

AUG 24 2006

EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.



1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number: A70-5-7177	2. Date prepared: 7/31/2006
3. CONTRACTS & LEASES	
<input checked="" type="checkbox"/> Professional/Personal Services <input type="checkbox"/> Contract for procured Services <input type="checkbox"/> Grant <input type="checkbox"/> Maintenance <input type="checkbox"/> Lease <input type="checkbox"/> License Agreement <input type="checkbox"/> Attorney <input checked="" type="checkbox"/> Amendment# <u>2</u> <input type="checkbox"/> MOU <input type="checkbox"/> Renewal # _____ <input type="checkbox"/> QPA <input type="checkbox"/> Other _____	
FISCAL INFORMATION	
4. Account Number: 3610-14960.	5. Account Name: ABSTINENCE EDUC. BLOCK I
6. Total amount this action: \$25,000.00	7. New contract total: \$626,700.00
8. Revenue generated this action: \$0.00	9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:	
Year 2005 \$ 245,000.00	Year 2007 \$ 81,675.00
Year 2006 \$ 293,775.00	Year 2008 \$ 6,250.00
TIME PERIOD COVERED IN THIS EDS	
11. From (month, day, year): 12/1/2004	12. To (month, day, year): 9/30/2007
13. Method of source selection: _____ Negotiated <input type="checkbox"/> Bid/Quotation <input type="checkbox"/> Emergency <input type="checkbox"/> Special Procurement <input checked="" type="checkbox"/> RFP# <u>4-63</u> <input type="checkbox"/> Other (specify) _____	
35. Will the attached document involve data processing or telecommunications systems(s)? _____ Yes: IOT or Delegate has signed off on contract	
36. Statutory Authority (Cite applicable Indiana or Federal Codes):	
37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.) The contractor will implement & measure the effectiveness of a statewide sexual abstinence awareness education campaign targeted toward pre-teenagers, teenagers & parents. This includes public relations activities, media placement, & market research. Additionally, the contractor will design & print publications regarding media campaign activities for & in collaboration with ISDH, MCSHC. (See Attached)	
38. Justification of vendor selection and determination of price reasonableness: The objectives of this project are consistent with and support the State Health Plan, national Healthy People 2010 objectives, and the ISDH's Critical Success Factors (Strategic Plan).	
39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)	
40. Agency fiscal officer or representative approval	41. Date Approved
44. Attorney General's Office approval	45. Date Approved

AGENCY INFORMATION	
14. Name of agency: Department of Health	15. Requisition Number:
16. Address: 2 N. Meridian Street Indianapolis, IN 46204	
AGENCY CONTACT INFORMATION	
17. Name: Robert Bruce Scott	18. Telephone #: 317/233-1241
19. E-mail address: rbscott@ISDH.IN.gov	
COURIER INFORMATION	
20. Name: Steve Martin	21. Telephone #: 317/233-7573
22. E-mail address: smartin@ISDH.IN.gov	
VENDOR INFORMATION	
23. Vendor ID # 0000076236	
24. Name: MONTGOMERY, ZUCKERMAN, DAVIS INC	25. Telephone #: JRICHARDSON@MZ
26. Address: 1800 N. MERIDIAN ST INDIANAPOLIS, IN 46206	
27. E-mail address: 317/554-6244	
28. Is the vendor registered with the Secretary of State? (Only states Corporations, must be registered) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. Primary Vendor: M/WBE Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	30. If yes, list the %: Minority: _____ % Women: _____ %
31. Sub Vendor: M/WBE Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	32. If yes, list the %: Minority: _____ % Women: _____ %
33. Is there Renewal Language in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	34. Is there a "Termination for Convenience" clause in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

RECEIVED

AUG 30 2006

DAG CONTRACTS

AMENDMENT #1 – MZD – 170-5-7177

Amendment #1: Adds 12 months to the contract, increases funding \$251,700 & removes media placement (media placement services are now provided under a single State contract & may not be performed or paid for under this contract.)

Amendment #2: Adds 12 months to the contract, increases funding \$25,000 to cover the cost of deliverables.

Amendment No. 2
EDS Number A70-5-7177

This is an Amendment to the existing Abstinence Education Block Grant Personal Services Contract entered into by and between the **Indiana State Department of Health** (hereinafter referred to as the "State") and **Montgomery, Zukerman, Davis, Inc.** (hereinafter referred to as the "Contractor") for the period from December 1, 2004 through September 30, 2007, in the amount of \$601,700.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

The amount of the Personal Services Contract is being increased by \$25,000, making the new total of the Personal Services Contract \$626,700. The additional funds will be used to increase funding to cover the cost of deliverables for an additional year. See Exhibit 6, attached hereto, and made a part hereof and incorporated herein by reference as part of this agreement. The expiration date of this Personal Services Contract is being extended to September 30, 2007.

Funding Summary

3610-149600	12/1/04 through 9/30/05	\$350,000
3610-149600	10/1/05 through 9/30/06	\$251,700
3610-149600	10/1/06 through 9/30/07	<u>\$ 25,000</u>
Total		\$626,700

All other matters previously agreed to and set forth in the original Personal Services Contract and not affected by this Amendment shall remain in full force and effect.

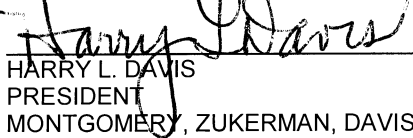
Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

The rest of this page has been left blank intentionally.

In Witness Whereof, the Contractor and the State of Indiana have, through duly authorized representatives, entered into this Personal Services Contract Amendment. The parties having read and understanding the foregoing terms of the Personal Services Contract Amendment do by their respective signatures dated below agree to the terms thereof.

Accepted By:


HARRY L. DAVIS
PRESIDENT
MONTGOMERY, ZUKERMAN, DAVIS, INC.


DATE: Aug. 14, 2006

Certification of Funds:


LINDA L. BROWN
DIRECTOR
DIVISION OF FINANCE
OPERATIONAL SERVICES COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH


DATE: 8/21/06

Recommended and Approved By:


SUE UHL, J.D.
DEPUTY STATE HEALTH COMMISSIONER
INDIANA STATE DEPARTMENT OF HEALTH


DATE: 8 18 06

Approved:


CARRIE HENDERSON
COMMISSIONER
DEPARTMENT OF ADMINISTRATION
STATE OF INDIANA


DATE: 8-25-06

Approved:


CHARLES E. SCHALLIOL
STATE BUDGET DIRECTOR
STATE OF INDIANA

DATE: 8/29/2006

Approved as to Form and Legality:


STEPHEN CARTER
ATTORNEY GENERAL OF INDIANA

DATE: 9/29/06

OCT 05 2005

**EXECUTIVE DOCUMENT SUMMARY**

State Form 41221 (R9/1-04)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply. **9577**
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

3642 - 9/26/20

1. EDS Number A7D-S-7177	2. Date prepared: September 26, 2005 LIB
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3. CONTRACTS & LEASES

<input checked="" type="checkbox"/> Professional/Personal Services	Contract for Procured Services
<input type="checkbox"/> Grant	Maintenance
<input type="checkbox"/> Lease	License Agreement
<input type="checkbox"/> Attorney	<input checked="" type="checkbox"/> Amendment # 1
<input type="checkbox"/> MOU	Renewal #
<input type="checkbox"/> QPA	Other (specify)

FISCAL INFORMATION

4. Account Number: 3610/149600	5. Account Name: Abstinence Education Block Grant
6. Total amount this action: \$251,700.00	7. New contract total: \$601,700.00
8. Revenue generated this action:	9. Revenue generated total contract:

10. New total amount for each fiscal year:			
Year 2005	\$ 245,000.00	Year 07	\$ 62,925.00
Year 2006	\$ 293,775.00	Year	\$

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): December 1, 2004	12. To (month, day, year): September 30, 2006
13. Method of source selection: _____ Negotiated _____ Bid/Quotation _____ Emergency _____ Special Procurement <input checked="" type="checkbox"/> RFP # 4-63 _____ Other (specify)	

AGENCY INFORMATION

14. Name of agency: ISDH/MCH	15. Requisition Number:
16. Address: 2 North Meridian Street, Section 2-C Indianapolis IN 46204-3006	

AGENCY CONTACT INFORMATION

17. Name: Robert Bruce Scott	18. Telephone #: (317) 233-1241
19. E-mail address: rbscott@isdh.state.in.us	

COURIER INFORMATION

20. Name: Steve Martin	21. Telephone #: (317) 233-7573
22. E-mail address: smartin@isdh.state.in.us	

VENDOR INFORMATION

23. Taxpayer Identification Number: 35-1343817	
24. Name: Montgomery, Zukerman, Davis, Inc.	25. Telephone #:
26. Address: 1800 North Meridian 2nd Floor Indianapolis, IN 46202	
27. E-mail address:	
28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. Primary Vendor: M/WBE Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	30. If yes, list the %: Minority: _____ % Women: 0 %
31. Sub Vendor: M/WBE Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	32. If yes, list the %: Minority: _____ % Women: _____ %
33. Is there Renewal Language in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	34. Is there a "Termination for Convenience" clause in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

35. Will the attached document involve data processing or telecommunications system(s)? <input type="checkbox"/> Yes: ITOC or Delegate has signed off on contract	
36. Statutory Authority (Cite applicable Indiana or Federal Codes):	
37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.) The contractor will implement & measure the effectiveness of a statewide sexual abstinence awareness education campaign targeted toward pre-teenagers, teenagers & parents. This includes public relations activities, media placement, & market research. Additionally, the contractor will design & print publications regarding media campaign activities for & in collaboration with ISDH, MCSHC. Amendment #1: Adds 12 months to the contract, increases funding \$251,700 & removes media placement (media placement services are now provided under a single State contract & may not be performed or paid for under this contract.)	
38. Justification of vendor selection and determination of price reasonableness: The objectives of this project are consistent with and support the State Health Plan, national Healthy People 2010 objectives, and the ISDH's Critical Success Factors (Strategic Plan).	
39. If this contract is submitted late, please explain why: (Required if more than 30 days late.) Due to contract negotiations.	

SIGNATURES

40. Agency fiscal officer or representative approval Linda L. Brown	41. Date Approved See signature page of contract	42. Budget agency approval <i>AE</i>	43. Date Approved <i>10/13/05</i>
44. Attorney General's Office approval <i>EAB</i>	45. Date Approved <i>11-30-05</i>	46. Agency representative receiving from AG <i>SO</i>	47. Date Approved <i>10/13/05</i>

IDOA Contracts

opt

Amendment No. 1

This is an Amendment to the existing Abstinence Education Block Grant Personal Services Contract entered into by and between the **Indiana State Department of Health** (hereinafter referred to as the "State") and **Montgomery, Zukerman, Davis, Inc.** (hereinafter referred to as the "Contractor") for the period from December 1, 2004 through September 30, 2005, in the amount of \$350,000.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

The amount of the Personal Services Contract is being increased by \$251,700, making the new total of the Personal Services Contract \$601,700. The additional funds will be used to allow the vendor to continue offering services for an additional year. See Exhibit 5, attached hereto, and made a part hereof and incorporated herein by reference as part of this agreement. The expiration date is being extended to September 30, 2006.

The following paragraph has been added to the Personal Services Contract:

Compliance with Telephone Solicitations Act.

As required by IC 5-22-3-7:

- (1) the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

Ethics

The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<<http://www.in.gov/ethics/>>>>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Personal Services Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6-12

Paragraph 32C **Notice to Parties** is amended to read:

As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by Contractor with the Auditor of State.

All other matters previously agreed to and set forth in the original Personal Services Contract and not affected by this Amendment shall remain in full force and effect.

Funding Summary

3610-149600		
1000-214070	12/01/04 to 9/30/05	\$350,000
1000-214070	10/01/05 to 9/30/06	<u>\$251,700</u>
3610-149600		
Total		\$601,700

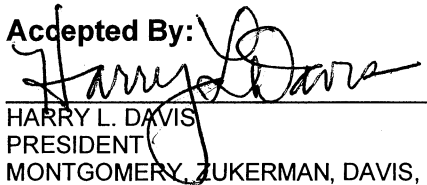
Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

The rest of this page has been left blank intentionally.

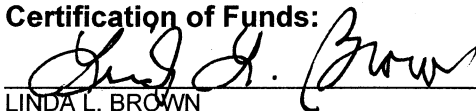
In Witness Whereof, the Contractor and the State of Indiana have, through duly authorized representatives, entered into this Personal Services Contract Amendment. The parties having read and understanding the foregoing terms of the Personal Services Contract Amendment do by their respective signatures dated below agree to the terms thereof.

Accepted By:


HARRY L. DAVIS
PRESIDENT
MONTGOMERY, ZUKERMAN, DAVIS, INC.

DATE: 9-29-05

Certification of Funds:


LINDA L. BROWN
DIRECTOR
DIVISION OF FINANCE
OPERATIONAL SERVICES COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

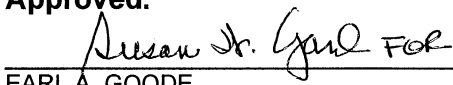
DATE: 10/3/05

Recommended and Approved By:


SUE UHL, J.D.
DEPUTY STATE HEALTH COMMISSIONER
INDIANA STATE DEPARTMENT OF HEALTH

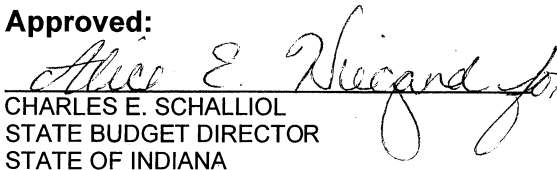
DATE: 9-29-05

Approved:


EARL A. GOODE
COMMISSIONER
DEPARTMENT OF ADMINISTRATION
STATE OF INDIANA

DATE: 10-7-05

Approved:


CHARLES E. SCHALLIOL
STATE BUDGET DIRECTOR
STATE OF INDIANA

DATE: 10/13/2005

Approved as to Form and Legality:


STEPHEN CARTER
ATTORNEY GENERAL OF INDIANA

DATE: 11-30-05

EXHIBIT 5
Montgomery Zukerman Davis (MZD)
Sexual Abstinence Awareness Campaign

Project Description

Montgomery Zukerman Davis (MZD), hereinafter referred to as Contractor will implement and measure the effectiveness of a statewide sexual abstinence awareness education campaign targeted toward pre-teenagers, teenagers and parents. This includes public relations activities and market research. Additionally, the Contractor will design and print publications regarding media campaign activities for Indiana State Department of Health Maternal and Children's Special Health Services, hereinafter referred to as the State. Attachment B contains deliverables to be provided by the Contractor during FY 2006.

NOTE: Media placement services are now provided under a single State contract and may not be performed or paid for under this contract. Contractor will provide marketing plans to the State and will receive directions and be responsible for sending creative materials to the approved media outlets determined by the State.

Services

The Contractor will perform the following services – the contractor will:

- Raise awareness and educate the public regarding the social, psychological, and health gains to be realized by abstaining from sexual activity with the purpose of increasing sexual abstinence among Indiana youth.
- Increase visibility and identity of the State's sexual abstinence campaign by designing and printing campaign publications (annual reports, resource directories, brochures, and other publications as needed); and
- Create targeted messages to expand the network of effective sexual abstinence community-based programs and increase community support for these efforts.

These services are itemized in a schedule of deliverables below.

Additional Conditions

In addition to the deliverables scheduled below, the Contractor will perform these services under the following conditions – the Contractor will:

- Maintain a status report of all public relations and market research projects and update ISDH/MCSHC as requested;
- Maintain a financial status report on the account and submit monthly report to ISDH/MCSHC;
- Develop and execute media relations plan to support campaign initiatives in coordination with ISDH/OPA and ISDH/MCSHC;
- Work closely with ISDH/MCSHC and ISDH/OPA staff;
- Assist ISDH State Adolescent Health Coordinator with media training for local coalitions and community grant program recipients; and
- Observe closely all constraints imposed by federal and state law.

Deliverables

Schedule of Deliverables

Deliverables will be reimbursed monthly in arrears upon satisfactory completion of or progress toward completion of each deliverable. Contractor will present itemized charges and documentation of progress for each deliverable with each voucher.

Schedule of Deliverables - Year 2

4. Develop/Update campaign materials based on research

4a. Marketing Campaign/ Development	10/31/2005	\$7,500
4b. Minority/Faith based campaign integration	10/31/2005	\$10,000
4c. Create all campaign materials/teens & parents	10/31/2005	\$102,000
4d. Website design/launch	10/31/2005	\$16,000
4e. Premiums	10/31/2005	\$16,000

5. Assist ISDH State Adolescent Health Coordinator with media training for local coalitions and community grant program recipients

6. Develop and execute media relations plan to support campaign initiatives in coordination with ISDH/OPA

6a. Marketing/Campaign Development	11/30/2005	\$7,500
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7. Develop and execute public relations plan to support campaign initiatives in coordination with the ISDH Office of Public Affairs (ISDH/OPA)

7a. Public Relations Launch	11/30/2005	\$10,000
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8. Track and record media impressions and assess effectiveness and provide written report			
8a. Marketing/Campaign Development analysis and adjustment report	12/31/2005		\$7,500
8b. Marketing/Campaign Development analysis and adjustment report	01/31/2006		\$5,000
8c. Marketing/Campaign Development analysis and adjustment report	02/28/2006		\$5,000
9. Assist ISDH with local coalitions and community grant recipients			
9a. Marketing/Campaign Development	03/31/2006		\$5,000
10. Conduct research for evaluation of campaign effectiveness			
10a. Telephone-teen	04/30/2006		\$12,700
10b. Marketing/Campaign Development analysis and adjustment report	04/30/2006		\$5,000
10c. Report teens	05/31/2006		\$5,000
10d. Marketing/Campaign Development analysis and adjustment report	05/31/2006		\$3,500
11. Track and record media impressions and sponsorship value			
11a. Marketing Evaluation	05/31/2006		
11b. Marketing/Campaign Development analysis and adjustment report	06/30/2006		\$3,500
11c. Marketing/Campaign Development analysis and adjustment report	07/31/2006		\$3,500
11d. Marketing/Campaign Development analysis and adjustment report	08/31/2006		\$3,500
11e. Website Update	08/31/2006		\$10,000
11f. Minority Program Evaluation	08/31/2006		\$10,000
11g. Marketing/Campaign Development analysis and adjustment report	09/30/2006		\$3,500
Total Contract - Year 2			\$251,700

JAN 28 2005

**EXECUTIVE DOCUMENT SUMMARY**

State Form 41221 (R9/1-04)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

2832 - 12/22/2

1. EDS Number A10-5-7177	2. Date prepared: December 22, 2004
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3. CONTRACTS & LEASES

<input checked="" type="checkbox"/> Professional/Personal Services	Contract for Procured Services
<input type="checkbox"/> Grant	Maintenance
<input type="checkbox"/> Lease	License Agreement
<input type="checkbox"/> Attorney	Amendment # _____
<input type="checkbox"/> MOU	Renewal # _____
<input type="checkbox"/> QPA	Other (specify) _____

FISCAL INFORMATION

4. Account Number: 3610/149600	5. Account Name: Abstinence Education Block Grant
6. Total amount this action: \$350,000.00	7. New contract total: \$350,000.00
8. Revenue generated this action:	9. Revenue generated total contract:
10. New total amount for each fiscal year:	
Year 2005 \$ 245,000.00	Year _____ \$ _____
Year 2006 \$ 105,000.00	Year _____ \$ _____

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): December 1, 2004	12. To (month, day, year): September 30, 2005
13. Method of source selection:	
<input type="checkbox"/> Bid/Quotation	<input type="checkbox"/> Emergency
<input checked="" type="checkbox"/> RFP # 4-63	<input type="checkbox"/> Other (specify) _____
<input type="checkbox"/> Negotiated	
<input type="checkbox"/> Special Procurement	

35. Will the attached document involve data processing or telecommunications system(s)? ☐ Yes: ITOC or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)

The contractor will implement and measure the effectiveness of a statewide sexual abstinence awareness education campaign targeted toward pre-teenagers, teenagers and parents. This includes public relations activities, media placement, and market research. Additionally, the contractor will design and print publications regarding media campaign activities for and in collaboration with Indiana State Department of Health, Maternal and Children's Special Health Care Services.

38. Justification of vendor selection and determination of price reasonableness:

The objectives of this project are consistent with and support the State Health Plan, national Healthy People 2010 objectives, and the ISDH's Critical Success Factors (Strategic Plan).

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)

Due to contract negotiations.

SIGNATURES

40. Agency fiscal officer or representative approval Linda L. Brown	41. Date Approved See signature page of contract	42. Budget agency approval <i>MA</i>	43. Date Approved 2/3/05
44. Attorney General's Office approval <i>[Signature]</i>	45. Date Approved 2/25/05	46. Agency representative receiving from AG <i>GO</i>	47. Date Approved

AGENCY INFORMATION

14. Name of agency: ISDH/MCH	15. Requisition Number:
16. Address: 2 North Meridian Street, Section 2-C Indianapolis IN 46204-3006	

AGENCY CONTACT INFORMATION

17. Name: Robert Bruce Scott	18. Telephone #: (317) 233-1241
19. E-mail address: rbscott@isdh.state.in.us	

COURIER INFORMATION

20. Name: Steve Martin	21. Telephone #: (317) 233-7573
22. E-mail address: smartin@isdh.state.in.us	

VENDOR INFORMATION

23. Taxpayer Identification Number: 35-1343817 <i>eg</i>	
24. Name: Montgomery, Zukerman, Davis, Inc.	25. Telephone #:
26. Address: 1800 North Meridian 2nd Floor Indianapolis, IN 46202	
27. E-mail address:	
28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. Primary Vendor: M/WBE	30. If yes, list the %:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Minority: _____ %
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Women: 0 %
31. Sub Vendor: M/WBE	32. If yes, list the %:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Minority: _____ %
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Women: _____ %
33. Is there Renewal Language in the document?	34. Is there a "Termination for Convenience" clause in the document?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

RECEIVED**FEB 04 2005****OAG CONTRACTS****Received****JAN 31 ENT'D**

PROFESSIONAL/PERSONAL SERVICES CONTRACT

3610-539000-149600
AE 500-3

opt

This Contract, entered into by and between **Indiana State Department of Health** (hereinafter referred to as "State") and **Montgomery, Zukerman, Davis, Inc.** (hereinafter referred to as "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor

The Contractor shall implement and measure the effectiveness of a statewide sexual abstinence awareness education campaign targeted toward pre-teenagers, teenagers and parents. This includes public relations activities, media placement and market research. Additionally, the contractor will design and print publications regarding media campaign activities for an in collaboration with Indiana State Department of Health, Maternal and Children's Special Health Care Services. This project is described fully in Project Description (Exhibit 1); Request for Proposal #4-63 (Exhibit 2); and Contractor's Response to RFP #4-63 (Exhibit 3), attached hereto, and made a part hereof and incorporated herein by reference as part of this Contract.

2. Consideration

The Contractor will be paid monthly in arrears using the rates set out on Exhibit 1, attached hereto and hereby incorporated into this Contract. Total remuneration under this Contract shall not exceed \$350,000.

3. Term

This Contract shall commence on December 1, 2004 and shall remain in effect through September 30, 2005.

4. Access to Records

The Contractor and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence (Records) pertaining to costs incurred, for inspection by the State or by any other authorized representative of the State and copies thereof shall be furnished at no cost to the State if requested. The Contractor and its subcontractors shall make all Records available at their respective offices at all reasonable times during the Contract period and for three (3) years from the date of final payment under the Contract or until an audit has been completed and all audit exceptions cleared.

5. Assignment

The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Audits

Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, and audit guidelines specified by the State.

7. Authority to Bind Contractor

Notwithstanding anything in this Contract to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute contracts on behalf of the Contractor and has obtained all necessary or applicable approvals from the home office of the Contractor to make this Contract fully binding upon the Contractor when his/her signature is affixed, and this Contract is not subject to further acceptance by Contractor when accepted by the State of Indiana.

8. Changes in Work

In the event the State requires a major change in the scope, character or complexity of the work after the work has begun, adjustments in compensation to the Contractor shall be determined by the State in the exercise of its good faith and prudent judgment. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

9. Compliance with Laws

The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, the provisions of which are incorporated by reference. The enactment or amendment of any applicable state or federal statute or the promulgation of any rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

10. Condition of Payment

All deliverables provided by the Contractor under this contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

11. Confidentiality of Data, Property Rights in Products, and Copyright Prohibition

The Contractor agrees that all information, data, findings, recommendations, proposals, etc. by whatever name described and in whatever form secured, developed, written or produced by the Contractor in furtherance of this Contract shall be the property of the State. The Contractor shall take such action as is necessary under law to preserve such confidentiality and property rights in and of the State while such property is within the control and/or custody of the Contractor. The Contractor hereby specifically waives and/or releases to the State any cognizable property right of the Contractor to copyright, license, patent or otherwise use such information, data, findings, recommendations, proposals, etc.

12. Confidentiality of State Information

The Contractor understands and agrees that data, materials, and information disclosed to Contractor may contain confidential and protected data. Therefore, the Contractor promises and assures that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the prior written consent of the State.

13. Records, Reports, Inspections and Audits - Deleted

14. Conflict of Interest

A. As used in this section:

"Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party," means:

1. The individual executing this contract;
2. An individual who has an interest of three percent (3%) or more of Contractor, if Contractor is not an individual; or
3. Any member of the immediate family of an individual specified under subdivision 1 or 2.

"Department" means the Indiana Department of Administration.

"Commission" means the State Ethics Commission.

- B. The Department may cancel this Contract without recourse by Contractor if any interested party is an employee of the State of Indiana.
- C. The Department will not exercise its right of cancellation under section B above if the Contractor gives the Department an opinion by the Commission indicating that the existence of this Contract and the employment by the State of Indiana of the interested party does not violate any statute or rule relating to ethical conduct of state employees. The Department may take action, including cancellation of this Contract consistent with an opinion of the Commission obtained under this section.
- D. Contractor has an affirmative obligation under this Contract to disclose to the Department when an interested party is or becomes an employee of the State of Indiana. The obligation under this section extends only to those facts that Contractor knows or reasonably could know.

15. Continuity of Services – Deleted

16. Debarment and Suspension

Contractor certifies, by entering into this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Contractor. The Contractor also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under this contract and is solely responsible for any paybacks and or penalties that might arise from non-compliance.

17. Default by State

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any breach of this Contract, then the Contractor may cancel and terminate this Contract and collect all monies due up to and including the date of termination.

18. Disputes

- A. Should any disputes arise with respect to this Contract, Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs. If the State and the Contractor cannot resolve a dispute within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

19. Drug-Free Workplace Certification

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor has been convicted of a criminal drug violation occurring in the contractor's workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Contractor hereby further agrees that this agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts and grants from the State of Indiana in excess of \$25,000.00. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform it's employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

20. Employment Option

If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the State or the employee.

21. Ethics

The contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the contractor is not familiar with these ethical requirements, the contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<<http://www.in.gov/ethics/>>>>. If the contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this contract immediately upon notice to the contractor. In addition, the contractor may be subject to penalties under Indiana Code § 4-2-6-12.

22. Force Majeure

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

23. Funding Cancellation

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

24. Governing Laws

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

25. Indemnification

Contractor agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any. The State shall not provide such indemnification to the Contractor.

26. Independent Contractor

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

27. Information Technology Accessibility

All contractors supplying information technology related products and services to the state of Indiana must comply with all ITOC policies and standards. These policies and standards can be found at http://www.in.gov/itoc/html_site/architecture/poli.html and http://www.in.gov/itoc/html_site/architecture/stan.html. Any deviation from the published standards and policies must be approved by ITOC and be supported by a written waiver.

The Contractor acknowledges and agrees that all hardware, software and services provided to or purchased by the State must be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 749d), as amended, and adopted by the State of Indiana Information Technology Oversight Commission pursuant to IC 4-23-16-12.

28. Insurance

- a) The Contractor shall secure and keep in force during the term of this agreement, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from this agreement:
 - 1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$500,000 per person and \$1,000,000 per occurrence unless additional coverage is required by the State.

- 2) Professional errors and omissions, including a three year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.
 - 3) Automobile liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
 - 4) Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, an "all states endorsement" covering claims occurring outside the state of Indiana if any of the services provided under this agreement involve work outside the state of Indiana. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative, a certificate of insurance prior to the commencement of this agreement.
- b) The Contractor's insurance coverage must meet the following additional requirements:
- 1) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
 - 2) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this agreement shall not be limited by the insurance required in this agreement.
 - 3) The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.
 - 4) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to immediately terminate this agreement.

The Contractor shall furnish a certificate of insurance and all endorsements to the undersigned State representative prior to the commencement of this agreement.

29. Key Person(s) – Deleted

30. Licensing Standards

The parties agree that Contractor and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The State shall not be required to reimburse Contractor for any services performed when Contractor or its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, Contractor shall notify State immediately and the State, at its option, may immediately terminate this Contract.

31. Merger & Modification

This contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this contract will be valid provisions of this contract. This contract may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.

32. Minority and Women Business Enterprise Compliance

The Contractor agrees to comply fully with the provisions of the Contractor's MBE/WBE participation plans, and agrees to comply with all Minority and Women Business Enterprise statutory and administrative code requirements and obligations, including IC 4-13-16.5 and 25 IAC 5.

The Contractor further agrees to cooperate fully with the minority and women's business enterprises division to facilitate the promotion, monitoring, and enforcement of the policies and goals of MBE/WBE program including any and all assessments, compliance reviews and audits that may be required.

33. Nondiscrimination

Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, Contractor and its subcontractors shall not discriminate against any employee or applicant for employment in the performance of this Contract. The Contractor shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Contract. The Contractor's execution of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

The Contractor understands that the State is a recipient of federal funds. Pursuant to that understanding, the Contractor and its subcontractor, if any, agree that if the Contractor employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the Contractor will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Contractor shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Contract.

34. Notice to Parties

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Indiana State Department of Health
ATTN: Contract and Audit Section
2 North Meridian Street, Section 2-C
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to:

Montgomery, Zukerman, Davis, Inc.
ATTN: Harry L. Davis
1800 North Meridian
2nd Floor
Indianapolis, IN 46202

C. Payments to the Contractor shall be sent to the address designated by Form W-9 on file with the auditor of state which is:

Montgomery, Zukerman, Davis, Inc.
ATTN: Harry L. Davis
1800 North Meridian
2nd Floor
Indianapolis, IN 46202

35. Order of Precedence

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and Exhibit 1; (2) Request for Proposal #4-63 (Exhibit 2); and Contractor's Response to Request for Proposal # 4-63 (Exhibit 3).

36. Ownership of Documents and Materials

All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor transfers any ownership claim to the State of Indiana and all such materials will be the property of the State of Indiana. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided herein while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this Contract shall be available to the State.

37. Payments

- A. All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures.
- B. All accounts will be closed sixty (60) days after the end of the Contract period. Any State Claim Voucher submitted after sixty (60) days will not be reimbursed by the State.

38. Penalties/Interest/Attorney's Fees

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, the Parties stipulate and agree that any liability resulting from the State of Indiana's failure to make prompt payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

39. Progress Reports

- A. The Contractor shall submit progress reports to the State based upon the needs of the State. Unless specified otherwise in Exhibits 1, 2, 3, and 4, the progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, whether additional deliverables will be required to better serve the public, and that completion can be reasonably assured on the scheduled date.
- B. The Contractor understands that failure to provide progress reports as requested by the State may be considered a material breach of the Contract and shall entitle the State to impose sanctions against the Contractor. Sanctions may include, but are not limited to, suspension of all Contract payments, and/or suspension of the Contractor's participation in State contract programs until such time as all material breaches are cured to the State's satisfaction. Sanctions may also include repayment of all State funds expended for activities that are not in the scope of this project as set forth in Exhibits 1, 2, 3, and 4 of this Contract.

40. Renewal Option

This Contract may be renewed under the same terms and conditions subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract.

41. Security and Privacy of Health Information

If any final regulation or body of regulations relating to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("Final HIPAA Regulations"), or any amendment or judicial or administrative interpretation of the Final HIPAA Regulations, prohibits, restricts, limits or materially and adversely affects either party's rights or obligations hereunder, the parties shall negotiate, in good faith, reasonable revisions to this Contract. The purpose of the negotiations shall be to revise the Contract so that the affected party can comply and/or act in accordance with such Final HIPAA Regulations, or amendment or judicial or administrative interpretation thereof and avoid or mitigate such prohibition, restriction, limitation or material and adverse effect. If the parties fail to agree to such revisions within forty-five (45) days after written notice from the affected party requesting negotiations under this paragraph, this Contract shall terminate. If so terminated the Contractor shall return all protected health information received from, created or received by the Contractor on behalf of the State. The Contractor shall retain no copies of such information in any form.

42. Severability

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

43. Substantial Performance

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

44. Successors and Assignees

The Contractor binds its successors, executors, administrators, and assignees to all covenants of this Contract. Except as above set forth, the Contractor shall not assign, sublet or transfer interest in this Contract without the prior written consent of the State of Indiana.

45. Taxes

The State of Indiana is exempt from state, federal, and local taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

46. Termination for Convenience

This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

47. Termination for Default – Deleted

48. Registration with the Secretary of State of Indiana

The Contractor certifies that if it is a non-domestic entity, it is registered with the Indiana Secretary of State to do business in the State of Indiana.

49. Travel

If applicable, expenditures made by the Contractor for travel will be reimbursed by the State at the current rate paid by the State of Indiana. Travel expenses can only be reimbursed in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular (#2003-1). Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

50. Waiver of Rights

No right conferred on either party under this Contract shall be deemed waived and no breach of this Contract excused, unless such waiver or excuse is in writing and signed by the party claimed to have waived such right.

51. Work Standards

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and Contractor shall grant such request.

52. Additional Terms and Conditions

The Contractor agrees to additional conditions set forth in Exhibits 1, 2, 3, and 4, which is attached hereto and incorporated herein by reference.

53. Amendments

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. Any alterations or amendments, except a change between budget categories, which requires the prior written consent of a duly authorized representative of the State, shall be subject to the contract approval procedure of the State.

54. Cultural Competency

- A. Based on recommended national standards from the U.S. Department of Health and Human Services' (HHS), Office of Minority Health (OMH), the State may provide cultural competency training to educate individuals on how to continue to, or implement health care services that are culturally appropriate to respond to the current demographic and cultural profile of the communities served by this Contract.
- B. The Contractor agrees to participate in one session of the cultural competency training presented by the State during the term of this Contract. The Contractor shall designate a representative who will attend this training or otherwise show evidence that a representative has received approved cultural competency training. The Contractor shall be responsible for ensuring that a representative of its subcontractors will attend this training as well. The State Health Commissioner may waive this training requirement upon application and justification submitted by the Contractor that they have received approved cultural competency training within the year prior to the beginning date of this Contract.
- C. The State's cultural competency training is offered to contractors and subcontractors at no cost. Travel and incidental expenses incurred in obtaining the state's competency training that do not exceed the maximum amount allowed under state rules and do not exceed any conditions placed upon the use of the grant funds may be reimbursed by the State under this Contract. The Contractor and/or subcontractor shall be responsible for any travel and incidental expenses that exceed the maximum limit or any other conditions set for the use of these contract funds.

- D. Prior to the expiration of this Contract, the State's Cultural Diversity & Enrichment (CDE) Division may provide a cultural competency assessment form to the Contractor that must be completed and returned to the CDE Division within thirty (30) days of receipt of the form.

55. Federal Funding Information

- | | |
|--|---|
| a) C.F.D.A. Title – Abstinence Education | d) Award No. G 050 1INAEGP |
| b) C.F.D.A. No. 93.235 | e) Award Year – 10/1/04 through 9/30/06 |
| c) Award Name – Abstinence Education Block Grant | f) Federal Agency – Department of Health & Human Services, Administration for Children and Families |

The Contractor agrees to comply with the provisions of the Code of Federal Regulations (CFR) Title 45 Parts 74, 92, and 96.

56. Federal Funds Disclosure Requirements

The Contractor agrees that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs supported in whole or in part by contract funds, they will clearly state a) the percentage of the total costs of the program or project which will be financed with federal money, b) the dollar amount of federal funds for the project or program, as set out in Paragraph 2 of this Contract, and c) the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources. "Nongovernmental sources" means sources other than state and local governments and federally recognized Indian tribes.

57. Federal Lobbying Requirements

- A. The Contractor certifies that to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, contract, loan, or cooperative agreement, the Contractor shall complete and submit "Disclosure Form to Report Lobbying" in accordance with its instructions.
- C. The Contractor shall require that the language of subparagraphs A) and B) be included in the language of all subcontracts and that all subcontractors shall certify and disclose accordingly.

58. Remedies Not Impaired

No delay or omission of the State in exercising any right or remedy available under this Contract shall impair any such right or remedy, or constitute a waiver of any default, or any acquiescence thereto.

59. State Boilerplate Affirmation Clause

I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate contract clauses (as defined in the 2003 IDOA Professional Services Contract Manual) in any way except for the following clauses which are identified by name below:

Access to Records

Payments

Progress Reports

Travel

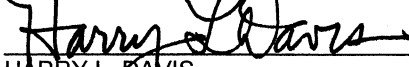
Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

The rest of this page is left blank intentionally.


IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates entered below.

Accepted By:


HARRY L. DAVIS
PRESIDENT
MONTGOMERY, ZUKERMAN, DAVIS, INC.


DATE: Jan. 19, 2005

Certification of Funds:


LINDA L. BROWN
DIRECTOR
DIVISION OF FINANCE
OPERATIONAL SERVICES COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

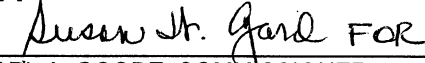
DATE: 1/27/05

Recommended and Approved By:


WENDY GETTELFINGER, R.N., D.N.S., J.D.
ASSISTANT COMMISSIONER
COMMUNITY AND FAMILY HEALTH SERVICES COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

DATE: 1-26-05

Approved:


EARL A. GOODE, COMMISSIONER
DEPARTMENT OF ADMINISTRATION
STATE OF INDIANA

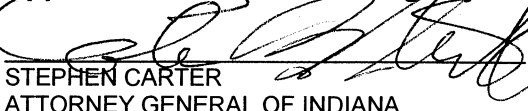
DATE: 2-1-05

Approved:


CHARLES E. SCHALLIOL
STATE BUDGET DIRECTOR
STATE OF INDIANA

DATE: February 3, 2005

Approved as to Form and Legality:


STEPHEN CARTER
ATTORNEY GENERAL OF INDIANA

DATE: 2/25/05