclosure of PHI by BA, or by a subcontractor or agent of BA, resulting from a violation of the requirements of this BAA.

3.5 Privacy Obligations regarding Breaches and Security Incidents

3.5.1 Privacy Breach

BA will report to FHKC, immediately following discovery and without unreasonable delay, any Access, acquisition, use, or disclosure of FHKC's PHI not permitted by HIPAA, the Contract, this BAA, or in writing by FHKC. In addition, BA will report, immediately following discovery and without unreasonable delay, but in no event later than seven (7) business days following discovery, any Breach of Unsecured Protected Health Information, notwithstanding whether BA has made an internal risk assessment and determined that no notification is required. BA shall cooperate with FHKC in investigating the Breach and in meeting FHKC's obligations under HIPAA and any other security breach notification laws. In the event of a Breach, BA and FHKC will work together to comply with any required regulatory filings.

Any such report shall include the identification (if known) of each Individual whose Unsecured PHI has been, or is reasonably believed by BA to have been, Accessed, acquired, used, or disclosed during such Breach. BA will make the report to FHKC's Privacy Officer not more than seven (7) business days after BA discovers such non-permitted Access, acquisition, use, or disclosure.

Regarding any items not known at the time of the initial report, BA will subsequently report to FHKC as answers are determined. All elements will be reported no later than 30 days after the date of the initial report, or as soon as feasible, whichever is sooner.

BA shall track all Breaches and shall periodically report such Breaches in summary fashion as may be requested by FHKC, but not less than annually within sixty (60) days of each anniversary of this Agreement.

3.5.2 Access of Individual to PHI and other Requests to Business Associate

If BA receives PHI from FHKC in a designated record set, BA agrees to provide access to such PHI to FHKC in order for FHKC to meet its requirements under 45 CFR § 164.524. If BA receives a request from an individual for a copy of the individual's PHI, and the PHI is in the sole possession of the BA, BA will provide the requested copies to the individual in compliance with 45 CFR § 164.524, and notify FHKC of such action within five (5) business days of completion of the request. If BA receives a request for PHI in the possession of FHKC, or receives a request to exercise other individual rights as set forth in the Privacy Rule, BA shall promptly forward the request to FHKC within two (2) business days. BA shall then assist FHKC as necessary in responding to the request in a timely manner. If a BA provides copies of PHI to the individual, it may charge a reasonable fee for hard copies as the regulations shall permit. If requested, BA shall provide electronic copies as required by law.

3.5.3 Recording of Designated Disclosures of PHI

BA agrees to maintain and make available information required to provide an accounting of disclosures to FHKC as necessary to satisfy FHKC's obligations under 45 CFR § 164.528. BA agrees to provide to FHKC, within fifteen (15) days and in a secure manner, information collected in accordance with this provision, to permit FHKC to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528 and applicable state law.

3.5.4 Requests to Make an Amendment to the PHI

BA agrees to make any amendments to PHI in a designated record set as agreed to by FHKC pursuant to 45 CFR § 164.526, or take other measures as necessary to satisfy FHKC's obligations under 45 CFR § 164.526.

3.5.5 Security and Privacy Compliance Review upon Request

3.5.5.1 HHS Inspection

BA shall make its internal practices, books and records relating to the Access, acquisition, use, and disclosure of PHI available to the HHS for purposes of determining Covered Entity's compliance with HIPAA. Except to the extent prohibited by law, BA agrees to notify FHKC of all requests served upon BA for information or documentation by or on behalf of the HHS. BA shall provide to FHKC a copy of any PHI that BA provides to the HHS concurrently with providing such PHI to the HHS.

3.5.5.2 FHKC Inspection

Upon written request, BA agrees to make available to FHKC during normal business hours BA's internal practices, books, and records relating to the use and disclosure of PHI or Electronic Protected Health Information ("EPHI") received from, or created or received on behalf of, FHKC in a time and manner designated by FHKC for the purposes of FHKC determining compliance with the HIPAA Privacy and Security Requirements.

Section 4: Obligations and Activities of BA (Security Rule)

4.1 Compliance with Security Rule

BA shall ensure compliance with the HIPAA Security Standards for the Protection of EPHI, 45 C.F.R. Part 160 and Part 164, Subparts A and C (the "Security Rule"), with respect to EPHI covered by the Contract and this BAA.

4.2 Security Safeguards and Policies

BA agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of FHKC as required by the Security Rule. The BA will maintain appropriate documentation of its compliance with the Security Rule. These safeguards will include, but shall not be limited to:

- Annual training to relevant employees, contractors, and subcontractors on preventing improper Access, acquisition, use, or disclosure of PHI, updated as appropriate;
- Adopting policies and procedures regarding the safeguarding of PHI, updated and enforced as necessary;
- Implementing appropriate technical and physical safeguards to protect PHI, including access controls, transmission security, workstation security, etc.

4.3 Security Provisions in Business Associate Contracts

In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BA shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of BA agree in writing to the same restrictions and conditions that apply to BA with respect to such information.

4.4 Reporting of Security Incidents

BA shall track all Security Incidents and shall periodically report such Security Incidents in summary fashion as may be requested by FHKC, but not less than annually within sixty (60) days of each anniversary of this BAA. The BA shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for BA's operations. However, the BA shall expediently notify FHKC's Privacy Officer of any Security Incident, including any Breach of Security under section 501.171, *Florida Statutes*, in a preliminary report within two (2) business days, with a full report of the incident not less than five (5) business days of the time it became aware of the incident. The BA shall likewise notify FHKC in a preliminary report within two (2) business days of any unauthorized Access or acquisition, including but not limited to internal user Access to non-test records reported to BA's privacy manager, and any use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware with a full report of the incident not less than five (5) business days from the time it became aware of the incident.

BA shall identify in writing key contact persons for administration, data processing, marketing, information systems and audit reporting within thirty (30) days of the execution of this BAA. BA shall notify FHKC of any reduction of in-house staff during the term of this BAA, in writing, within ten (10) business days.

4.5 Unsecured Protected Health Information

For all Unsecured PHI maintained or transmitted by BA and all BA's subcontractors, BA shall notify each Individual whose Unsecured PHI has been Accessed, acquired, used, or disclosed in a manner not permitted under the HIPAA Privacy Rule which compromises the security and privacy of the PHI, except when law enforcement requires a delay pursuant to 45 CFR 164.412. If BA cannot identify the specific Individuals whose Unsecured PHI may have been Accessed, acquired, used, or disclosed, BA shall notify all persons whose Unsecured PHI reasonably may have been Accessed, acquired, used, or disclosed.

On behalf of FHKC, BA shall notify such Individuals without unreasonable delay, and in no case later than sixty (60) days after discovery of the Breach. However, where applicable state law, such as section 501.171, *Florida Statutes*, requires notification to be sent within a shorter time period, BA agrees to comply with such state laws in notifying the affected Individuals. The notice required under HIPAA shall be made as follows:

- By written notice in plain language including, to the extent possible:
 - A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - A description of the types of Unsecured PHI involved in the breach (including but not limited to items such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - Any steps Individuals should take to protect themselves from potential harm resulting from the breach;
 - A brief description of what BA and FHKC are doing to investigate the breach, to mitigate the harm to Individuals, and to protect against further breaches; and
 - Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an email address, website, or postal address.
- BA must use a method of notification that meets the requirements of 45 CFR 164.404(d).
- BA must provide notice to the media when required under 45 CFR 164.406, and to HHS pursuant to 45 CFR 164.408.

BA agrees to pay all costs of notification and any associated mitigation as a result of a Breach, including the provision of, at a minimum, two (2) years of credit monitoring and identity theft protection for such affected Individuals. FHKC, in its sole discretion, shall determine if the Breach is significant enough to warrant such measures and the length of time such mitigation measures shall be offered to the affected Individuals.

4.6 Additional Consumer Protections

For purposes of this paragraph, the terms and definitions set forth in section 501.171, *Florida Statutes*, govern over any other conflicting definitions specified in this Agreement. BA understands that FHKC or its customers may be a Covered Entity (as may be BA) under the terms of section 501.171, and that in the event of a Breach of Security, the BA shall indemnify and hold FHKC harmless for expenses and/or damages related to the Breach of Security. Such obligation shall include, but is not limited to, the mailed notification to a governmental agency and any individual in Florida whose Personal Information is reasonably believed to have been Accessed as a result of the Breach of Security. In the event that the BA discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, BA shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(p), of the timing, distribution and content of the notices. Substitute notice, as specified in section 501.171(4)(f), *Florida Statutes*, shall not be permitted except as approved in writing in advance by FHKC. The parties agree that PHI includes data elements in addition to those included described as Personal Information under section 501.171 and agree that BA's responsibilities under this paragraph shall include all PHI or EPHI. BA agrees to pay all costs of any associated mitigation as a result of a Breach of Security, including the provision of, at a minimum, one (1) year of credit monitoring and identity theft protection for such affected individuals. FHKC, in its sole discretion, shall determine if the Breach of Security is significant enough to warrant such measures and the length of time such mitigation measures shall be offered to the affected individuals.

Section 5: Electronic Transaction and Code Sets

To the extent that the services performed by BA pursuant to the Contract involve transactions that are subject to the HIPAA Standards for Electronic Transactions and Code Sets, 45 C.F.R. Parts 160 and 162, with respect to EPHI covered by the Contract and this BAA, BA shall conduct such transactions in conformance with such regulations as amended from time to time. Without limiting the generality of the foregoing, BA also agrees that it will, in accordance with 45 C.F.R. § 162.923(c), comply with all applicable requirements of 45 C.F.R. Part 162, and require any agent or subcontractor to comply with all applicable requirements of 45 C.F.R. Part 162.

Section 6: Permitted Uses and Disclosures by BA – General Use and Disclosure Provisions

Use of PHI for Operations on Behalf of FHKC

Except as otherwise limited by this BAA, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, FHKC as specified in the Contract and this BAA, provided that such use or disclosure would not violate HIPAA if done by FHKC, or other policies and procedures of FHKC. BA may use or disclose PHI as required by law.

Except as otherwise provided in the Contract or this BAA, BA is prohibited from further using or disclosing any information received from FHKC, or from any other business associate of FHKC for any commercial purposes of the BA, including, by way of example, “data mining.”

BA shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purposes of the request, use or disclosure.

Section 7: Permitted Uses and Disclosures by BA – Specific Use and Disclosure Provisions

7.1 Proper Management and Administration of BA

BA may use PHI for the proper management and administration of BA or to carry out the legal responsibilities of BA.

7.2 Third Party Disclosure Confidentiality

Except as otherwise limited in the Contract or this BAA, BA may disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of BA, provided that disclosures are required by law, or, if permitted by law, this BAA, the Contract and any ancillary agreements, provided that, if BA discloses any PHI to a third party for such a purpose, BA shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as required by law or for the purpose for which it was disclosed, and (b) notify BA of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is breached in a preliminary report within two (2) business days with a full report of the incident not less than five (5) business days from the time it became aware of the incident.

7.3 Data Aggregation Services

Except as otherwise limited in this BAA, BA may use PHI to provide Data Aggregation Services to FHKC as permitted by 42 CFR § 164.504(e)(2)(i)(B).

Section 8: Provisions for FHKC to Inform BA of Privacy Practices and Restrictions

8.1 Notice of Privacy Practices

FHKC shall provide BA with the Notice of Privacy Practices produced by FHKC or provided to FHKC as a result of FHKC's obligations with other organizations in accordance with 45 CFR § 164.520, as well as any changes to such Notice.

8.2 Notice of Changes in Individual's Access or PHI

FHKC shall provide BA with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect BA's permitted or required uses.

8.3 Notice of Restriction in Individual's Access or PHI

FHKC shall notify BA of any restriction to the use or disclosure of PHI that FHKC has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect BA's use of PHI.

Section 9: Term and Termination

9.1 Term

The Term of this BAA shall be effective concurrent with the Contract, and shall terminate when all of the PHI provided by FHKC to BA, or created or received by BA on behalf of FHKC, is destroyed or returned to FHKC, or, if it is not feasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this section.

9.2 Termination for Cause

This BAA authorizes and BA acknowledges and agrees FHKC shall have the right to immediately terminate this BAA in the event BA fails to comply with, or violates a material provision of this BAA or any provision of the Privacy and Security Rules. Notwithstanding the aforementioned, BA shall not be relieved of liability to FHKC for damages sustained by virtue of any breach of this BAA by BA.

9.3 Effect of Termination; Return of Protected Health Information

Upon termination of this BAA for any reason, except as provided in subsections below, BA shall, at its own expense, either return and/or destroy all PHI and other Individually Identifiable Health Information received from FHKC or created or received by BA on behalf of FHKC. This provision applies to all Individually Identifiable Health Information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other Individually Identifiable Health Information in the possession of subcontractors or agents of BA.

The BA shall consult with FHKC as necessary to assure an appropriate means of return and/or destruction of PHI and Individually Identifiable Health Information and shall notify FHKC in writing when such destruction is complete. If PHI or Individually Identifiable

Health Information is to be returned, the parties shall document when all information has been received by FHKC.

The BA shall notify FHKC whether it intends to return and/or destroy the PHI or Individually Identifiable Health Information with such additional detail as requested. In the event BA determines that returning or destroying the PHI and Individually Identifiable Health Information received by or created for FHKC at the end or other termination of this BAA is not feasible, BA shall provide to FHKC notification of the conditions that make return or destruction not feasible, and BA shall:

- a) Retain only that PHI and Individually Identifiable Health Information that is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities;
- b) Return to FHKC (or, if agreed to by FHKC, destroy) the remaining PHI that the BA still maintains in any form;
- c) Continue to use appropriate safeguards and comply with the Security Rule with respect to EPHI to prevent use or disclosure of the PHI and Individually Identifiable Health Information, other than as provided for in this section, for as long as BA retains the PHI;
- d) Not use or disclose the PHI or Individually Identifiable Health Information retained by BA other than for the purposes for which such information was retained and subject to the same conditions set out under "Permitted Uses and Disclosures by BA – Specific Use and Disclosure Provisions" which applied prior to termination; and
- e) Return to FHKC (or, if agreed to by FHKC, destroy) the PHI and Individually Identifiable Health Information retained by BA when it is no longer needed by BA for its proper management and administration or to carry out its legal responsibilities.

Section 10: Miscellaneous

10.1 Severability

If any of the provisions of this BAA shall be held by a court of competent jurisdiction to be no longer required by HIPAA, the parties shall exercise their best efforts to determine whether such provisions shall be retained, replaced or otherwise modified.

10.2 Cooperation

The parties agree to cooperate and to comply with procedures mutually agreed upon to facilitate compliance with HIPAA, including procedures designed to mitigate the harmful effects of any improper Access, acquisition, use, or disclosure of PHI.

10.3 Regulatory Reference

Any reference in this BAA to a section in the HIPAA regulations means those provisions currently in effect or as may be amended in the future.

10.4 Modification and Amendment

This BAA may be modified only by express written amendment executed by all parties hereto. The parties agree to take such action to amend this BAA from time to time as is necessary for FHKC to comply with the requirements of HIPAA and applicable state law.

10.5 Survival

The respective rights and obligations of BA under “Term and Termination” of this BAA shall survive the termination of this BAA and the Contract.

10.6 Interpretation

Any ambiguity in this BAA or the Contract shall be resolved so as to permit FHKC to comply with HIPAA.

10.7 No Third Party Rights/Independent Contractors

The parties to this BAA do not intend to create any rights in any third parties. The parties agree that they are independent contractors and not agents of each other, except nothing herein affects whether BA is an “agent” for purposes of compliance with 42 CFR § 1001.952(d).

10.8 State Law

BA acknowledges and agrees that it has implemented and will maintain appropriate privacy and security measures to protected personal information consistent with state laws and regulations to the extent those state laws and regulations are applicable to the PHI. The confidentiality obligations hereunder are independent of and do not limit or otherwise affect the parties’ other confidentiality obligations under this BAA.

10.9 Governing Law

To the extent not preempted by federal law, this BAA shall be governed and construed in accordance with the state laws governing the Contract, without regard to conflicts of law provisions that would require application of the law of another state.

10.10 Assignment, Binding Nature and Benefits

This BAA binds and benefits the parties, and their respective successors, and their permitted assigns. BA may not assign or subcontract rights or obligations under this BAA without the express written consent of FHKC. FHKC may assign its rights and obligations under this BAA to any successor or affiliated entity.

10.11 Counterparts

This BAA may be executed in multiple counterparts, which shall constitute a single agreement, and by facsimile or pdf signatures, which shall be treated as originals.

**THIS PAGE LEFT INTENTIONALLY BLANK
TWO (2) SIGNATURE PAGES FOLLOW**

IN WITNESS WHEREOF, the parties have caused this BUSINESS ASSOCIATE AGREEMENT, to be executed by their undersigned officials as duly authorized.

FOR

(INSERT LEGAL NAME OF ORGANIZATION):

NAME: (INSERT NAME OF EXECUTIVE OFFICER/AUTHORIZED AGENT OF THE ORGANIZATION)

TITLE: (INSERT TITLE)

DATE SIGNED: _____

STATE OF FLORIDA

COUNTY OF (INSERT NAME)

The foregoing instrument was acknowledged to me before this _____ day of _____, 2019, by (INSERT NAME OF EXECUTIVE OFFICER/AUTHORIZED AGENT OF THE ORGANIZATION, TITLE), on behalf of (INSERT LEGAL NAME OF ORGANIZATION). He/she is personally known to me or has produced _____ as identification.

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

FOR

FLORIDA HEALTHY KIDS CORPORATION:

NAME: Jeff Dykes
TITLE: Interim Chief Executive Officer
DATE SIGNED:

STATE OF FLORIDA

COUNTY OF LEON

The foregoing instrument was acknowledged to me before this _____ day of _____, 2019, by Jeff Dykes, as Interim Chief Executive Officer on behalf of the Florida Healthy Kids Corporation. He is personally known to me or has produced _____ as identification.

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

NOTIFICATION TO THE FHKC OF BREACH OF UNSECURED PROTECTED HEALTH INFORMATION

Contract Information	
Contract Number	Contract Title
Contract Contact Information	
Contact Person For This Incident:	
Contact Person's Title:	
Contact's Address	
Contact's Email:	
Contact's Telephone No:	

Business Associate hereby notifies FHKC that there has been a Breach of Unsecured (unencrypted) Protected Health Information that Business Associate has used or has had Access to under the terms of the Business Associate Agreement, as described in detail below:

Breach Detail	
Date of Breach	Date of Discovery of Breach
Information about the Breach	
Type of Breach: <ul style="list-style-type: none"> <input type="checkbox"/> Lost or stolen laptop, computer, flash drive, disk, etc. <input type="checkbox"/> Stolen password or credentials <input type="checkbox"/> Unauthorized access by an employee or contractor <input type="checkbox"/> Unauthorized access by an outsider <input type="checkbox"/> Other (describe) 	
Detailed Description of the Breach	

Types of Unsecured Protected Health Information involved in the breach (such as Full Name, SSN, Date of Birth, Address, Account Number, Disability Code, etc).		
Personal Information: <ul style="list-style-type: none"> <input type="checkbox"/> Name <input type="checkbox"/> Address <input type="checkbox"/> Date of birth <input type="checkbox"/> Social Security number <input type="checkbox"/> Drivers license or identification card number <input type="checkbox"/> Financial insurance information (credit card number, bank account number, etc) <input type="checkbox"/> Health insurance information (insurance carrier, insurance card number, etc) <input type="checkbox"/> Other Personal or Health Information (describe): 	Health Information: <ul style="list-style-type: none"> <input type="checkbox"/> Basic information (age, sex, height, etc) <input type="checkbox"/> Disease or medical conditions <input type="checkbox"/> Medications <input type="checkbox"/> Treatments or procedures <input type="checkbox"/> Immunizations <input type="checkbox"/> Allergies <input type="checkbox"/> Information about children <input type="checkbox"/> Test results <input type="checkbox"/> Hereditary conditions <input type="checkbox"/> Mental health information <input type="checkbox"/> Information about diet, exercise, weight, etc) <input type="checkbox"/> Correspondence between patient, or medical power of attorney <input type="checkbox"/> Organ donor authorization 	
What steps are being taken to investigate the breach, mitigate losses, and protect against any further breaches?		
List any law enforcement agencies you've contacted about the b		
Number of Individuals Impacted	If over 500, do individuals live in multiple states?	
	Yes	No
Breach Notification		

Have you made the breach public?		If YES, when did you make it public
Yes	No	
Have you notified the people whose information was breached? <input type="checkbox"/> YES. We notified them on: Attach a copy of the letter to this form. Don't include any personally identifiable information, other than your own contact information. <input type="checkbox"/> NO. Our investigation isn't complete.		
Comments		
1. 2.		

Submitted By:

Date of Submission:

**ATTACHMENT D
DISCLOSURE FORM**

NAME: (INSERT LEGAL NAME OF ORGANIZATION)

The following are relationships, business and personal, that may create a conflict of interest that (INSERT NAME) is hereby disclosing:

Type of Relationship (Business, Personal)	Name of Organization or Individual	Status of Organization or Individual (Current Agreement, Applicant, Member, etc.)	Term of Relationship

By my signature, I certify that the information contained in this report and any attachments to this document are true representations. (INSERT NAME) understands that if any information is found to be false that the Agreement between FHKC and (INSERT NAME) may be terminated at FHKC’s sole discretion.

Submitted By:

Date of Submission:

Any party that has standing to challenge an FHKC Intended Decision must file a written notice of intent to protest, formal written protest, and any required bond or other security as set forth in Appendix 3 of this Request for Proposals. Failure to timely file a notice of intent to protest, formal written protest, or any required bond or other security shall constitute a waiver of proceedings.