



Contract Number: CTN-HD-14*164
Effective Date: 1-1-14
Term Date: 12-31-18
Cost: 75,000. -
Revenue: 75,000. -
Total: 75,000. - NTE: _____
Action: _____
Renewal By: 10-1-18
Term: 12-31-18
Reviewed by: X

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: May 6, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

This IGA is for the Pima County Health Department (PCHD) to provide only education to qualifying users of legal medical marijuana. This fixed price contract from ADHS provides PCHD a quarterly payment in exchange for conducting these educational activities. The amount for calendar year 2014 is \$75,000.

In 2010 Arizona voters approved the Arizona Medical Marijuana Initiative, or Proposition 203. This initiative allows for qualifying patients who register with the Arizona Health Department Services (ADHS) to legally obtain marijuana from nonprofit medical marijuana dispensaries regulated by ADHS. The PCHD provides case management and control services to county residents with a number of conditions, including HIV/AIDS, which is a qualifying condition for medical marijuana. PCHD also collaborates with a number of HIV/AIDS service providers in the region. PCHD is in an excellent position to provide health education information regarding medical marijuana to Pima County residents. This education may be provided through multiple venues, including public meetings, HIV/AIDS service providers groups, health fairs, etc.

CONTRACT NUMBER (If applicable): CTN 14*0164

STAFF RECOMMENDATION(S): Approve

CORPORATE HEADQUARTERS: N/A

Page 1 of 2

Ver. 1

Vendor. 1

pgs. 17

To: CoB - 4.23.14

Agenda - 5-6-14

(2)

Procurement Dept 04/16/14 PHM/446

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: _____ and/or REVENUE TO PIMA COUNTY:\$75,000

FUNDING SOURCE(S): State Grant Fund
(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1		2		3		4		5		All	
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IMPACT:

IF APPROVED:

The Pima County Health Department will have in place a mechanism by which to receive revenue in exchange for conducting educational activities related to medical marijuana to individuals with HIV/AIDS.

IF DENIED:

The Pima County Health Department will not have in place a mechanism by which to receive revenue in exchange for conducting educational activities related to medical marijuana to individuals with HIV/AIDS. These educational activities will not take place in Pima County.

DEPARTMENT NAME: Health

CONTACT PERSON: Sharon Grant **TELEPHONE NO.:** 243-7842

CONTRACT

REPAIRMENT NO.



INTERGOVERNMENTAL AGREEMENT (IGA)

This number must appear on all
GOVERNMENTAL AGREEMENTS
documents pertaining to this
contract.

~~CONTRACT No. ADHS14-066638~~

ARIZONA DEPARTMENT OF

HEALTH SERVICES

740 West Adams, Room 3

Phoenix, Arizona 85

(602) 542-1040

Project Title: ARIZONA MEDICAL MARIJUANA INITIATIVE – PROPOSITION 203 Begin Date: JANUARY 1, 2014

Geographic Service Area: PIMA COUNTY HEALTH DEPARTMENT

Termination Date: DECEMBER 31, 2018

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

Counties: A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.

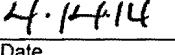
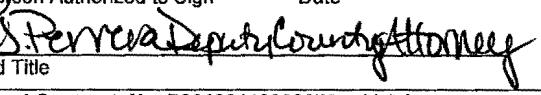
Indian Tribes: A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.

School Districts: A.R.S. §§ 11-951, 11-952, and 15-342.

City of Phoenix: Chapter II, §§ 1 & 2, Charter, City of Phoenix.

City of Tempe: Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.

Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____ Federal Employer Identification No.: _____ Tax License No.: _____ Contractor Name: PIMA COUNTY HEALTH DEPARTMENT Address: 3950 SOUTH COUNTRY CLUB ROAD TUCSON, ARIZONA 85714	FOR CLARIFICATION, CONTACT: Name: _____ Telephone: _____ Fax No: _____ E-mail: _____
CONTRACTOR SIGNATURE: The Contractor agrees to perform all the services set forth in the Agreement and Work Statement.	
Signature of Person Authorized to Sign _____	Date _____ This Contract shall henceforth be referred to as Contract No. ADHS14-066638
Print Name and Title _____ The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this Contract until Contractor receives a fully executed copy of the Contract.	
Signature of Person Authorized to Sign _____	Date _____ State of Arizona Signed this _____ day of _____, 2014
Print Name and Title _____ Procurement Officer	
CONTRACTOR ATTORNEY SIGNATURE: Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona.   Signature of Person Authorized to Sign _____ Date _____  Print Name and Title _____ Attorney General Contract, No. P00120143000078, which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General. The Attorney General, BY: _____	

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

1. DEFINITION OF TERMS. As used in this Contract, the terms listed below are defined as follows:

- 1.1 **Attachment** means any document attached to the Contract and incorporated into the Contract.
- 1.2 **ADHS** means Arizona Department of Health Services.
- 1.3 **Budget Term** means the period of time for which the contract budget has been created and during which funds should be expended.
- 1.4 **Change Order** means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract.
- 1.5 **Contract** means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law.
- 1.6 **Contract Amendment** means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.
- 1.7 **Contractor** means any person who has a Contract with the Arizona Department of Health Services.
- 1.8 **Cost Reimbursement** means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.
- 1.9 **Days** means calendar days unless otherwise specified.
- 1.10 **Fixed Price** establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.
- 1.11 **Gratuity** means a 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 is received.
- 1.12 **Materials** unless otherwise stated herein, means all property, including but not limited to equipment's, supplies, printing, insurance and leases of property.
- 1.13 **Procurement Officer** means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.14 **Purchase Order** means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.
- 1.15 **Services** means the furnishing of labor, time or effort by a Contractor or Subcontractor.
- 1.16 **Subcontract** means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract.
- 1.17 **State** means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

2. CONTRACT TYPE.

This Contract shall be:

Fixed Price

3. CONTRACT INTERPRETATION.

- 3.1 **Arizona Law.** The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.
- 3.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 3.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 3.3.1 Terms and Conditions;
 - 3.3.2 Statement or Scope of Work;
 - 3.3.3 Attachments;
 - 3.3.4 Referenced Documents.
- 3.4 **Relationship of Parties.** The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 3.5 **Severability.** The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 3.6 **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.
- 3.7 **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 3.8 **Headings.** Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

4. CONTRACT ADMINISTRATION AND OPERATION.

- 4.1 **Term.** As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.
- 4.2 **Contract Renewal.** This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original Contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

4.3 **New Budget Term.** If a budget term has been completed in a multi-term Contract, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services.

4.4 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

4.5 **Records and Audit.** Under A.R.S. § 35-214 and A.R.S. § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

4.6 **Financial Management.** For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of Contract funds and by the State when performing a Contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these Contract services shall be accounted for in a separate fund.

4.6.1 **Federal Funding.** Contractors receiving federal funds under this Contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.

4.6.2 **State Funding.** Contractors receiving state funds under this Contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03.

4.7 **Inspection and Testing.** The Contractor agrees to permit access, at reasonable times, to its facilities.

4.8 **Notices.** Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.

4.9 **Advertising and Promotion of Contract.** The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.

4.10 **Property of the State.**

4.10.1 **Equipment.** Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the Contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.

4.10.2 **Title and Rights to Materials.** As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

4.10.3 *Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead:* It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona. As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor's involvement in other service activities that are not funded by the Agreement.

4.10.4 Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government. As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor's right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor's own choosing. Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona. Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

4.10.5 In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State. However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue. In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation" does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-Excluded Works under ABOR Intellectual Property Policy Section 6-908C.4.), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable distribution of Material.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

4.11 E-Verify Requirements In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

4.12 Federal Immigration and Nationality Act The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the Contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the Contract for default and suspension and/or debarment of the Contractor.

5. COSTS AND PAYMENTS.

5.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.

5.2 Recoupment of Contract Payments.

5.2.1 Unearned Advanced Funds. Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.

5.2.2 Contracted Services. In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.

5.2.3 Refunds. Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2.2, Contracted Services.

5.2.4 Unacceptable Expenditures. The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.

5.3 Unit Costs/Rates or Fees. Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

5.4 Applicable Taxes.

- 5.4.1 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 5.4.2 Tax Indemnification. The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 5.4.3 I.R.S. W9 Form. In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.
- 5.5 Availability of Funds for the Next Fiscal Year. Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.
- 5.6 Availability of Funds for the Current Contract Term. Should the State Legislature enter back into session and decrease the appropriations through line item or general fund reductions, or for any other reason these goods or services are not funded as determined by ADHS, the following actions may be taken by ADHS:
 - 5.6.1 Accept a decrease in price offered by the Contractor;
 - 5.6.2 Reduce the number of goods or units of service and reduce the payments accordingly;
 - 5.6.3 Offer reductions in funding as an alternative to Contract termination; or
 - 5.6.4 Cancel the Contract.
- 5.7 Authorization for Provision of Services: Authorization for purchase of services under this contract shall be made only upon ADHS issuance of a Purchase Order that is signed by an authorized agent. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform services up to the amount on the Purchase Order. ADHS shall not have any legal obligation to pay for services in excess of the amount indicated on the Purchase Order. No further obligation for payment shall exist on behalf of ADHS unless a) the Purchase Order is changed or modified with an official ADHS Procurement Change Order, and/or b) an additional Purchase Order is issued for purchase of services under this contract.

6. CONTRACT CHANGES.

- 6.1 Amendments, Purchase Orders and Change Orders. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

- 6.2 **Subcontracts.** The Contractor shall not enter into any subcontract under this Contract without the advance written approval of the Procurement Officer. The subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.
- 6.3 **Assignments and Delegation.** The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

7. RISK AND LIABILITY.

- 7.1 **Risk of Loss.** The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 7.2 **Mutual Indemnification.** Each party (as "indemnitor") agrees to indemnify, defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims, which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.
- 7.3 **Indemnification - Patent and Copyright.** To the extent permitted by applicable law, including but not limited to A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

7.4 **Force Majeure.**

- 7.4.1 **Liability and Definition.** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.

- 7.4.2 **Exclusions.** Force Majeure shall not include the following occurrences:

- 7.4.2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- 7.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 7.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 7.4.3 **Notice.** If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof; and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

7.4.4 **Default.** Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by force majeure.

7.5 **Third Party Antitrust Violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8. DESCRIPTION OF MATERIALS.

The following provisions shall apply to Materials only:

8.1 **Liens.** The Contractor agrees that the Materials supplied under this Contract are free of liens. In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens.

8.2 **Quality.** Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

- 8.2.1 Of a quality to pass without objection in the Contract description;
- 8.2.2 Fit for the intended purposes for which the Materials are used;
- 8.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 8.2.4 Adequately contained, packaged and marked as the Contract may require; and
- 8.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

8.3 **Inspection/Testing.** Subparagraphs 8.1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8.4 **Compliance With Applicable Laws.** The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

8.5 **Survival of Rights and Obligations After Contract Expiration and Termination.**

- 8.5.1 ***Contractor's Representations.*** All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.
- 8.5.2 ***Purchase Orders and Change Orders.*** Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

9. STATE'S CONTRACTUAL REMEDIES.

9.1 **Right to Assurance.** If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract.

9.2 **Stop Work Order.**

9.2.1 **Terms.** The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 **Cancellation or Expiration.** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

9.3 **Non-exclusive Remedies.** The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform Commercial Code and Arizona common law.

9.4 **Right of Offset.** The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor's non-conforming performance or failure to perform this Contract. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.

10. CONTRACT TERMINATION.

10.1 **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

10.2 **Gratuities.** The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10.3 **Suspension or Debarment.** The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

10.4 Termination Without Cause.

- 10.4.1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days' notice in writing specifying the termination date. Such notices shall be given by personal delivery or by certified mail, return receipt requested.
- 10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor's failure to complete the Contract.
- 10.4.3 If the State terminates this Contract pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 **Mutual Termination.** This Contract may be terminated by mutual written agreement of the parties specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 **Termination for Default.** The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.

10.7 **Continuation of Performance Through Termination.** Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 **Disposition of Property.** Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. ARBITRATION.

11.1 Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

12. COMMUNICATION.

12.1 **Program Report.** When reports are required by the Contract, the Contractor shall provide them in the format approved by ADHS.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating their activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

13. CLIENT GRIEVANCES.

13.1 If applicable, the Contractor and its subcontractors shall use a procedure through which clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State.

14. SOVEREIGN IMMUNITY.

14.1 Pursuant to A.R.S. § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit.

15. ADMINISTRATIVE CHANGES.

15.1 The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

16. AUTHORIZATION FOR PROVISION OF SERVICES.

16.1 Authorization for purchase of services under this contract shall be made only upon ADHS issuance of a Purchase Order that is signed by an authorized agent. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform services up to the amount on the Purchase Order. ADHS shall not have any legal obligation to pay for services in excess of the amount indicated on the Purchase Order. No further obligation for payment shall exist on behalf of ADHS unless a) the Purchase Order is changed or modified with an official ADHS Procurement Change Order, and/or b) an additional Purchase Order is issued for purchase of services under this contract.

17. SURVIVAL OF TERMS AFTER TERMINATION OR CANCELLATION OF CONTRACT.

17.1 All applicable Contract terms shall survive and apply after Contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

18. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA).

18.1 The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET) Office, Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	TERMS AND CONDITIONS

Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

18.2 If requested by the ADHS Procurement Office, Contractor agrees to sign a "Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ASET /SISPO Chief Privacy Officer and HIPAA Coordinator.

19. DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER REQUIREMENT.

19.1 Pursuant to 2 CFR 25.100 *et seq.*, no entity (defined as a Governmental organization, which is a State, local government, or Indian tribe; foreign public entity; domestic or foreign nonprofit organization; domestic or foreign for-profit organization; or Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity) may receive a subaward from ADHS unless the entity provides its DUNS Number to ADHS.

20. COMMENTS WELCOME.

20.1 The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007.

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	SCOPE OF WORK

1. BACKGROUND.

- 1.1 The Arizona Medical Marijuana Initiative, or Proposition 203, was included on the November 2, 2010 ballot and approved by Arizona voters. The Proposition was certified on November 13, 2010. The Arizona Medical Marijuana Act protects patients with qualifying medical conditions from state prosecution for using limited amounts of marijuana on their doctor's recommendation. Qualifying patients who register with ADHS will obtain marijuana from nonprofit medical marijuana dispensaries regulated by ADHS. Private cultivation will be allowed by ADHS only when there is no dispensary located within 25 miles of the qualifying patient's residence. The Act is self-funding and establishes safeguards; registration cards; fingerprinting of caregivers and dispensary personnel to exclude drug and violent felons; strict security, record keeping, and oversight requirements; inspection of dispensaries; restrictions on number and location of dispensaries; and providing penalties.
- 1.2 Pima County Health Department (PCHD) is engaged in providing case management, prevention, and control services to county residents with a number of conditions, including HIV/AIDS, which is a qualifying condition for medical marijuana use under the Arizona Medical Marijuana Act. PCHD also collaborates with a number of HIV/AIDS service providers in the region. As the local jurisdiction's public health authority, PCHD is situated to provide health education information regarding medical marijuana to county residents. This education can be provided through multiple venues, including public meetings, HIV/AIDS service providers groups, health fairs, etc.

2. OBJECTIVE.

- 2.1 To provide funding to the Pima County Health Department for conducting education within the local jurisdiction related to medical marijuana, including necessary personnel, travel, material and indirect expenses.

3. TASKS AND REQUIREMENTS.

The Contractor shall:

- 3.1 Provide educational information about the Arizona Medical Marijuana Act and the use of medical marijuana to interested members of the public, particularly qualifying HIV/AIDS patients;
- 3.2 Document and maintain records of the educational activities by the number of presentations and number of participants. PCHD must participate in at least twelve (12) educational activities annually;
- 3.3 Document and maintain records of the number and type of educational materials developed and distributed, including the venues through which materials were disseminated; and
- 3.4 Prepare and submit a Contractor's Expenditure Report (CER) quarterly (form to be provided by ADHS).

4. DELIVERABLES AND DELIVERY SCHEDULE.

The Contractor shall:

- 4.1 Prepare and submit an annual action plan, no later than thirty (30) days following the execution of this Agreement;
- 4.2 Prepare and submit an annual program report, no later than forty-five (45) days following the end of the Agreement year;
- 4.3 Prepare and submit an individually signed electronic CER invoice, no later than thirty (30) days following the end of each quarter of the program year - REFERENCE EXHIBIT ONE (1);

CONTRACT NUMBER	INTERGOVERNMENTAL AGREEMENT
ADHS14-066638	SCOPE OF WORK

- 4.4 Final CER invoice for the program, no later than forty-five (45) days following the end of each Agreement year; and
- 4.5 The name, phone numbers, and resume of all program staff funded under this Agreement are due within thirty (30) days of hire, and should be sent to the ADHS Program Manager.

5. ACCEPTANCE OF DELIVERABLES.

Acceptance is signified by the signature of the ADHS Program Manager on the CER showing performance is satisfactory for payment.

6. NOTICES, CORRESPONDENCE AND REPORTS.

- 6.1 Notices, Correspondences and Reports from the Contractor to ADHS shall be sent to:

Arizona Department of Health Services
 Bureau of Epidemiology and Disease Control (EDC)
 Nancy Flores, EDC Business Manager
 150 N. 18th Avenue, 1st Floor
 Phoenix, Arizona 85007
 (602) 364-3292 - Telephone
 (602) 618-4275 - Cellular
Nancy.Flores@azdhs.gov

- 6.2 Notices, Correspondence and Payments from the ADHS to the Contractor shall be sent to:

Pima County Health Department
 Garrett L. Hancock
 3950 South Country Club Road, Suite 100
 Tucson, Arizona 85714
 (520) 243-7833 - Telephone
 (520) 791-6500 - Fax
Garrett.Hancock@pima.gov

- 6.3 Payments from ADHS to the Contractor shall be sent to the "Remit To" Address listed on the Contractor's ProcureAZ vendor profile.

CONTRACT NUMBER	
ADHS14-066638	

INTERGOVERNMENTAL AGREEMENT PRICE SHEET
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PRICE SHEET

EFFECTIVE: JANUARY 1, 2014 TO DECEMBER 31, 2014

TYPE OF UNIT	TOTAL RATE	# OF UNITS	TOTAL
EDUCATIONAL ACTIVITIES ABOUT ARIZONA MEDICAL MARIJUANA ACT TO PUBLIC, PARTICULARLY QUALIFYING HIV/AIDS PATIENTS	\$18,750.00 QUARTERLY	FOUR (4)	\$75,000.00
MEDICAL MARIJUANA – PROGRAM ADMINISTRATION			TOTAL COST \$75,000.00

Authorization for Provision of Services:

Authorization for purchase of services under this contract shall be made only upon ADHS issuance of a Purchase Order that is signed by an authorized agent. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform services up to the amount on the Purchase Order. ADHS shall not have any legal obligation to pay for services in excess of the amount indicated on the Purchase Order. No further obligation for payment shall exist on behalf of ADHS unless a) the Purchase Order is changed or modified with an official ADHS Procurement Change Order, and/or b) an additional Purchase Order is issued for purchase of services under this Contract.

CONTRACT NUMBER	ADHS14-066638
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**INTERGOVERNMENTAL AGREEMENT
EXHIBIT ONE (1)**

Arizona Department of Health Services
Accounting/Contracts
1740 W. Adams Street
Phoenix, Arizona 85007

Invoice #

CONTRACTOR'S EXPENDITURE REPORT

1. Contract Number _____ P.O. # _____
2. Contractor Name _____
3. Title of Program _____
4. Reporting Period Covered: From _____ To _____

4A. Cost Reimbursement -
Cumulative Actual Expenditures
 Fixed Price
4B. Periodic Report
 FINAL REPORT

Contractor's Detailed Statement of Expenditures and Fixed Price					
5. COST REIMBURSEMENT (Actual Expenditures) A. Account Classification:	Approved Budget (a)	Prior Report Period Date	Year to Expenditures	Current Reporting Period Expenditures	Total Year to Date Expenditures
		(b)	(c)	(d)	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
ERE	\$ -	\$ -	\$ -	\$ -	\$ -
Professional and Outside Services	\$ -	\$ -	\$ -	\$ -	\$ -
Travel Expenses	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Outlay Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -
6. FIXED PRICE	Rate per Unit	Number of Units Provided this Reporting Period	Total Funds Earned this Reporting Period	Prior Report Period Year to Date Funds Earned	Total Year to Date Funds Earned
A. Type of Unit:	(1)	(2)	(3)	(4)	(5)
TOTAL					

ADHS USE ONLY		THIS SECTION FOR ADHS ACCOUNTING USE ONLY			7. CONTRACTOR CERTIFICATION I certify that this report has been examined by me, and to the best of my knowledge and belief, the reported expenditures and fixed price information is valid, based upon our official accounting records (book of account) and consistent with the terms of the contract. It is also understood that the contract payments are calculated by the Department of Health Services based upon information provided in this report.
ADHS PROGRAM COORDINATOR CERTIFICATION:		Total Expenditures or total Fixed Price			
<input type="checkbox"/> Performance satisfactory for payment		Adj (if required):			
<input type="checkbox"/> Performance unsatisfactory, withhold payment		Less: Year to date payments			
<input type="checkbox"/> No payment due		Adj (if required):			
Net payment due:		Index	PCA	AY	
PROGRAM COORDINATOR SIGNATURE/DATE _____					

ADHS/BFS/F-110 (Rev. 1/2008)

AUTHORIZED CONTRACTOR'S SIGNATURE / TITLE / DATE

PLEASE PRINT - PREPARED BY / PHONE NUMBER