



STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES

CONTRACT AMENDMENT

**Contractor:** ALLIED COMMUNITY RESOURCES, INC.  
**Contractor Address:** 6 CRAFTSMAN ROAD, EAST WINDSOR, CT 06088  
**Contract Number:** 049ACR-DWS-04 / 12DSS5101AS  
**Amendment Number:** A1  
**Amount as Amended:** \$7,440,802  
**Contract Term as Amended:** 01/01/12 - 12/31/14

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The contract between **Allied Community Resources, Inc.** (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Office of the Attorney General on 2/7/2012, is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by **\$411,513** from **\$7,029,289** to **\$7,440,802**.
2. The budget on page 11 of the original contract is deleted and replaced in its entirety by the budget on page 3 of this amendment.
3. The following terms are appended to the Scope of Services on pages 3 through 10 of the original contract:
  - m. The Contractor shall provide Fiscal Intermediary services to CT Home Care (CHC) clients previously served by the Access Agencies.
    - i. From April 1, 2013 through the end of the contract period, the Contractor shall
      - a) by June 1, 2013, provide the Department with a transition plan for providing re-credentialing current CHC providers;
      - b) initiate regional training programs, including in person presentations, for existing providers to assist them with the transition from being performing provider to becoming billing providers
      - c) begin recruitment of new providers and respond to any new providers requesting enrollment
      - d) to modify a data base to accommodate CHC client data received from Agencies on all clients who will be subject to cost sharing and or applied income contributions;
      - e) develop and maintain a provider directory of all enrolled providers that includes services provided and towns served;
      - f) credential providers according to parameters identified in the Medicaid Waiver document
      - g) maintain credentialing records for all waiver providers; and
      - h) Screen providers for enrollment as a waiver provider according to guidelines developed by the Department.

- ii. From July 1, 2013 through the end of the contract period, the Contractor shall
- a) bill clients on a monthly basis for the cost share and applied income;
  - b) collect cost share and applied income payments from program recipients and remit to the Department on a monthly basis all cost share contributions that were collected;
  - c) agree that the uncollectable cost share is expected to be 4% of the total dollars billed, and that the contract amount will be reduced by a withhold in the amount of bad debt exceeding the 4% threshold;
  - d) submit proposed discontinuance forms to the Department for all clients who are noncompliant with the cost sharing requirements;
  - e) follow discontinuance guidelines as outlined in policy and procedures provided by the Department regarding cost sharing;
  - f) provide potential providers with information regarding the Department's standards and requirements to become an enrolled provider;
  - g) staff the Program with a Quality Assurance staff position;
  - h) monitor the providers' adherence to program requirements and standards of quality service delivery;
  - i) take action on complaints/concerns received regarding provider quality and investigate quality concerns, and report such complaints and concerns to the Department on a quarterly basis in a format provided by the Department;
  - j) perform provider credentialing every 2 years prior to reenrollment as a Medicaid provider
  - k) Provide letter to provider for submission to HP that they have met all of the credentialing requirements;
  - l) train providers on record keeping and reporting requirements that are sufficient to document the delivery of service and establish a clear audit trail to verify that services billed were actually provided;
  - m) Conduct random, onsite reviews of a minimum of 5% of providers each State Fiscal Year to ensure they have sufficient documentation to substantiate that services billed were actually provided;
  - n) Recruit providers in areas where a service gap has been identified;
  - o) Provide the Access Agencies with a list of all enrolled service providers including services provided and towns served; and
  - p) Assist providers with the enrollment process in collaboration with the Department's MMIS contractor.

**This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.**

**BUDGET**

	Jan-June 12 FY 2012 6 months	July12-June13 FY 2013 adj CHCPE implem	July13-June14 FY 2014 CHCPE adj	July14-Dec14 FY 2015 6 months	Total 36 months
<b>Personnel</b>					
Program Management	\$ 110,350	\$ 232,381	\$ 242,675	\$ 123,654	\$ 709,060
Services Mgmt, OR & Training	\$ 82,000	\$ 173,641	\$ 213,034	\$ 108,247	\$ 576,922
Bookkeeper(s)	\$ 39,900	\$ 82,194	\$ 83,838	\$ 42,757	\$ 248,689
Accountant(s)	\$ 42,500	\$ 87,550	\$ 110,301	\$ 56,044	\$ 296,395
Payroll, Billing/AR Clerks,	\$ 178,000	\$ 359,850	\$ 432,457	\$ 219,853	\$ 1,190,160
Data Entry/Office Support	\$ 185,000	\$ 391,246	\$ 427,570	\$ 217,776	\$ 1,221,592
QA/Compliance, Fraud Auditor	\$ 61,250	\$ 119,748	\$ 177,143	\$ 89,793	\$ 447,934
<b>Total Salaries</b>	\$ <b>699,000</b>	\$ <b>1,446,610</b>	\$ <b>1,687,018</b>	\$ <b>858,124</b>	\$ <b>4,690,752</b>
Fringe	\$ 129,315	\$ 267,795	\$ 315,481	\$ 160,444	\$ 873,035
subtotal	\$ 828,315	\$ 1,714,405	\$ 2,002,499	\$ 1,018,568	\$ 5,563,787
<b>Non-Personnel</b>					
Payroll & Provider Processing	\$ 13,350	\$ 26,700	\$ 29,700	\$ 14,850	\$ 84,600
Outreach	\$ 2,350	\$ 4,700	\$ 6,700	\$ 3,350	\$ 17,100
Training/Development	\$ 1,750	\$ 3,500	\$ 6,500	\$ 3,250	\$ 15,000
Phone/Fax	\$ 7,750	\$ 16,275	\$ 16,275	\$ 8,000	\$ 48,300
Office Expense	\$ 12,500	\$ 27,500	\$ 31,000	\$ 15,000	\$ 86,000
Postage	\$ 25,000	\$ 55,000	\$ 80,000	\$ 40,000	\$ 200,000
Equip/Maint	\$ 9,250	\$ 22,050	\$ 25,000	\$ 12,500	\$ 68,800
IT	\$ 29,000	\$ 81,000	\$ 73,000	\$ 37,000	\$ 220,000
Mileage/Vehicle	\$ 7,500	\$ 15,000	\$ 17,750	\$ 9,000	\$ 49,250
Rent/Utilities	\$ 37,800	\$ 76,000	\$ 80,000	\$ 40,000	\$ 233,800
Furniture	\$ 2,750	\$ 3,725	\$ 3,250	\$ 1,500	\$ 11,225
Insurance	\$ -	\$ 1,250	\$ 1,500	\$ 1,750	\$ 4,500
Legal	\$ 3,750	\$ 7,500	\$ 7,500	\$ 3,750	\$ 22,500
Auditing	\$ -	\$ 21,855	\$ 22,000	\$ 22,000	\$ 65,855
CHCPE Bad Debt/Cost Sharing	\$ 3,250	\$ 5,000	\$ 5,500	\$ 3,250	\$ 17,000
subtotal	\$ 156,000	\$ 367,055	\$ 405,675	\$ 215,200	\$ 1,143,930
Admin Subtotal	\$ 984,315	\$ 2,081,460	\$ 2,408,174	\$ 1,233,768	\$ 6,707,717
Overhead	\$ 108,275	\$ 228,961	\$ 261,723	\$ 134,126	\$ 733,085
Total Admin.	\$ 1,092,590	\$ 2,310,421	\$ 2,669,897	\$ 1,367,894	\$ 7,440,802
Advance	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 1,092,590	\$ 2,310,421	\$ 2,669,897	\$ 1,367,894	\$ 7,440,802



Original Contract Number:	049ACR-DWS-04 / 12DSS5101AS
Amendment Number:	
Maximum Contract Value:	\$7,029,289.00
Contractor Contact Person:	Carol Bohnet
DSS Contact - Contract:	Julia Lentini
Program:	Dorian Long
Tel:	(860) 627-9500
Tel:	(860) 424-5940
Tel:	(860) 424-5964

**STATE OF CONNECTICUT  
PURCHASE OF SERVICE CONTRACT  
("POS", "Contract" and/or "contract")  
Revised September 2011**

The State of Connecticut DEPARTMENT OF SOCIAL SERVICES

Street: 25 SIGOURNEY STREET

City: HARTFORD State: CT Zip: 06106

Tel#: (860) 627-9500 ("Agency" and/or "Department"), hereby enters into a Contract with:

Contractor's Name: ALLIED COMMUNITY RESOURCES, INC.

Street: 6 CRAFTSMAN ROAD

City: EAST WINDSOR State: CT Zip: 06088

Tel#: (860) 749-8833 FEIN/SS#: [REDACTED]

("Contractor"), for the provision of services outlined in Part I and for the compliance with Part II. The Agency and the Contractor shall collectively be referred to as "Parties". The Contractor shall comply with the terms and conditions set forth in this Contract as follows:

<b>Contract Term</b>	This Contract is in effect from <b>01/01/12</b> through <b>12/31/14</b> .
<b>Statutory Authority</b>	The Agency is authorized to enter into this Contract pursuant to § 4-8 and 17b-3 of the Connecticut General Statutes ("C.G.S").
<b>Set-Aside Status</b>	Contractor <input type="checkbox"/> IS or <input checked="" type="checkbox"/> IS NOT a set aside Contractor pursuant to C.G.S. § 4a-60g.
<b>Effective Date</b>	This Contract shall become effective only as of the date of signature by the Agency's authorized official(s) and, where applicable, the date of approval by the Office of the Attorney General ("OAG"). Upon such execution, this Contract shall be deemed effective for the entire term specified above.
<b>Contract Amendment</b>	Part I of this Contract may be amended only by means of a written instrument signed by the Agency, the Contractor, and, if required, the OAG. Part II of this Contract may be amended only in consultation with, and with the approval of, the OAG and the State of Connecticut, Office of Policy and Management ("OPM").

All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (collectively called "Notices") shall be deemed to have been effected at such time as the Notice is hand-delivered, placed in the U.S. mail, first class and postage prepaid, return receipt requested, or placed with a recognized, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to the Agency:	STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES 25 SIGOURNEY STREET HARTFORD, CT 06106  Attention: <b>Julia Lentini</b>	If to the Contractor:	ALLIED COMMUNITY RESOURCES, INC. 6 CRAFTSMAN ROAD EAST WINDSOR, CT 06088  Attention: <b>Carol Bohnet</b>
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A party may modify the addressee or address for Notices by providing fourteen (14) days' prior written Notice to the other party. No formal amendment is required.



**PART I. SCOPE OF SERVICES, CONTRACT PERFORMANCE, BUDGET, REPORTS, PROGRAM-SPECIFIC AND AGENCY-SPECIFIC SECTIONS**

The Contractor shall provide the following specific services for the Disability Waiver Services program(s) and shall comply with the terms and conditions set forth in this Contract as required by the Agency, including but not limited to the requirements and measurements for scope of services, Contract performance, quality assurance, reports, terms of payment and budget. No sections in this Part I shall be interpreted to negate, supersede or contradict any section of Part II. In the event of any such inconsistency between Part I and Part II, the sections of Part II shall control.

**Whereas**, the Department of Social Services issued a Request for Proposals (RFP) for a Fiscal Intermediary Services provider on April 18, 2011; and

**Whereas**, the Department received and evaluated five bid proposals in response to the RFP; and

**Whereas**, the Department's evaluation team recommended Allied Community Resources, Inc. as the entity to award the right to negotiate a contract and the Commissioner approved the recommendation; and

**Whereas**, those negotiations were successful and resulted in the following contract;

**Now therefore**, the following terms and conditions have been agreed to by the parties.

**I. Administrative Items**

1. The parties to this contract shall be the Connecticut Department of Social Services ("DSS" or "the Department") and Allied Community Resources, Inc. ("Allied" or "Contractor").
2. Term: The term of the contract shall be from January 1, 2012 through December 31, 2014.
3. Maximum Contract Value: The maximum contract value of this contract shall be \$7,029,289.00.
4. Order of Precedence: The following documents shall control respectively-first, this contract; second, the Request for Proposals as issued by the Department; and third, the Contractor's proposal. In the event of a conflict between the documents, this contract shall control.

**II. Scope of Services**

1. Responsibilities of the Department:
  - a. Program Management: A Program Director will be appointed by DSS. This individual will be responsible for monitoring program progress and will have final authority to approve/disapprove program deliverables.
  - b. Staff Coordination: The Program Director will coordinate all necessary contacts between the Contractor and Department staff.
  - c. Approval of Deliverables: The Program Director will review, evaluate, and approve all deliverables prior to the Contractor being released from further responsibility.
2. Responsibilities of the Contractor
  - a. **Provider Credentialing**

The Contractor shall conduct provider credentialing as detailed in its RFP proposal on pages 24-26, making sure to coordinate a systematic approach for the collection and verification of a Provider applicant's qualifications as

a means to determine whether the Department's Provider participation criteria are met, and whether the applicant should be enrolled as a Waiver Provider; provide prospective Providers with a Provider Application; review Provider Applications and perform verification of all Agency or Private Providers' credentials, including but not limited to State licensure, Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation, and Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation as appropriate. This shall include conducting criminal background checks for all Household Employees. The Provider Credentialing requirements of the Contractor are as follows:

- i Supply prospective Providers with a Provider Directory application. At a minimum, the application shall provide information including name, address, telephone number, and area of the State the applicant is willing to work, and provide essential information for Waiver Participants;
- ii Review Provider Directory applications to ensure that Providers meet the requisite qualifications for the service type for which they are applying (including background check);
- iii Refer to the Department any Provider Directory applications that present questionable credentials. The Department shall determine the acceptability of such credentials;
- iv Perform verification of all Agency or Private Providers' credentials, including but not limited to State licensure, Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation, and Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation as appropriate. The Contractor shall notify the Department of any certification infractions and/or sanctions, or other discrepancies between the Provider's self-reported credentials and the verification results for possible further action by the Department;
- v Develop, for approval by the Department, a modified Medicaid Provider agreement for all Household Employees;
- vi Issue a Connecticut Medicaid Provider agreement for all Agency and Private Provider applicants who wish to perform Waiver services;
- vii Offer and complete an approved criminal background check on any Household Employee Provider upon request by any Waiver Participant seeking to hire an individual;
- viii Upon adoption of the revised Departmental regulations, advise every Household Employee applicant that upon submission of the application they will be required to undergo a criminal background check to be considered for enrollment in the Directory. Any criminal activity revealed by the background check, including but not limited to check fraud, theft, abuse, or assault, will result in disqualification from consideration for enrollment in the Provider Directory and possible further legal action. Such applicants shall be notified of their disqualification as a registered Provider eligible for hire by Waiver Participants. All negative reports will be forwarded to the Department for review and response from the Contractor and Provider Directory applicant as needed.

Initial credentialing shall occur in the first year of the waiver and continue in the second year, with re-credentialing occurring every two years thereafter. For example, those credentialed in Year 1 shall be re-credentialled in Year 3. All credentialing activities shall be in accordance with the Centers for Medicare and Medicaid Services' (CMS) rules, regulations, and guidelines and any other state, federal or local regulations, statute, or policy pertinent to the subject.

#### **b. Provider Directory Development and Maintenance**

The Contractor shall develop and maintain an accurate Provider Directory, listing all qualified Providers who may perform services for and are eligible for selection/employment by Waiver Participants.

- i. Establish a record for each Provider added to the Directory. Each record shall include but not be limited to the Provider's name and address, telephone number, Social Security or Federal Waiver Participant Identification Number, as appropriate, all credentials submitted by the Provider regarding his or her qualifications, and all correspondence between the Contractor and the Provider concerning the Directory application;
- ii. Maintain the Provider Directory database current within five business days of Provider additions or removals;
- iii. Supply copies of the Provider Directory to the Department and, as requested, to Waiver Participants. The Contractor shall provide monthly updates of revisions to the Directory to the Department, and the full updated Directory shall be provided on a quarterly basis to the Department and upon request to any Waiver Participant;
- iv. Registered Providers shall be removed from the Provider Directory when the Provider and/or the Department request the removal for criminal or fraud reasons; or if after six months inactivity the Providers cannot be reached by phone or mail by the Contractor. The Contractor will send a notification to the Provider two weeks prior to removing any Provider from the Directory;
- v. The Household Employee applications shall be kept on file at the Contractor's office and shall be provided to Waiver Participants seeking to hire an individual. Household Employees may notify the Contractor that they elect to work exclusively for one Waiver Participant and request their name be excluded from the published Provider Directory; and
- vi. Identify Household Employees who perform Personal Care Assistance who are willing to provide emergency backup services and include them in the Provider Directory.

### **c. Waiver Participant Training**

The Contractor shall offer Waiver Participant training to PCA, ABI and CHCPE participants seeking to hire Household Employees and offer Provider Training to individuals who have been identified as prospective Providers and to current Waiver Providers who wish to enhance their skills. The Contractor requirements for Waiver Participant and Provider Training are as follows:

- i. Develop and implement a program to inform and train Waiver Participants of their responsibilities, providing ongoing assessment of Waiver Participants' competence in the performance of their Waiver Participant responsibilities, and providing follow-up training as needed;
- ii. Assess the training needs of Waiver Participants regarding their experience with recruiting, hiring, managing and supporting their own Household Employees;
- iii. On a monthly basis provide up to fifteen (15) participants with the training necessary for them to successfully complete their responsibilities as a Waiver Participant;

Training topics shall include learning objectives such as:

1. 'How to advertise and recruit Providers' and
2. 'How to interview Providers'
3. 'How to evaluate performance of Household Employees';
4. Problem solving or termination of Household Employees; and
5. 'How to complete required IRS, State of Connecticut and Department, Paperwork' including but not limited to:

- a. Federal Form SS-4 used to obtain FEIN number;

- b. Federal Form 2678 used to designate Contractor as tax reporting agent;
  - c. Connecticut REG1 used to register for Connecticut State income tax;
  - d. Connecticut UC1-A used to register for Connecticut State Unemployment tax;
  - e. Department weekly time sheets; and
- iv. Implement and train on verification and recording procedures to ensure that time sheets comply with the Service Plan.
  - v. Assist the Waiver Participant with the necessary paperwork to obtain worker's compensation insurance if needed;
  - vi. Assess any additional training needs in order for the participant to meet all of their Waiver Participant responsibilities, within four weeks following the first payroll activity and as needed;
  - vii. Within three (3) working days after the Waiver Participant receives approval to receive Household Employee services, the resultant contractor must contact the Waiver Participant by telephone to evaluate his or her understanding of the Waiver Participant-related responsibilities. The evaluation shall determine the Waiver Participant's confidence in his or her own ability; experience and knowledge to recruit, screen, interview, choose, hire, train, supervise, and manage Household Employees; as well as the ability to complete tax, employment and timesheet information;
  - viii. Provide a full-time Trainer for initial training and on-going support of Waiver Participants in their Waiver Participant role. The number of Waiver Participants trained shall not exceed ten (10) per week. The training shall be scheduled within seven (7) working days of the initial telephone evaluation for a date mutually agreed upon with the client;
  - ix. Utilize language interpreters as needed during Waiver Participant training to assist in communication with the Waiver Participant and any potential Household Employees;
  - x. During this training, the Waiver Participants shall be informed that they may request Quarterly Wage Reports of their Household Employees payroll;
  - xi. Conduct a criminal background check on any Household Employee not already on the Provider Registry; and
  - xii. In collaboration with the Department, assist the Waiver Participant in completing and submitting the necessary paperwork to obtain worker's compensation insurance for his or her Household Employee working more than 25.75 hours per week. Funding for the Waiver Participant's workman's compensation policy is the responsibility of the Waiver Participant and is not part of the Contractor's Administrative Budget or Processing Funds.

**d. Provider Training**

The Contractor shall provide training for the Waiver Programs as required by the Department, to any prospective Waiver Provider seeking to provide services to Waiver Participants and for whom such training is a credentialing requirement as set forth in the Department's Provider Manual.

The Contractor shall develop, produce, coordinate and implement training curricula and materials that address such issues as Acquired Brain Injury including but not limited to: its causes and characteristics; Person-Centered Planning, including but not limited to client choice; networking; and team building, universal precautions, ambulation / transfer techniques. This shall include administration of a basic competency test for prospective Providers.

**e. Claims Processing and Waiver Participant Agent**

The Contractor shall function on behalf of the Department as a Fiscal Intermediary to pay all Waiver Participant service claims, serve as a Waiver Participant Agent for each Waiver Participant who utilizes Household Employees to deliver services and seek reimbursement for claim expenditures.

1. **Claims Processing** - The Contractor shall operate a payment system to process invoices and timesheets from and disburse payments to Agency Providers, Individual Providers and Household Employees that have provided services to a Waiver Participant in accordance with scope, quantity and duration outlined in the Waiver Participant's Plan of Care. The Contractor shall disburse payments utilizing claims processing dollars issued by the Department, including the following:
  - a. Disburse funds to Providers using Claims Processing Funds provided by the Department and subsequently deposited by the Contractor into a Claims Processing Account. The Department shall provide the Contractor with Claims Processing Fund Advances as necessary and adding funds as required.
  - b. Maintain separate Administrative and Claims Processing Accounts with its financial institution. The sweep portion of these accounts shall be invested in U. S. Treasuries and repurchase agreements backed by U. S. Treasuries. The bank in which such accounts are located shall credit the interest from this account monthly. The Contractor's accounting entry for this credited interest shall be a liability designated as "DSS Interest Payable".
    - 1) The Claims Processing Fund Account shall not supplement nor supplant Medicaid reimbursements for Waiver payment and payroll expenditures. These funds are intended to enable invoice payment and payroll expenditures in advance of Medicaid reimbursement for these expenditures.
    - 2) The Department may advance additional funds to the Claims Processing Account as required to ensure that sufficient funds are available to reimburse Providers, upon adequate justification for such funds by the Contractor and upon approval from the Department, including reconciliation of accounts.
2. **Waiver Participant Agent**: The Contractor shall perform all activities and functions that are required of a Waiver Participant for wages paid on the Waiver Participant's behalf and as applicable this shall include:
  - a. Receiving, disbursing, and tracking Medicaid and/or public funds based on Waiver Participants' approved service plans/budgets; assisting Waiver Participants with completing participant enrollment and worker employment forms; conducting criminal background checks of prospective workers; and verifying workers' information (e.g., social security numbers, citizenship or legal alien verification documentation).
  - b. Preparing and distributing payroll including the withholding, filing, and depositing of federal and state income tax withholding and employment taxes and locality taxes; processing and paying Contractor invoices for approved goods and services, as applicable; generating reports for State program agencies and participants.
    - 1) The Contractor shall track and pay FICA (Social Security), FUTA (Federal Unemployment), UC (State unemployment), and State and Federal income tax for Household Employee Providers included in the Service Plan on behalf of the Waiver Participants. The Contractor shall not deduct FICA, FUTA, UC, or State or Federal income taxes from its disbursements to Agency and Private Providers.
    - 2) Within 15 days of receipt of a Provider invoice the Contractor shall:
      - a) Confirm that the Provider identified on the invoice is included on the Provider Registry and is the Provider designated in the Service Plan;

- b) Review the invoice to determine whether the services described in the invoice and the amounts charged for such services, conform on their face to services and amounts authorized under the applicable Service Plan;
  - c) Confirm the mathematical accuracy of the total amount set forth on said invoice;
  - d) Approve invoices for payment relying on the correctness of the invoice submitted. The Contractor shall not be bound to make any investigation of the facts therein, provided the invoice conforms to the Service Plan and the fees established by the Department.
- 3) Within 45 days of receipt of allowable claims and upon determination that the services described in an invoice or the amounts charged for such services have not been authorized or do not otherwise agree with the Service Plan, the Contractor shall resolve disputed claims. Resolution shall include but not be limited to:
- a) Notifying the Provider in writing of the reason(s) for non-payment, with a copy to the Department Social Worker;
  - b) Providing reasonable telephone assistance to the Provider in understanding the cause(s) of non-payment; and
  - c) Referring the matter to the Department in the event that the invoice cannot be cleared for payment within 60 days of its receipt. Upon instruction from the Department, the Contractor shall subsequently pay or deny the invoice.
  - d) The Contractor shall expedite the payment of invoices within the maximum processing times established in subsections 2.a and 2.b. above.
3. Reimbursements: The Contractor shall seek reimbursement for payments made by submitting a claim for reimbursement of such disbursement to Hewlett Packard (HP), and/or another agent that may be identified by the Department, within 30 days of receipt of an invoice in the manner and form prescribed by the Department.
- a. Upon determination that the services described in an invoice and the amounts charged conform on their face to the services and amounts authorized under the applicable Service Plan, the Contractor shall:
    - 1) Disburse payments to Providers biweekly within 30 days of receipt of an invoice. The initial payment to Household Employee and Private Providers shall be made at the end of the fourth week of employment as reimbursement for the first two weeks of employment. All subsequent payments shall be made on a biweekly basis.
    - 2) Submit a claim for reimbursement of such disbursement to HP and/or other agent identified by the Department within 30 days of receipt of an invoice in the manner and form prescribed by the Department. Any claim that is rejected by HP and is considered by the Contractor to be un-reimbursable due to no fault of the Contractor shall be submitted to the Department on a quarterly basis for review.
    - 3) Deposit funds into the Processing Account upon receipt of such reimbursement.
    - 4) The Contractor shall monitor its fiduciary performance on a quarterly basis by conducting random sampling surveys with 10% of Providers from whom invoices have been received during the immediately preceding quarter. Surveys shall cover the accuracy, efficiency, and ease of operation of the fiscal functions performed by the Contractor.
    - 5) The Contractor shall prepare a report from the previous calendar year for each Provider, on behalf of each ABI Waiver Participant, on IRS Form 1099 or W-2, as directed by the Department or Provider. Payments for FICA, FUTA, and UC shall be made on behalf of Private Providers in accordance with Internal Revenue Service and Department of Labor laws governing household employees. Such reports shall be prepared by January 31<sup>st</sup> of each calendar year.

**f. Quality Assurance**

The Contractor, with the Department's input and consultation, shall develop and implement mechanisms to ensure that reimbursable Waiver services have been provided in the quantity, scope and duration indicated on timesheets and/or invoices. Mechanisms may include but are not limited to the following:

- random calls,
- investigation of complaints,
- verification of the accuracy of time sheets and/or invoices in agreement with the Waiver Participants' approved service plans, and
- review of signature cards or copy of signature on file.

1. The Contractor agrees to comply with any and all applicable regulations adopted by the Department or other state or federal agencies (e.g., Center for Medicaid and Medicare Services, IRS, Department of Labor, Department of Public Health) pursuant to the services provided under the resultant contract and, as applicable, require that all pertinent subcontractors comply as well.
2. The performance of the Contractor, and any applicable subcontractors, shall be reviewed and evaluated at least annually by Department staff. Such reviews and evaluations may be performed by examination of client records, financial records, service logs, other documents and reports, and at meeting(s) with the Contractor's staff and/or clients and Board members. The Department and/or the Contractor shall conduct (separately or jointly) site visits at funded facilities and program sites administered by the Contractor.

**g. Program Evaluation**

The Contractor agrees to administer annual satisfaction surveys (participant and Contractor) related to FIS provided. These surveys are to include, but not be limited to the payment of invoices, content and delivery of training, and outreach methods, service satisfaction. The method by which the survey is conducted and the sample size selected shall be determined in consultation with the Department. The Department shall collaborate with the Contractor in the development of the survey. The results of the survey and the subsequent recommendation shall be forwarded to the Department.

**h. Staffing Requirements**

The Contractor shall utilize the staff detailed in its proposal in section 3, Staffing Requirements, found on pages 46-50. The Contractor shall notify the Department of any staffing alterations to those listed in its proposal and shall, at a minimum:

1. Staff a Fiscal Intermediary Services Program Manager, Services Manager/ Trainer, Bookkeeper, Payroll Specialist and Data Entry/Office Assistant. The Program Manager shall have general operational oversight of the FIS Program, but shall ultimately report to the Executive Director/ CEO of the Contractor;
2. Employ the services of an Accountant as needed to meet FIS Program requirements;
3. Recommend that additional staff be phased in over the life of the resultant contract, as additional Waiver Participants are approved; and
4. Increase staffing upon prior agreement by the Department to increase the Authorized Budget to reflect increased staffing requirements.

**i. Data/Technology/Reporting Requirements**

1. The Contractor shall, at a minimum, within thirty (30) days following the end of each of the first three calendar quarters, and within sixty (60) days of the end of each contract year, submit to the Department statistical reports in a format mutually agreed upon by the Department and the Contractor. Such reports shall include:

- a. The number and type (by service type) of invoices received during the immediately preceding reporting period and year-to-date;
- b. The number and type (by service type) of invoices that remain unpaid after thirty (30) days, forty-five (45) days and sixty (60) days as of the end of the reporting period;
- c. The dollar value (by service type and total) of invoices paid by the Contractor during the immediately preceding reporting period and year-to-date;
- d. Summary data of the provider training log as described the RFP, (2.1 Provider Outreach and Recruitment 11.);
- e. Summary data of the provider outreach log described in the RFP, (2.1 Provider Outreach and Recruitment 11.);
- f. Expenditures made from the Authorized Budget (the financial report).
- g. Ad hoc reports as required by the Department.
- h. Any reports required by CMS as detailed in the approval of the waivers or otherwise.

**j. Work Plan**

The Contractor shall utilize the work plan submitted in its proposal to the RFP, found on page 62 of its proposal, and shall make any modifications as requested or required by the Department. To the extent that existing processes need to be altered in the opinion of the Department, Contractor agrees to work those elements of change into its work plan. The work plan may be amended by written consent of the parties without issuing a formal amendment to this contract.

**k. Disaster Recovery Plan**

Within 30 days of execution of this contract, Contractor shall submit to the Department its plan for disaster recovery. In the event that Allied or the Department experience power loss or any other event that makes normal performance under this contract impossible, Contractor shall detail how it will continue to comply with all timeliness requirements and payment requirements under this contract. The Disaster Recovery Plan must be approved by the Department.

**1. Budget and Payment Provisions**

1. The Contractor shall be paid in accordance with the agreed upon line item budget included herein. Any alterations to the budget outside of exceptions noted in the mandatory terms and conditions contained herein must be approved by the Department and noted in a formal amendment to this contract.
2. If, at the end of each contract year, money remains in the contract, the Department shall determine whether to allow the Contractor to apply the difference to the upcoming contract year or whether the Contractor is required to return the unexpended funds to the Department.
3. The Department shall pay the Contractor in advance on a quarterly basis for the provision of services specified under this contract and as detailed in the line item budget included herein. Documentation substantiating the expenditures of the previous quarter shall be due no later than the 15<sup>th</sup> of the month immediately following the close of the quarter (Due dates: April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup>, and January 15<sup>th</sup>).

## BUDGET PAGE

	Jan-June12	July12 - June13	July 13- June14	July14- Dec14-	01/12-12/14	
	FY2012	FY 2013	FY 2014	FY 2015	FY11-FY14	
<b>PERSONNEL</b>	6 months			6 months		Total - 36 mo
Program Manager(ment)	110,350	229,381	231,675	118,154	689,560	
Services Manager(ment), OR & Training	82,000	169,641	173,034	88,247	512,922	
Bookkeeper(s)	39,900	82,194	83,838	42,757	248,689	
Accountant(s)	42,500	87,550	89,301	45,544	264,895	
Payroll Specialists (& Billing/AR )	178,000	355,350	362,457	184,853	1,080,660	
Data Entry/Office Assist. (ProgSupport)	185,000	391,246	399,070	203,526	1,178,842	
QA/Compliance, Fraud Auditor	61,250	119,748	122,143	62,293	365,434	
<b>Total Salaries</b>	<b>699,000</b>	<b>1,435,110</b>	<b>1,461,518</b>	<b>745,374</b>	<b>4,341,001</b>	
Fringe	129,315	265,495	270,381	137,894	665,191	
subtotal	<b>828,315</b>	<b>1,700,605</b>	<b>1,731,899</b>	<b>883,268</b>	<b>5,006,193</b>	
<b>NON-PERSONNEL</b>						
Payroll & Provider Processing	13,350	26,700	26,700	13,350	80,100	
Outreach	2,350	4,700	4,700	2,350	14,100	
Training/ Development	1,750	3,500	3,500	1,750	10,500	
Phone/Fax	7,750	16,275	16,275	8,000	48,300	
Office Expense	12,500	27,500	29,000	14,000	83,000	
Postage	25,000	52,500	55,000	27,500	160,000	
Equip/Maint	9,250	22,050	25,000	12,500	68,800	
IT	29,000	61,000	63,000	32,000	185,000	
Mileage/Vehicle	7,500	15,000	15,750	8,000	46,250	
Rent/Utilities	37,800	76,000	80,000	40,000	233,800	
Furniture	2,750	3,725	3,250	1,500	11,225	
Insurance	-	1,250	1,500	1,750	4,500	
Legal	3,750	7,500	7,500	3,750	22,500	
Auditing	-	21,855	22,000	22,000	65,855	
CHCPE Bad Debt/Cost Sharing	3,250	5,000	5,500	3,250	17,000	
subtotal	<b>156,000</b>	<b>315,300</b>	<b>358,675</b>	<b>191,700</b>	<b>1,050,930</b>	
Admin Sub Total	<b>984,315</b>	<b>1,960,751</b>	<b>2,090,574</b>	<b>1,074,968</b>	<b>6,057,123</b>	
Overhead	108,275	215,683	229,963	118,247	672,167	
Total Admin. Budget	<b>1,092,590</b>	<b>2,176,434</b>	<b>2,320,537</b>	<b>1,193,215</b>	<b>6,729,289</b>	
Processing Account Advance	100,000	100,000	100,000	-	300,000	
<b>Total</b>	<b>1,192,590</b>	<b>2,376,434</b>	<b>2,420,537</b>	<b>1,193,215</b>	<b>7,029,289</b>	

based on client #'s in RFP

1660

1725

1850

## COMMENTS:

Projected MFP growth (not budgeted)

1729

1965

2317

2463

1. This submitted budget has been revised for fiscal versus calendar years, therefore, the first and last columns are for 6 months each, rather than 3 and 9 months.
2. Some costs for FY2012 were already fully expensed in the existing contract ending 12/31/11, such as Audit and Fidelity Bond insurance expenses.
3. Some wage lines are different than originally proposed due to staff and position changes since the original proposal was submitted several months ago, however, our historical experience with fringe expenses running lower than budgeted was considered in order to lower the fringe line and move dollars to the necessary wage lines.
4. The actual numbers of active clients is different than the RFP and proposal; line items have been adjusted to reflect the actual projected numbers to the extent possible without increasing the budget total.
5. That being said, major changes in client numbers have not been budgeted for, and future growth may or may not be able to be accommodated within this budget. We will make every attempt to do so, however, should MFP grow as indicated by their goals/figures (total all Waivers of 839 in FY2013), the FIS projections are way below the number of transitions that could occur. Additionally, the projected numbers from the RFP do not appear to include potential impact in growth from the new ABI Waiver – if any.
6. It is understood that adding a Rewarding Work subcontract to the Outreach expense will be considered in the future with a possible budget amendment if DSS wishes to add the service.
7. The Processing dollars for cash flow requested in this budget take into account the existing processing funds remaining with ACR and successful efforts to process special batches for previously unreimbursed claims (currently working on with DSS and HP/EDS) in order to maintain adequate cash flow for service payments and payroll.

## PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

- A. **Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:
1. **"Bid"** shall mean a bid submitted in response to a solicitation.
  2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
  3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
  4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
  5. **"Client"** shall mean a recipient of the Contractor's Services.
  6. **"Contract"** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
  7. **"Contractor Parties"** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
  8. **"Data"** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
  9. **"Day"** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  10. **"Expiration"** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract's term being completed.
  11. **"Force Majeure"** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  12. **"Personal Information"** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien

registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Personal Information shall also include any information regarding clients that the Department classifies as "confidential" or "restricted." Personal Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

13. **"Personal Information Breach"** shall mean an instance where an unauthorized person or entity accesses Personal Information in any manner, including but not limited to the following occurrences: (1) any Personal Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Personal Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Personal Information together with the confidential process or key that is capable of compromising the integrity of the Personal Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
14. **"Records"** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
15. **"Services"** shall mean the performance of Services as stated in Part I of this Contract.
16. **"State"** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
17. **"Termination"** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

## **B. Client-Related Safeguards.**

### **1. Inspection of Work Performed.**

- (a) The Agency or its authorized representative shall at all times have the right to enter into the Contractor or Contractor Parties' premises, or such other places where duties under the Contract are being performed, to inspect, to monitor or to evaluate the work being performed in accordance with Conn. Gen. Stat. § 4e-29 to ensure compliance with this Contract. The Contractor and all subcontractors must provide all reasonable facilities and assistance to Agency representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. The Contractor shall disclose information on clients, applicants and their families as requested unless otherwise prohibited by federal or state law. Written evaluations pursuant to this Section shall be made available to the Contractor.
  - (b) The Contractor must incorporate this section verbatim into any Contract it enters into with any subcontractor providing services under this Contract.
2. **Safeguarding Client Information.** The Agency and the Contractor shall safeguard the use, publication and disclosure of information on all applicants for and all Clients who receive Services under this Contract with all applicable federal and state law concerning confidentiality and as may be further provided under the Contract.
  3. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to Client abuse and neglect, including but not limited to requirements as specified in C.G.S. §§ 17a-

101 through 103, 19a-216, 46b-120 (related to children); C.G.S. § 46a-11b (relative to persons with mental retardation); and C.G.S. § 17b-407 (relative to elderly persons).

4. **Background Checks.** The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Public Safety Administration and Operations Manual or such other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

C. **Contractor Obligations.**

1. **Cost Standards.** The Contractor and funding state Agency shall comply with the Cost Standards issued by OPM, as may be amended from time to time. The Cost Standards are published by OPM on the Web at [http://ct.gov/opm/fin/cost\\_standards](http://ct.gov/opm/fin/cost_standards).
2. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
3. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of this Contract and for the one hundred eighty (180) days following its date of Termination and/or Cancellation, the Contractor shall upon the Agency's request provide copies of the following documents within ten (10) Days after receipt of the request:
  - (a) its most recent IRS Form 990 submitted to the Internal Revenue Service, and
  - (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.

**This provision shall continue to be binding upon the Contractor for one hundred and eighty (180) Days following the termination or cancellation of the Contract.**

4. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.

- (1) Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
- (2) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

#### 5. **Audit Requirements.**

- (a) The State Auditors of Public Accounts shall have access to all Records for the fiscal year(s) in which the award was made. The Contractor shall provide for an annual financial audit acceptable to the Agency for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The Contractor shall comply with federal and state single audit standards as applicable.
- (b) The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Agency, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) days prior to the requested date. All audits and inspections shall be at the requester's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years after Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (c) For purposes of this subsection as it relates to State grants, the word "Contractor" shall be read to mean "nonstate entity," as that term is defined in C.G.S. § 4-230.
- (d) The Contractor must incorporate this section verbatim into any Contract it enters into with any subcontractor providing services under this Contract.

6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this

Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:

- (a) Real estate sales or leases;
- (b) leases for equipment, vehicles or household furnishings;
- (c) Mortgages, loans and working capital loans; and
- (d) Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.

**7. Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:

- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
  - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
  - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
  - (4) Have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Agency.

**8. Liaison.** Each Party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Agency in the performance and administration of this Contract.

**9. Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.

**10. Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

**11. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the state of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:

- (1) claims arising directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and
  - (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its indemnification and hold-harmless obligations under this Contract. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the Contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
  - (c) The Contractor's duties under this Section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
  - (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any sections survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
  - (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
  - (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.
12. **Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:
- (a) **Commercial General Liability.** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability, and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the services to be performed under this Contract or the general aggregate limit shall be twice the occurrence limit;
  - (b) **Automobile Liability.** \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
  - (c) **Professional Liability.** \$1,000,000 limit of liability, if applicable; and/or

- (d) Workers' Compensation and Employers Liability. Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

**13. Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**

- (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

**14. Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:

- (a) pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- (b) applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

**15. Representations and Warranties.** Contractor shall:

- (a) perform fully under the Contract;
- (b) pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and

- (c) adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.
16. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
17. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
18. **Record Keeping and Access.** The Contractor shall maintain books, Records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract. These Records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the State or, where applicable, federal agencies. The Contractor shall retain all such Records concerning this Contract for a period of three (3) years after the completion and submission to the State of the Contractor's annual financial audit.
19. **Protection of Personal Information.**
- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Personal Information Breach any and all Personal Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.  
<http://www.ct.gov/doit/cwp/view.asp?a=1245&q=253968>  
<http://www.ct.gov/doit/cwp/view.asp?a=1245&q=253968>
- (b) Each Contractor or Contractor Party shall implement and maintain a comprehensive data security program for the protection of Personal Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Personal Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Personal Information. Such data-security program shall include, but not be limited to, the following:
- (1) A security policy for employees related to the storage, access and transportation of data containing Personal Information;
  - (2) Reasonable restrictions on access to records containing Personal Information, including access to any locked storage where such records are kept;
  - (3) A process for reviewing policies and security measures at least annually;
  - (4) Creating secure access controls to Personal Information, including but not limited to passwords; and
  - (5) Encrypting of Personal Information that is stored on laptops, portable devices or being transmitted electronically.
- (c) The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Personal Information which Contractor or Contractor Parties possess or control has been subject to a Personal Information Breach. If a Personal Information

Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Personal Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Personal Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.

- (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Personal Information in the same manner as provided for in this Section.
  - (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.
20. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.
21. **Litigation.**
- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
  - (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.
22. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.

**D. Changes to the Contract, Termination, Cancellation and Expiration.**

**1. Contract Amendment.**

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the OAG.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:

- (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
  - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

## 2. Contractor Changes and Assignment.

- (a) The Contractor shall notify the Agency in writing:
- (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
  - (2) no later than ten (10) days from the effective date of any change in:
    - (A) its certificate of incorporation or other organizational document;
    - (B) more than a controlling interest in the ownership of the Contractor; or
    - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
- (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
  - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
  - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

### 3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
  - (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
  - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
  - (3) permanently discontinue part of the Services to be provided under the Contract;
  - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
  - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
  - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
  - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.

4. **Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the

Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.

5. **Suspension.** If the Agency determines in its sole discretion that the health and welfare of the Clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the Clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) Days of immediate suspension. Within five (5) Days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) Days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) Days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.
6. **Ending the Contractual Relationship.**
  - (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.
  - (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
  - (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall immediately discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.14, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.
  - (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
  - (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party or cancelled within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings,

incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.

#### **7. Transition after Termination or Expiration of Contract.**

- (a) If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

#### **E. Statutory and Regulatory Compliance.**

##### **1. Health Insurance Portability and Accountability Act of 1996.**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions

- (1) "Breach" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(1)).
  - (2) "Business Associate" shall mean the Contractor.
  - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
  - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic

- protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
  - (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
  - (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
  - (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
  - (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
  - (14) In the event that an individual requests that the Business Associate
    - (A) restrict disclosures of PHI;

- (B) provide an accounting of disclosures of the individual's PHI; or
  - (C) provide a copy of the individual's PHI in an electronic health record,
  - (D) the Business Associate agrees to notify the covered entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
- (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
  - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
- (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b)) and this Section of the Contract.
  - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. § 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
  - (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
    1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
    2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
    3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
    4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
    5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would

impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site or a postal address. For breaches involving ten or more individuals whose contact information is insufficient or out of date to allow written notification under 45 C.F.R. § 164.404(d)(1)(i), the Business Associate shall notify the Covered Entity of such persons and maintain a toll-free telephone number for ninety (90) days after said notification is sent to the Covered Entity. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
  - (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
  - (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
  - (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
    - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
    - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
    - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
  - (3) Effect of Termination.
    - (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
    - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or

destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Sections.

- (1) **Regulatory References.** A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
  - (2) **Amendment.** The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
  - (3) **Survival.** The respective rights and obligations of Business Associate shall survive the termination of this Contract.
  - (4) **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
  - (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
  - (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
  - (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.
2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.

3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
5. **Non-discrimination.**
  - (a) For purposes of this Section, the following terms are defined as follows:
    - (1) "Commission" means the Commission on Human Rights and Opportunities;
    - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
    - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
    - (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
    - (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
    - (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
    - (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
    - (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
    - (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
    - (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- (b)
  - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the

grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;

- (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;
  - (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
  - (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g)
- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
  - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

## 6. Freedom of Information.

- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 *et seq.* ("FOIA") which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
- (b) Governmental Function. In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. §§ 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.

7. **Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%)

of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

8. **Executive Orders.** This Contract is subject to Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. 16 of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. All of these Executive orders are incorporated into and made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these Orders to the Contractor.
9. **Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11 reproduced below: [www.ct.gov/seecwww.ct.gov/seec](http://www.ct.gov/seecwww.ct.gov/seec)



## Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words* are defined on the reverse side of this page).

### CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract* or *state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor* or *principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

### DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

### PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

**Civil penalties**—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

**Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

### CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seeec](http://www.ct.gov/seeec). Click on the link to "Lobbyist/Contractor Limitations."



## DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

"Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty-first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.