

**Lac du Flambeau Band
of
Lake Superior Chippewa Indians
and
PETER CHRISTENSEN HEALTH CENTER**



REQUEST FOR PROPOSALS

for

**Electronic Health Record and Billing and HIPAA
Consultant Services**

RFP NO. 19-PCHC-025

TABLE OF CONTENTS

	<u>PAGE</u>
1. PURPOSE	2
2. FACILITIES	2
3. RFP ADMINISTRATIVE PROCEDURES	2
4. QUALIFICATIONS	6
5. SCOPE OF SERVICES	6
6. CONTENT AND FORMAT OF PROPOSAL	7
7. GENERAL REQUIREMENTS	9
8. CONTRACT TERMS	11

1. PURPOSE

The purpose of this Request for Proposals (RFP) is to solicit bid proposals from qualified vendors for the provision of high quality electronic health record and billing software and HIPAA consultant services to the Peter Christensen Health Center (PCHC) in Lac du Flambeau, Wisconsin. PCHC is a Tribal entity of the Lac du Flambeau Band of Lake Superior Chippewa Indians, and any reference in this RFP to "PCHC" shall include the Lac du Flambeau Band of Lake Superior Chippewa Indians (hereinafter "Tribe"). It is estimated that PCHC will require approximately twenty (20) hours of consultant services per month. It is the goal and objective of PCHC that said services shall ensure compliance with HIPAA standards and regulations, promote efficiency in operations and enhance the health care services provided by PCHC.

The successful bidder (consultant) will enter into an Electronic Health Records and Billing and HIPAA Consultant Services Contract with PCHC for a term of one (1) year, with the possibility of two subsequent one-year renewal terms. The contract shall be a 100% performance contract, requiring all work to be performed to the satisfaction of PCHC and in compliance with the specifications, scope of services and conditions set forth in this RFP, which shall be attached to and incorporated within the contract between the consultant and PCHC. The consultant will be expected, and required, to adhere to every term of this RFP along with all applicable Tribal, State and Federal codes, rulings, statutes and guidelines.

This RFP does not commit PCHC to accept any proposal submitted. PCHC reserves the right to accept or reject any and all proposals, and to accept or reject any or all items in any proposal. The lowest bidder may not be the successful bidder. PCHC reserves the right to select the bidder whose proposal and qualifications are most advantageous to PCHC. PCHC reserves the right to negotiate with any and all bidders any and all parts of the proposals received, including, but not limited to, cost, scope of services, and other relevant details and to accept the proposal most advantageous to, and in the best interest of, PCHC. PCHC is not responsible for any costs incurred by the respondents in the preparation of responses to this RFP.

2. FACILITIES

Peter Christensen Health Center (PCHC) is a Native American-operated healthcare facility of the Lac du Flambeau Band of Lake Superior Chippewa Tribe. The facility is located at 129 Old Abe Road in Lac du Flambeau, Wisconsin and is part of the Bemidji area Indian Health Services. PCHC includes a full-service pharmacy and provides comprehensive healthcare services that include medical, vision, chiropractic, physical therapy, pharmacy, lab, and radiology. PCHC utilizes Greenway Intergy electronic health record and practice management software, and all Protected Health Information (PHI) is stored onsite.

3. RFP ADMINISTRATIVE PROCEDURES

- 3.1 RFP CONTACT/CONTRACT ADMINISTRATOR.** The individual named below is the PCHC RFP Contact/Contract Administrator who will be responsible for administration of the Contract entered into by and between the successful bidder (consultant) and PCHC. The PCHC RFP Contact/Contract Administrator shall be the sole point of contact regarding this RFP from the date of issuance until selection of the successful bidder. To ensure clear and accurate communication and avoidance of the appearance of impropriety, from the date of issuance of this RFP until announcement of the successful bidder, vendors/bidders may contact only the RFP Contact. The RFP Contact/Contract Administrator will respond only to questions submitted in writing to the RFP Contact/Contract Administrator in accordance with this RFP. In the event that a vendor or someone acting on the vendor's behalf attempts to discuss this RFP verbally or in writing with any employee of PCHC other than the RFP Contact/Contract Administrator designated below, the vendor may be disqualified as a prospective bidder.

PCHC RFP Contact/Contract Administrator: MARY PETERSON, Financial Manager
Peter Christensen Health Center
129 Old Abe Road
Lac du Flambeau, WI 54538
Email: mpeterson@pchclinic.com

3.2 RFP TIMETABLE. The dates set forth are subject to change, in the sole discretion of PCHC:

EVENT	DATE
RFP Issued	On or before August 14, 2019
Written Inquiry Deadline	4:00 P.M. (Local Time), September 2, 2019
Proposals/Bids Due	4:00 P.M. (Local Time), September 13, 2019
Notice of Award Issued	TBA
Begin Contract Performance	October 1, 2019

3.3 DUTY TO EXAMINE AND INQUIRIES REGARDING RFP.

3.3.1 It is the responsibility of each bidder to examine the entire RFP, including all addenda, seek clarification in writing (inquiries), and examine its proposal for accuracy before submitting the proposal. Lack of care in preparing a proposal shall not be grounds for modifying or withdrawing the proposal after the proposal due date and time, nor shall it give rise to any contract claim.

3.3.2 It is the responsibility of each bidder to examine the premises of PCHC for the purpose of proposal preparation, to the extent bidder deems necessary.

3.3.3 All inquiries concerning this RFP, including any questions related to the terms and conditions of this RFP, shall be made in writing and submitted to the RFP Contact at the physical address or email address noted above. Verbal inquiries will not be accepted. **The RFP Contact must receive all inquiries by U.S. mail, hand delivery or email, not later than 4:00 P.M. (local time), Monday, September 2, 2019.** PCHC's written responses to questions and comments will not identify the submitter and will be sent within three (3) days of the date proposals are due to all known vendors/prospective bidders.

3.4 CONTENT OF RFP AND SUPERSEDING EFFECT. This RFP is designed to provide prospective bidders with information necessary for the preparation of competitive proposals. Each bidder is responsible for determining all factors necessary for the submission of a comprehensive and compliant proposal. Proposals submitted in response to this RFP should be based solely on the material contained in the RFP, including any and all addenda. This RFP supersedes all previous RFPs and all proposals, oral and written, and all negotiations, conversations, communications and discussions heretofore had between any and all prospective bidders and PCHC, related to the subject matter of this RFP.

3.5 AMENDMENT OF RFP. PCHC reserves the right to amend this RFP at any time. In the event it becomes necessary, in the sole discretion of PCHC, to amend, add to, or delete any part of the RFP, an amendment will be provided to all known vendors/prospective bidders who received the original RFP and posted on the Tribe's website. All submitted proposals/bids must include acknowledgment of the addenda.

3.6 SUBMISSION OF PROPOSAL. ***Every proposal submitted must include an original and three (3) copies.*** Proposals and copies must be submitted to the Lac du Flambeau Tribal Secretary, to-wit: **Beverly LaBarge, Tribal Secretary, William Wildcat, Sr. Community Building, 418 Little Pines Road, P.O. Box 67, Lac du Flambeau, Wisconsin.** **The Tribal Secretary must receive proposals and the requisite**

copies no later than 4:00 P.M. (local time), Friday, September 13, 2019. Any proposal received after this deadline will not be accepted. Proposals may be submitted by mail or hand-delivered in an envelope. The envelope must be SEALED and include the following notation on the bottom left hand corner: "RFP FOR ELECTRONIC HEALTH RECORD AND BILLING AND HIPAA CONSULTANT SERVICES." Please also include company/individual name on the outside of the envelope. Bidders mailing proposals must allow ample mail delivery time to ensure timely receipt of their proposal. It is the bidder's responsibility to ensure that the proposal is received prior to the deadline. Postmarking by the due date will not substitute for actual receipt of the proposal by PCHC. **Proposals sent via email or fax will NOT be accepted.**

- 3.7 REJECTION OF PROPOSALS.** Notwithstanding any other provision of this RFP, at any time prior to execution of the written Contract, PCHC reserves the right to reject any or all proposals, in whole or in part, to advertise for new proposals, to abandon the need for such services, and to cancel this RFP if it is in the best interest of PCHC, in PCHC's sole discretion.
- 3.8 COSTS OF PREPARING PROPOSALS.** The costs of preparing the proposal are the sole responsibility of the vendor. PCHC is not responsible for any costs incurred by vendor which are related to the preparation or delivery of the proposal or any other activities carried out by the vendor related to this RFP.
- 3.9 OPENING OF PROPOSALS.** The proposals will be opened during a CLOSED BID OPENING on September 16, 2019 at 9:00 A.M. (local time) or as soon thereafter as practicable.
- 3.10 PROPOSALS PROPERTY OF PCHC.** All proposals become the property of PCHC and shall not be returned to the bidder submitting a proposal. The bidder agrees that PCHC may copy the proposal for purposes of facilitating the evaluation of the proposal or for any other reason.
- 3.11 VALIDITY OF PROPOSALS.** All proposals shall be valid for a period of sixty (60) business days following the date on which proposals are due, except that the proposal of the successful bidder shall remain valid until expiration or termination of any contract based upon the successful bidder's proposal, between PCHC and the successful bidder.
- 3.12 BIDDER'S REPRESENTATIONS.**
- 3.12.1** By submitting a bid, bidder certifies that bidder is authorized to conduct business in the State of Wisconsin.
- 3.12.2** By submitting a bid, bidder certifies that bidder is experienced and qualified to perform the services required by this RFP and is properly staffed, organized and financed to perform such services, and to commence such services immediately.
- 3.12.3** By submitting a bid, bidder agrees that, if awarded a contract, bidder's work shall be completed in a high quality, professional manner and shall conform to such recognized high professional standards as are prevalent in this field of endeavor.
- 3.12.4** By submitting a bid, bidder certifies that bidder's bid and proposal were made and submitted without collusion or fraud and that bidder has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with its bid, and that bidder has not conferred on any Tribal employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- 3.13 NATIVE AMERICAN PREFERENCE REQUIREMENTS.** The work to be performed under this proposal is subject to the Tribe's General Procurement and Property Management Policies and Procedures, and Section 7(b) of the Indian Self-Determination and Education Assistance Act (25U.S.C. 450e (b)). Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that to the greatest extent feasible: (1) preference and opportunities for training and employment shall be given to Native Americans, and (2)

preference in the award of contracts and subcontracts shall be given to Native American organizations or Native American-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). If claiming Native American Preference in contracting under this proposal, please indicate whether or not the firm can provide documentation that will qualify the firm as an "Economic Enterprise," (Native American ownership constituting not less than 51 percent of the enterprise), or a "Tribal Organization," (the recognized governing body of any Native American Tribe).

3.14 PROPOSAL EVALUATION AND SOURCES OF INFORMATION.

3.14.1 Proposals that are timely submitted and comply with the mandatory requirements of this RFP (PCHC reserves the right to waive any minor informalities or irregularities, in its sole discretion) will be evaluated by the RFP committee. Evaluation factors are listed below, not necessarily in order of importance:

1. Qualifications/Experience/Reputation of Vendor.
2. Bid Price.
3. Demonstrated Understanding of and Ability to Address PCHC's Needs.
4. Conformance to Terms and Conditions.
5. Native American Preference.
6. Method of Approach.
7. Such other criteria as may be deemed appropriate in evaluating proposals, even if such criteria are not specifically addressed in this RFP.

3.14.2 PCHC reserves the right to request an oral interview with, and additional information from, any bidder prior to final selection and award of a contract, and the bidder shall furnish to PCHC all such information and data as may be requested. PCHC also reserves the right to obtain, from any and all sources, information concerning a bidder or a bidder's services or personnel, to make such reasonable investigations as PCHC deems proper and necessary to determine the ability of a bidder to perform the services contemplated by this RFP, and the right to consider information from other sources such as the bidder's performance of other contracts. PCHC may use any of this information to evaluate a bidder's proposal.

3.15 DISPUTES. In case of any doubt or differences of opinions as to the contents of this RFP, or interpretation of any provision of this RFP, the decision of PCHC shall be final and binding upon all parties.

3.16 AWARD AND NOTIFICATION.

3.16.1 If PCHC selects, it shall select the most responsive, responsible and qualified vendor based on evaluation of vendor responses to this solicitation as deemed relevant to PCHC. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price/bid. PCHC will award the contract to the responsible vendor submitting the bid/proposal that PCHC deems most advantageous to PCHC. PCHC reserves the right to either award a contract without further negotiations with the successful bidder/Contractor or to negotiate contract terms with the selected bidder if in the best interest of PCHC. PCHC may select a vendor on the basis of proposals, including qualifications, with or without further discussions, interviews or visits. Therefore, proposals should contain the respondent's best terms from a technical, operations and monetary standpoint.

3.16.2 This solicitation and selection process shall in no way be deemed to create a binding contract, agreement or offer of any kind between PCHC and any person or entity. If PCHC selects a vendor to provide the services described in this solicitation, any legal rights and obligations between the successful vendor, if any, and PCHC will come into existence only when an agreement is fully executed by the parties, and the legal rights and obligations of each party shall at that time be only those rights and obligations which are set forth in the agreement and any other documents specifically referred to in that agreement and executed by the parties. **NOTE: Any contract resulting from this RFP will not be in force and affect for any purpose unless and until it is approved by the Lac du Flambeau Tribal Administrator and the PCHC Health Director.**

3.16.3 Notice of award to successful bidder will be sent via U.S. mail or email. Notice may also be provided via telephone. All bidders that submitted a proposal will be notified in writing of PCHC's decision to not select.

3.16.4 The successful bidder/Consultant may be required to attend a post-award meeting with PCHC to discuss the terms and conditions of the contract by and between the parties. Negotiation and execution of contract with the successful bidder/Consultant shall be completed not more than fifteen (15) days from date of award notification.

4. QUALIFICATIONS

4.1 MINIMUM QUALIFICATIONS. All bidders must clearly demonstrate and document the following minimum qualifications.

4.1.1 At least five years experience in utilizing and/or maintaining electronic health records.

4.1.2 An in-depth knowledge of Greenway Intergy electronic health record and billing systems and ability to successfully implement Intergy system upgrades and develop electronic health record templates for specialty services.

4.1.3 A working knowledge of the Health Insurance Portability and Accountability Act (HIPAA), and in-depth knowledge of the HIPAA Security and Privacy Rules, as well as Rules stemming from the HITECH (Health Information Technology for Economic and Clinical Health) Act.

4.1.4 Ability to conduct random and for cause audits of electronic health records to ensure HIPAA compliance.

4.1.5 Ability to conduct HIPAA Risk Analyses.

4.2 PREFERRED QUALIFICATIONS. All bidders should indicate whether they possess the following preferred qualifications:

4.2.1 Ability to successfully explain difficult concepts and information to others.

4.2.2 Experience in training and educating individuals in the efficient utilization of electronic health record and billing systems.

4.2.3 Experience in working with Indian Health Service.

4.2.4 Experience in working with federally recognized Indian Tribes.

4.2.5 Experience in working with rural health clinics.

4.2.6 Experience as a HIPAA Privacy, Security, and/or Compliance Officer.

4.2.7 Experiencing in training and educating individuals with respect to HIPAA policies and procedures.

5. SCOPE OF SERVICES

5.1 It is estimated that PCHC will require approximately twenty (20) hours of consultant services per month.

- 5.2 The consultant will maintain PCHC's Intergy electronic health record and billing systems, including implementing upgrades as necessary and available.
- 5.3 The consultant will provide training to PCHC staff to maximize staff competence in efficient use of PCHC's Intergy electronic health record and billing systems, including upgrades.
- 5.4 The consultant will develop, as needed, electronic health record templates for specialty health services.
- 5.5 The consultant will extract data from current electronic health records to develop statistical reports required by IHS, and securely encrypt and export said reports to IHS within applicable time frames and deadlines.
- 5.6 The consultant will, upon request, advise PCHC IT staff with regard to software, hardware, information systems, storage capacity and devices, and other areas of consultant expertise.
- 5.7 The consultant will serve as HIPAA Compliance Officer and HIPAA Security Officer for PCHC and oversee, implement and monitor the ePHI security requirements of HIPAA.
- 5.8 The consultant will monitor access to, and use and disclosures of, ePHI and conduct random and for cause audits of electronic health records to ensure compliance with HIPAA.
- 5.9 The consultant will identify suspected or known ePHI security incidents and provide guidance and assistance in responding to, and mitigating to the extent practicable, harmful effects of security incidents.
- 5.10 The consultant will conduct periodic ePHI risk analyses to ensure HIPAA compliance, and prepare risk analysis reports and curative action plans.
- 5.11 The consultant will prepare, maintain and test a technology disaster information recovery plan.
- 5.12 The consultant will provide training to PCHC staff relative to compliance with the HIPAA Security Rule and protection of ePHI.
- 5.13 The consultant will evaluate all of PCHC's HIPAA policies and procedures and provide recommendations to ensure compliance with all applicable Rule requirements.
- 5.14 The consultant will provide assistance and direction with regard to Health Practice Management to ensure efficient workflow.
- 5.15 The consultant will extract data and create reports via PCHC's Practice Analytics software program.
- 5.16 The consultant will complete projects and provide consultant services relative to miscellaneous ePHI matters within the scope of the consultant's qualifications and expertise, as requested.

6. **CONTENT AND FORMAT OF PROPOSAL**

- 6.1 **PURPOSE.** These instructions prescribe the required format and content of the proposal and are designed to elicit information necessary to selection of the most qualified bidder, and to facilitate the submission of a proposal that is easy to understand and evaluate.
- 6.2 **FORMAT.** Proposals shall be prepared on 8.5" x 11" paper, single sided. A proposal submission must include an original and three (3) copies of the proposal, including all attachments.
- 6.3 **RESPONSE TO INQUIRIES.** Each proposal shall respond completely to the following questions and requests for information:

- 6.3.1 Please provide full name, address, telephone number(s), fax number, and email address of bidder and bidder's primary contact, and, if bidder is a business organization, identify what type of business organization and verify that bidder is authorized to conduct business in the State of Wisconsin.
- 6.3.2 Please include the resumes of key staff who will be engaged in activities defined by any contract resulting from this RFP. Resumes should include qualifications and experience related to the proposed scope of services, length of service with your company, certifications or accreditations, and current account responsibilities.
- 6.3.3 Explain how your firm meets the qualifications set forth in Section 4 of this RFP. Include a description of your firm's knowledge of and experience with Greenway Intergy electronic health record and billing systems and experience in dealing with Health Insurance Portability and Accountability Act (HIPAA) compliance issues.
- 6.3.4 Describe your firm's approach to accomplishing the Scope of Services as described in Section 5 of this RFP.
- 6.3.5 What do you consider to be your firm's consulting specialties, strengths, and limitations?
- 6.3.6 List all the major services provided by your firm and describe the services that distinguish your firm from your competitors. Convincingly and briefly explain why your firm is the most qualified for this engagement.
- 6.3.7 State whether, during the preceding three-year period, bidder has terminated a contract prior to the expiration of the stated contract term or has had a contract terminated by the other party prior to its stated term; provide a description of the facts and circumstances of each termination; provide the name, address, and telephone number(s) of a contact person for the entity with whom bidder had the contract.
- 6.3.8 Identify any pending administrative, civil, or criminal proceedings brought against bidder or any of its officers, agents and or employees, within the last five years and, if any, provide the following information: (1) a clear and concise statement of all allegations against the bidder, its officers, agents and or employees (2) the status and/or outcome of the proceedings.
- 6.3.9 Disclose any existing or potential conflict of interest relative to the performance of services required by any contract resulting from this RFP.
- 6.3.10 Describe your affiliation or work with any federally recognized Indian Tribe.
- 6.3.11 List two (2) entities, either commercial or governmental, to which bidder has provided electronic health record consulting services or similar services in the past 24 months. Include the name, address and telephone number of the point of contact, the length of service, a description of the services provided, and, if services are no longer being provided, an explanation for termination of services.
- 6.3.12 The submission of additional pertinent information beyond the requirements of this RFP is acceptable.

6.4 BID.

- 6.4.1 **HOURLY RATE.** Submit a fixed price per hour to be charged by your firm for provision of the consulting services set forth in Section 5 of this RFP. The consultant's proposed hourly fee should include and account for, but need not delineate, the direct labor, fringe benefits, insurance, overhead, profit, and all other expenses the consultant will incur in providing the services.
- 6.4.2 **TRAVEL EXPENSES.** Will your firm charge PCHC for travel expenses? If so, please describe.

6.4.3 ADDITIONAL EXPENSES. Identify any other expenses not included in your firm's hourly rate, for which your firm will seek reimbursement from PCHC.

6.5 ACCEPTANCE OF AND EXCEPTIONS TO TERMS AND CONDITIONS.

6.5.1 Subject to subsection 6.5.2, next, by submitting a proposal, bidder signifies that bidder acknowledges, accepts and agrees to all terms, conditions and provisions set forth in this RFP.

6.5.2 If the bidder objects to any term, condition or provision contained in this RFP it shall note an exception to such term(s), condition(s) or provision(s) in a clearly identified separate section of the bidder's proposal. The bidder shall clearly refer to and identify the specific sections and paragraphs excepted and/or not agreed to by the bidder. Any exceptions not clearly identified by the bidder via inclusion in such a separate section shall be without force and effect in any subsequent contract. Any and all exceptions that are contained in a proposal submitted by a bidder in response to this RFP may negatively affect the evaluation of the proposal. A proposal that takes exception to any material requirement of the RFP may be rejected.

6.6 EVIDENCE OF INTENT TO BE BOUND. Bidder agrees that bidder's submission of a proposal signifies the bidder's intent to be bound by the proposal submitted by the bidder and the terms of this RFP and that the information provided is true, accurate and complete.

7. GENERAL REQUIREMENTS

7.1 INDEMNIFICATION. The successful bidder (consultant) shall agree to indemnify, defend, and hold harmless the Tribe and PCHC and their respective officers, directors, employees, agents and volunteers, from and against any and all claims, demands, expenses, losses, liabilities, causes of action, and the like, which are or may be asserted in any action by anyone, based upon any alleged personal injury, death or damage that may occur, or may be alleged to have occurred, as a result of, relating to, arising out of, or in any way associated with, any act or omission of the consultant, or any failure of the same to comply with any obligations set forth in this RFP and/or any contract by and between PCHC and the consultant. The consultant shall, at its own cost and expense, pay all costs incurred by PCHC and/or the Tribe in connection therewith. If any judgment shall be rendered against the Tribe and/or PCHC in any such action, the consultant shall satisfy and discharge the same without cost or expense to the Tribe or PCHC. However, this indemnity shall not apply to loss or damage which was caused by the sole negligence or willful misconduct of PCHC.

7.2 INSURANCE.

7.2.1 The bidder agrees that in order to protect itself, as well as the Tribe and PCHC, under the indemnity provisions set forth above, it will at all times during the term of the Electronic Health Records and Billing and HIPAA Consultant Services Contract, keep in force the following insurance protection in amounts not less than the limits specified:

7.2.1.1 Professional Liability Insurance: \$2,000,000.00 per claim.

7.2.1.2 Worker's Compensation: Statutory limits and benefits. If any owner, partner, executive, officer, member or employee is excluded from Worker's Compensation coverage or if the Worker's Compensation policy is for certificate purposes only, it must be stated on the certificate.

7.2.1.3 Umbrella Liability Coverage: \$2,000,000.00.

7.2.2 The bidder further certifies that it will maintain this insurance coverage during the entire term of the contract and that all insurance coverage will be provided by reputable insurance companies acceptable to PCHC.

7.2.3 The successful bidder/consultant will furnish to the PCHC Contract Administrator certificates of insurance prior to commencement of work and, upon request, at any time during contract performance.

7.2.4 The successful bidder/consultant will give PCHC 10-days written notice prior to modifying any insurance obtained and/or maintained as required by the contract and this provision. PCHC may object to the modification within 10 days of receiving the notice.

7.3 INDEPENDENT CONTRACTOR. The successful bidder (consultant) shall, in all matters relating to any contract awarded pursuant to the Electronic Health Records and Billing Consultant Services RFP, be acting as an independent contractor. Neither the consultant nor any of the consultant's owners, officers, members, employees or agents will be an agent, joint venturer, partner or employee of PCHC for any purpose, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Employment Tax Act, the provisions of the Internal Revenue Code and the State Revenue and Taxation Code relating to income tax withholding at the source of income, Workers' Compensation, Unemployment Compensation, employment-related benefits, and third party liability claims. Nothing contained in the contract shall be construed or interpreted as establishing an employer-employee relationship between PCHC and the consultant or any of the consultant's owners, officers, members, employees or agents. In that the consultant will be an independent contractor, neither the consultant nor any of the consultant's owners, officers, members, or employees shall have any right or claim against PCHC for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Further, PCHC shall not be responsible for withholding taxes with respect to the consultant's compensation for services performed under a contract awarded pursuant to this RFP. The consultant shall be individually and solely responsible for the timely payment of any and all state, federal, social security and other self-employment taxes that may be owing on amounts paid to the consultant under said contract. The consultant will have no authority, actual, apparent, or implied, to act for or on behalf of PCHC, or to bind PCHC in or to any contract, agreement or indebtedness, and shall not represent itself as the agent or legal representative of PCHC. The consultant shall perform all services under the contract at the consultant's own risk, and the consultant shall take all precautions necessary to protect the consultant's person and property. The consultant shall assume all liability for personal injury to employees or agents of the consultant, occurring during the performance of the consultant's services.

7.4 COMPLIANCE WITH LAWS. The successful bidder/consultant will agree to abide by and comply with all applicable laws, rules, ordinances, regulations and administrative rulings of the Lac du Flambeau Band of Lake Superior Chippewa Indians, the United States, and the State of Wisconsin.

7.5 HIPAA COMPLIANCE. The successful bidder/consultant shall sign a Business Associate Agreement upon request of PCHC, in compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The consultant shall also sign all Confidentiality Agreements that PCHC deems necessary and appropriate. Failure to execute a Business Associate Agreement or Confidentiality Agreement as requested by PCHC may result in termination of any contract by and between the parties. The consultant shall also adhere to all applicable laws and rules safeguarding the confidentiality of patient information during and after the term of any contract by and between the parties.

7.6 MARKETING PROHIBITION. The successful bidder/consultant shall not use the name or logo of, or refer to, the Lac du Flambeau Band of Lake Superior Chippewa Indians or PCHC in any marketing activity, nor will the consultant use said names or references thereto in any endorsement of its company, product, or service, without the written consent of PCHC and the Lac du Flambeau Band of Lake Superior Chippewa Indians.

7.7 GOVERNING LAW AND VENUE. The successful bidder/consultant shall consent and agree that any and all questions arising in connection with this RFP and/or any contract arising therefrom shall be governed first by the laws and ordinances of the Lac du Flambeau Band of Lake Superior Chippewa Indians and second by federal and Wisconsin laws, if applicable. The consultant shall further consent and agree to the jurisdiction of the Lac du Flambeau Band of Lake Superior Chippewa Tribal Court and that the venue for

any legal proceeding relating to this RFP and/or any contract by and between the consultant and PCHC shall be the Lac du Flambeau Band of Lake Superior Chippewa Tribal Court.

- 7.8 **SOVEREIGN IMMUNITY.** The successful bidder/consultant acknowledges that the Lac du Flambeau Band of Lake Superior Chippewa Indians does not waive its Sovereign Immunity.

8. **CONTRACT TERMS**

- 8.1 **ELECTRONIC HEALTH RECORDS AND BILLING CONSULTANT SERVICES CONTRACT.** As used throughout this RFP, the terms “Electronic Health Records and Billing and HIPAA Consultant Services Contract” and “the Contract” shall mean any contract entered into by and between PCHC and the bidder selected to provide the consulting services described in the Scope of Services portion of this RFP.
- 8.2 **CONTRACT DOCUMENT CONSOLIDATION.** At its sole option, following any contract award, PCHC may consolidate the resulting contract documents. Examples of such consolidation would include (1) reorganizing solicitation documents and components of the successful bidder/consultant’s proposal pertaining to the Electronic Health Records and Billing and HIPAA Consultant Services RFP; (2) revising the Scope of Services to incorporate the successful bidder/consultant’s response; (3) revising any terms and conditions to incorporate any changes in the successful bidder/consultant’s proposal; and (4) excluding any components of the successful bidder/consultant’s proposal that were not awarded. Contract document consolidation shall not materially change the Contract terms set forth herein.
- 8.3 **CONTRACT CONTENTS.** In addition to negotiated terms, the Electronic Health Records and Billing and HIPAA Consultant Services Contract will include the terms and conditions set forth below. By submitting their bids, bidders certify that they are aware of, understand, and will comply with all said terms and conditions if awarded a contract.
- 8.4 **ASSIGNMENT OF CONTRACT AND SUBCONTRACTING.** No contract between a consultant and PCHC may be assigned by either party without the prior written consent of the other party, which consent may be given, withheld, or conditioned in the sole and absolute discretion of the party whose consent is sought. Further, the consultant shall not subcontract any of the work, duties or obligations under the Electronic Health Records and Billing and HIPAA Consultant Services Contract between the consultant and PCHC, without the written consent of PCHC, which consent may be given, withheld, or conditioned in the sole and absolute discretion of PCHC. Any assignment, subcontract or delegation in derogation of this provision shall be deemed void. In the event that the consultant desires to subcontract some part of the work specified herein, the consultant shall furnish to PCHC the names, qualifications and experience of its proposed subcontractor(s). The consultant shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
- 8.5 **TERMINATION.**
- 8.5.1 Upon mutual, written consent of the parties, the Electronic Health Records and Billing and HIPAA Consultant Services Contract between the consultant and PCHC may be terminated immediately, or terminated effective a date certain, for any reason.
- 8.5.2 In the event that either party fails in any substantial manner to perform as required by the terms of the Electronic Health Records and Billing and HIPAA Consultant Services Contract, and if such failure is curable, the Contract may be terminated if the party alleging the breach gives written notice specifying the nature and extent of the breach to the other party and such party shall have fifteen (15) calendar days thereafter to cure the breach. If the breach is not cured to the reasonable satisfaction of the party giving written notice of the breach within the fifteen (15) calendar day period, termination shall become effective at 11:59 p.m. upon the fifteenth (15th) calendar day following the written notice, unless the party alleging the breach elects not to terminate. A substantial breach of the Contract shall include, but shall not be limited to:

- 8.5.2.1** Failure by the consultant to materially perform or comply with any of the terms and conditions of the Contract.
- 8.5.2.2** Failure by the consultant to provide services that meet the requirements of the Contract.
- 8.5.2.3** Failure by the consultant to complete the required work or failure to perform required services within the time frame required.
- 8.5.2.4** Failure by the consultant to obtain and/or keep any required insurance policies in full force and effect at all times during the term of the Contract.
- 8.5.2.5** The consultant becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects the consultant's capability to perform under the Contract.
- 8.5.2.6** The consultant is the subject of a petition for involuntary bankruptcy not removed within sixty (60) days.
- 8.5.2.7** The breaching party conducts business in an unethical or illegal manner.
- 8.5.2.8** PCHC fails to pay any correct invoice submitted by the consultant within fifteen (15) days of date payment is due.
- 8.5.3** Failure of the consultant to remedy any breach, problem or unsatisfactory work noted in the Notice of Default, to the satisfaction of PCHC, by the deadline set in the Notice of Default or to otherwise bring performance to satisfactory levels that are within and comply with the requirements of the Contract by and between the parties shall give PCHC cause to terminate the Contract.
- 8.5.4** If the consultant fails to perform, PCHC may, after due notice, procure the consulting services set forth in the Scope of Services in the RFP from other sources and hold the consultant responsible for any resulting additional costs, including administrative costs. This remedy shall be in addition to any other remedies available to PCHC pursuant to law.
- 8.5.5** If PCHC terminates the Contract between the parties, the consultant will be provided with a written notice that specifies the effective date of the termination. The consultant shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 8.5.6** If the Contract between the parties is terminated by PCHC for default, PCHC reserves the right to purchase the services required under the Contract from the open market, to complete required work itself or have it completed at the expense of the consultant, who shall be responsible for any resulting additional costs, including administrative costs. PCHC may recover any excess costs by deducting the same from any unpaid balance due to the consultant, or by such other remedy as provided by law.

8.6. PAYMENT.

- 8.6.1** The consultant shall invoice PCHC on a monthly basis for services rendered pursuant to the Electronic Health Records and Billing and HIPAA Consultant Services Contract between the consultant and PCHC. Each invoice shall include a summary of services provided, the dates on which they were provided, and the amount due for same. All invoices shall reflect the contracted prices for services as described in the Contract between the parties.
- 8.6.2** PCHC shall make every effort to process payment for acceptable services provided by the consultant within fifteen (15) calendar days after receipt of a correct invoice.

8.6.3 No compensation shall be due or payable to any employee or subcontractor of the consultant and the consultant specifically agrees to indemnify and hold PCHC harmless from any and all claims for compensation by any person or entity employed by, subcontracted by, or assigned to PCHC by, the consultant. In that neither the consultant nor any employee or subcontractor of the consultant are or shall be employees of PCHC, PCHC shall NOT deduct or withhold any employment or income taxes or any other sums required by law to be withheld from employee wages. The consultant shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the consultant. The consultant and all subcontractors shall hold PCHC harmless from any responsibility for taxes, contributions required under Federal, and/or state and local laws and regulations and any other costs including unemployment compensation insurance, Social Security and Worker's Compensation.

8.7 CHANGES TO CONTRACT. Changes to the Electronic Health Records and Billing and HIPAA Consultant Services Contract between the consultant and PCHC may be made as follows:

8.7.1 The parties may agree in writing to modify the scope of the Contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

8.7.2 PCHC may order changes within the general scope of the Contract at any time by written notice to the consultant. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of performance, and the time frame within which services shall be performed. The consultant shall comply with the notice upon receipt. The consultant shall be compensated for any additional costs incurred as a result of such order.

8.8. CONTINUITY OF SERVICES UPON EXPIRATION OF CONTRACT. The consultant recognizes that the services under any contract resulting from this RFP are vital to PCHC and must be continued without interruption and that, upon contract expiration, a successor, whether another consultant or PCHC staff, may continue them. The consultant agrees:

8.8.1 To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

8.8.2 To make all PCHC-owned data available to any successor at an appropriate time prior to the expiration of the contract(s) to facilitate transition to successor.

8.8.3 That the PCHC Contract Administrator shall have final authority to resolve disputes related to the transition of the contract(s) from the consultant to its successor.

8.8.4 That the consultant shall, upon written notice from the PCHC Contract Administrator, furnish phase-in/phase-out services for up to ninety (90) days after the Electronic Health Records and Billing and HIPAA Consultant Services Contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Administrator's approval.

8.8.5 That the consultant shall be paid its hourly rate and reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations). All phase-in/phase-out work fees must be approved by the Contract Administrator in writing prior to commencement of said work.

8.9 CONTRACT TERMS CONTAINED HEREIN NOT ALL-INCLUSIVE. The contract terms set forth in this Section are not intended to be a complete listing of all contract terms to be included in a potential contract based upon this RFP. Rather, they are provided herein only to enable prospective bidders to better evaluate their costs associated with the RFP and a resulting contract.