

CONFIDENTIALITY AGREEMENT

Date

Name
Job Title
Company Name
Business Address

Re: PUR 14-018: BID – To Provide Employee Assistance Program (EAP) Benefits for the City of Stockton

Dear _____ :

This confidentiality agreement is between the City of Stockton (Client) by and through the Segal Company, acting as a consultant for Client (Consultant) and (Company Name) _____, on behalf of itself and all of its subsidiaries and affiliates, (hereafter "Bidder") and is executed in connection with the EAP BID PUR 14-018 that Bidder intends to submit to Consultant in response to BIDs issued by Client on behalf of its "Clients."

In order to prepare a responsive bid, Bidder needs to receive certain Client health plan information and data, including individually identifiable health information pertaining to Client health plan participants and beneficiaries, as well as Proprietary Information. Consultant and Bidder agree that the term "individually identifiable health information" refers to any health information that is not "de-identified," as defined in 45 C.F.R. Section 164.514(b)(2). Consultant agrees to provide the necessary Proprietary Information in connection with this BID, and Bidder agrees as follows:

1. Bidder will use this Proprietary Information only for the purpose of preparing Bidder's response to City of Stockton's BID;
2. Bidder agrees that only those individuals employed by Bidder who have a need to know this information to prepare a bid and have been made aware of the terms of this Agreement and have agreed to abide by its terms will have access to the Proprietary Information provided by Consultant ("Bidder's Representatives");
3. Neither Bidder nor any of its Representatives will disclose the Proprietary Information to any person or entity outside of Bidder, unless such a disclosure is:

- (a) necessary to prepare a bid and the recipient first executes a confidentiality agreement with provisions equivalent to this one; or (b) required by law;
4. Bidder agrees to use commercially reasonable efforts to maintain the security of the Proprietary Information;
 5. Bidder will return the Proprietary Information to Consultant or destroy it upon completion of the bid process if such return or destruction is feasible. If Bidder determines that return or destruction of some or all of the information is not feasible, Bidder agrees to: (a) inform Consultant of the specific reason(s) that make return or destruction not feasible; (b) extend the protections of this Agreement to any retained information for as long as Bidder retains it; and (c) limit further uses or disclosures to those that make the return or destruction infeasible;
 6. Bidder will report to Consultant any use and/or disclosure of Proprietary Information that is not permitted by this Agreement;
 7. Bidder shall regard and preserve as confidential all Proprietary Information that has been or may be obtained by Bidder in the course of any bid, whether Bidder has such information in Bidder's memory, or in writing or in other physical form. Bidder shall not, without written authority from Consultant, use any Proprietary Information for Bidder's benefit or Bidder's purposes, either during the bid process or thereafter;
 8. With respect to each BID and the Proprietary Information disclosed in connection therewith, the obligations of Bidder assumed in this Agreement shall continue beyond the completion of the bid process;
 9. Bidder shall and does hereby indemnify, defend and hold harmless City of Stockton, Consultant and Consultant's officers, directors, employees and shareholders from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that City of Stockton/Consultant may incur or suffer and that result from, or are related to, any breach or failure of Bidder and Bidder's Representatives to perform any of the representations, warranties and agreements contained in this Agreement that pertain to individually identifiable health information;
 10. Bidder recognizes that any breach of the covenants contained in this Agreement would irreparably injure City of Stockton. Accordingly, City of Stockton may, in addition to pursuing its other remedies, obtain an injunction from any court having jurisdiction of the matter restraining any further violation and no bond or other security shall be required in connection with such injunction;
 11. If any of the provisions herein become invalid or are declared invalid, such determination of invalidity as to the clause(s) shall not affect the other provisions of this Agreement. If any provision of this Agreement should be held invalid or unenforceable, the remaining provisions shall be unaffected by such a holding. If any provision is found inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances;

12. This Agreement shall be binding upon City of Stockton, Consultant and Bidder and their respective successors, assigns, heirs, executors and administrators;

13. This Agreement contains the entire understanding of the parties hereto and supersedes all previous communications, representations, or agreements, oral or written, with respect to the subject matter hereof. No failure to exercise nor any delays in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. Neither this Agreement nor any of its provisions may be amended, supplemented, changed, waived or rescinded except by a written instrument signed by the party against whom enforcement thereof is sought. No waiver of any right or remedy hereunder on any one occasion shall extend to any subsequent or other matter;

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made on and performed within the State of California. Any action to enforce this Agreement shall be brought in State of California, County of San Joaquin.

Intending to be legally bound, the Parties have executed this Agreement.

The Segal Group, Inc.
For City of Stockton

Bidder

Signed: _____

Signed: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____