



Lori A. Shilbnette  
Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**OFFICE OF THE COMMISSIONER**

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-9200 1-800-852-3345 Ext 9200  
Fax: 603-271-4912 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

July 24, 2020

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**INFORMATIONAL ITEM**

Pursuant to RSA 4:45, RSA 21-P:43, and Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, and 2020-15, Governor Sununu has authorized the Department of Health and Human Services, Office of the Commissioner, to enter into a **Retroactive, Sole Source** amendment to an existing contract with Paul Mortimer, Jr. (VC #319212), Manchester, NH, for the continued provision of services as a Task Force Team Lead of the Metropolitan Medical Response System, by increasing the price limitation by \$104,000 from \$9,900 to \$113,900 and by extending the completion date from May 29, 2020, to June 30, 2021, effective retroactive to May 12, 2020. 91% Federal Funds. 9% General Funds.

The original contract was approved on June 10, 2020, by the Department because it was under the \$10,000 threshold established in MOP 150 for service contracts.

Funds are available in the following account for State Fiscal Year 2021, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

**05-95-95-950010-56760000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS  
DEPT, HHS: COMMISSIONER'S OFFICE, OFFICE OF THE COMMISSIONER, OFFICE OF  
BUSINESS OPERATIONS**

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	103-5026644	Contracts for Prog Svc	95010999	\$9,900	\$0	\$9,900
			<b>Subtotal</b>	<b>\$9,900</b>	<b>\$0</b>	<b>\$9,900</b>

**05-095-090-903010-1901 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS  
DEPT OF, HHS: PUBLIC HEALTH DIVISION, BUREAU OF LABORATORY SERVICES, ELC  
CARES COVID-19**

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2021	102-500731	Contracts for Prog Svc	90183518	\$0	\$104,000	\$104,000
			<b>Subtotal</b>	<b>\$0</b>	<b>\$104,000</b>	<b>\$104,000</b>
			<b>Total</b>	<b>\$9,900</b>	<b>\$104,000</b>	<b>\$113,900</b>

### **EXPLANATION**

This item is **Retroactive** because the funding for these services was depleted as of May 12, 2020, due to the increased volume of COVID-19 testing and time needed to coordinate the extensive Metropolitan Medical Response System. This item is **Sole Source** because the vendor is uniquely qualified to deliver the Metropolitan Medical Response System and COVID-19 emergency management services. It is in the best interest of the State to continue to utilize the existing vendor to maintain continuity of support and efficient delivery of services. This item is also Sole Source because the Department is extending the contract for thirteen (13) months and only twelve (12) months are available in the contract's terms.

The purpose of this amendment is to allow for continued Metropolitan Medical Response System Task Force (the Task Force) support of testing during the COVID-19 Pandemic. The Task Force is a cornerstone of health and medical coordination of the State's public health and medical resources in an emergency situation.

The Metropolitan Medical Response System provides a response mechanism for the State of New Hampshire when the local response system is unable to provide a sustained response to emergencies. The medical volunteers who are members of the Metropolitan Medical Response System provide their expertise in events that may require assistance with a surge on local hospitals, which has been invaluable during the COVID-19 catastrophic event. The team of professionals is trained and ready for deployment by the emergency management system throughout the State of New Hampshire within hours of a request. Additionally, during the COVID-19 pandemic, the Task Force has provided oversight of the State's community specimen collection and coordination of testing for COVID-19 to the public health and commercial laboratories.

The population served consists of those who are suspected of being COVID-19 positive, those who need to rule out exposure to COVID-19, long-term care and other residential facilities, facility and organizational outbreaks, businesses, and vulnerable populations. The number of individuals served will be dependent upon the spread or containment of the COVID-19 pandemic.

The vendor will maintain proficiency in community emergency preparedness, disaster response, and resiliency by providing leadership skills, medical, and response training in order to increase the advanced field-healthcare capability in New Hampshire and surrounding states.

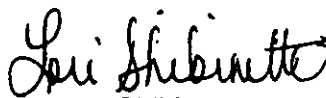
As referenced in Exhibit A, Revisions to Standard Contract Provisions, Section 1.2., of the original contract, the parties have the option to extend the agreement for up to one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and appropriate State approval. The Department is exercising its option to renew services for one (1) of the one (1) year available and one (1) additional month not provided for in the original agreement.

Area served: Statewide

Source of Funds: General Funds, and Federal Funds CFDA #93.323, FAIN #NU50CK000522

The Department will request General Funds in the event that Federal Funds are no longer available and services are still needed.

Respectfully submitted,

  
Lori A. Shibinette  
Commissioner

## Independent Contractor Justification Form

1. Describe the services that the individual will perform for your agency.

The MMRS Team Lead assists in the logistical set up of COVID-19 testing sites, builds test kits, creates the volunteer roster and schedules, creates missions in the NH Responds program, and performs quality control at the COVID-19 testing sites.

2. Does the agency have State employees that perform the same or similar services? ☐ Yes, ☒ No

3. Will the Agency exercise authority over the means by which the service is rendered by:

a. Setting work hours. ☐ Yes, ☒ No

b. Setting the work location or providing work space. ☒ Yes, ☐ No

c. Training the individual in how the services must be performed. ☐ Yes, ☒ No

d. Supervising how services are rendered. ☐ Yes, ☒ No

e. Providing tools, materials or office supplies to perform the services. ☒ Yes, ☐ No

f. Requiring periodic reports on the individual's services. ☐ Yes, ☒ No

g. Requiring performance by the contracting individual, rather than allowing subcontractors or assistants. ☒ Yes, ☐ No

4. Will the individual perform the services exclusively for the agency? ☒ Yes, ☐ No

5. Does the individual use their personal social security number rather than employer identification tax number? ☒ Yes, ☐ No

6. Does the individual hold himself or herself out to be in business for himself or herself, including by being registered with the state as a business and having continuing or recurring business liabilities or obligations? ☐ Yes, ☒ No

7. Will the individual be responsible for satisfactory completion of work and can the agency hold the individual contractually responsible for failure to complete the work? ☒ Yes, ☐ No

8. Will the Agency have the right to terminate the relationship at any time? ☒ Yes, ☐ No

9. Can the individual terminate the relationship at any time without liability? ☒ Yes, ☐ No

10. Are the services the individual will provide an independently established trade, occupation, profession, or business? ☐ Yes, ☒ No. Please Identify \_\_\_\_\_

Date initial review by DoP: 07/07/2020 Date final review by DoP: 07/22/2020

Initial Approval MJM : Disapproved \_\_\_\_\_ Final Approval MJM : Disapproved \_\_\_\_\_

Michael Moranti  
Digitally signed by Michael Moranti  
Date: 2020.07.07 15:08:54 -04'00'  
(Division of Personnel signatory)

Michael Moranti  
Digitally signed by Michael Moranti  
Date: 2020.07.22 12:57:46 -04'00'  
(Division of Personnel signatory)



**New Hampshire Department of Health and Human Services  
Metropolitan Medical Responses System Services- Commanders for COVID-19**

**State of New Hampshire  
Department of Health and Human Services  
Amendment #1 to the Metropolitan Medical Responses  
System Services- Commanders for COVID-19 Contract**

This 1<sup>st</sup> Amendment to the Metropolitan Medical Responses System Services- Commanders for COVID-19 contract (hereinafter referred to as "Amendment #1") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Paul Mortimer, Jr., (hereinafter referred to as "the Contractor"), an individual with a place of business at 379 North Bay St, Manchester, NH, 03104.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Department on June 10, 2020, the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 17, and Exhibit A, Revisions to Standard Contract Provisions, Section 1, Subsection 1.2, the Contract may be amended and extended upon written agreement of the parties and appropriate State approval; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37, General Provisions, Block 1.6, Account Number, to read:  
05-095-5676-103-502664-9501099;  
05-090-1901-102-500731-90183518
2. Form P-37 General Provisions, Block 1.7, Completion Date, to read:  
June 30, 2021.
3. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:  
\$113,900.
4. Modify Exhibit A, Revisions to Standard Contract Provisions, Section 1, Revisions to Form P-37, General Provisions, by adding Subsection 1.4, to read:
  - 1.4. Paragraph 14 of the General Provisions is amended as follows:
    14. INSURANCE. The Department hereby waives the requirement for insurance coverage for this agreement.
5. Modify Exhibit C, Payment Terms, Section 1., to read:
  1. This Agreement is funded by:
    - 1.1 91% The Catalog of Federal Domestic Assistance (CFDA) #93.323, as awarded on May 18, 2020 by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Epidemiology and Laboratory Capacity (ELC). FAIN NU50CK000522.
    - 1.2 9% General Funds.
6. Modify Exhibit C, Payment Terms, Section 3., Paragraph 3.1.2., to read:
  - 3.1.2 The State shall pay the Contractor at a reimbursement rate of \$50 per hour, for a total contract value of \$113,900, for services provided in accordance with Exhibit B, Scope of Services and in compliance with funding requirements through the Contract Completion Date indicated in Block Form P-37, General Provisions.



**New Hampshire Department of Health and Human Services  
Metropolitan Medical Responses System Services- Commanders for COVID-19**

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7. Modify Exhibit C, Payment Terms, Section 5., to read:
  5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to [DPHSCONTRACTBILLING@dhhs.nh.gov](mailto:DPHSCONTRACTBILLING@DHHS.NH.GOV), or invoices may be mailed to:

Financial Manager  
Department of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301



**New Hampshire Department of Health and Human Services  
Metropolitan Medical Responses System Services- Commanders for COVID-19**

All terms and conditions of the Contract not inconsistent with this Amendment #1 remain in full force and effect. This amendment shall be effective retroactively to May 13, 2020, subject to the Governor's approval issued under the Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, and 2020-14.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire  
Department of Health and Human Services

July 14, 2020  
Date

*Lisa Morris*  
Name: Lisa Morris  
Title: Director, NH Division of Public Health Services

Paul Mortimer, Jr.

7/13/2020  
Date

*Paul William Mortimer, Jr.*  
Name: Paul William Mortimer, Jr. ("Bill")  
Title: MMRS Team Lead



**PAUL W. MORTIMER, JR.**

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Accomplished, dedicated public service professional with in-depth experience in supporting management in the execution of day-to-day and team-unit operations. Widespread knowledge of emergency management, fire safety functions, and pre-hospital medical functions. Exceptional organizational, communications, analytical, and problem-solving skills, with the capacity to work effectively with people of all levels of a service-oriented establishment. Proven leadership skills, able to make sound decisions and accept increasing levels of responsibility. Disciplined, with a reputation of working in a fast paced high-integrity environment. Exemplary public relations and communications skills.

**CORE QUALIFICATIONS**

\*Certified CPR and BLS Instructor      \*Training / Development / Mentoring      \*Call Dispatching / Permit Processing  
\*Situational Awareness and Protocols      \*Policy & Procedure Implementation      \*Mutual Aid / Jurisdictional Knowledge  
\*Best Practice/Protocol/Care Standards      \*Public/Inter-Agency/Vendor Relations      \*Community Training and Education

**PROFESSIONAL EXPERIENCE**

Hudson Fire Department, Hudson NH  
**Firefighter II / NREMT-AEMT**

10/2017 – Present

Continuous training and experience in emergency medical operations, hazardous materials decontamination, response and mitigation. Provide pre-hospital emergency medical care and transport. Experienced in high-risk emergency situations and scenarios. Establish and maintain effective working relationships with coworkers and supervisors. Strong, positive interaction with elected officials, community leaders, and the public. Create and maintain records/reports, incident forms, and personal training logs. Accurately document Patient Care Reports. Work within structured environment, sometimes without direct supervision, taking responsibility for managing scenarios with given guidelines, following standard operating procedures and protocols. Periodically recommended changes to Standard Operating Procedures.

New Boston Fire Department, New Boston NH  
**Administrator / Firefighter II / NREMT-AEMT**

11/2016 – 12/2018

Provided pre-hospital emergency medical care in a rural environment. Department's Medicare representative and liaison to billing contractor for pre-hospital ambulance reimbursements. Trained and mentored new recruits. Established and maintained effective working relationships with coworkers and supervisors. Strong, positive interaction with elected officials, community leaders, and the public. Created and maintained records/reports, incident forms, and personal training logs. Supported and updated database management systems. Maintained broad knowledge of business management updates within fire industry, administration, and operations. Accurately documented Patient Care Reports. Participated in the Quality Assessment and Quality Improvement Committee as a pre-hospital EMT Administrator. Performed advanced MS Word and Excel operations, for spreadsheet development and analysis, database queries/reports, development of charts, graphs, and tables. Worked within structured environment, sometimes without direct supervision, taking responsibility for managing scenarios with given guidelines, following standard operating procedures and protocols. Periodically recommended changes to Standard Operating Procedures.



State of NH, Department of Employment Security, Concord NH  
**Certifying Officer I / Work Search Auditor**

06/2015 – 10/2016

Gathered and reviewed facts to adjudicate claims, and issue eligibility determinations. Communicated requirements and procedures to claimants, employers, and legal representatives. Logical, analytical, and scientific understanding of state and federal laws, statutes, and regulations. Reviewed Appellate Remands to develop awareness by what method Law/Rule applied. Conducted fraud detection audits, which resulted in an estimated recoupment of \$100,000. Created/maintained Excel spreadsheets, graphs and charts. Appeared as a witness during appeals hearings, up to and including Supreme Court challenges. Represented agency during legal appeals. Mentored and coached staff. Periodically recommended changes to Standard Operating Procedures. Maintained principles of legislation knowledge.

Candia Volunteer Fire Department, Candia NH  
**Firefighter II, NREMT-AEMT, TCCC**

01/2009 – Present

Continuous training and experience in emergency medical operations, hazardous materials response and mitigation. Provide pre-hospital emergency medical care, occasionally continuing care with the transport agency. Mentor new members. Create and lead public education and fire prevention/safety events. Establish and maintain effective working relationships with coworkers and supervisors. Strong, positive interaction with elected officials, community leaders, and the public. Past Association Secretary, responsible for minute taking, transcribing and required correspondence.

Rhode Island Disaster Medical Assistance Team, W. Greenwich RI  
**RI1 DMAT / Safety Officer, NREMT-AEMT**

06/2003 – Present

Intermittent Federal Employee – activated through the Stafford Act for federal disasters. Deploy to austere environments in wake of natural / manmade disasters, where local or regional medical infrastructure is decimated and/or overwhelmed. Prepare deployment safety briefings/reports. Conduct command-level briefings that require all persons to be situationally aware of surroundings, safety of Base of Operations, and those receiving treatment. Plan, organize, control and evaluate immediate action to minimize hazards and environmental safety concerns. Conduct research to anticipate, identify, and assess hazardous and unsafe conditions. Develop measures to reduce risks / enhance personal safety and accountability. Evaluate/recommend improvements in effectiveness and responsiveness of program services provided. Design and manage health prevention and risk reduction programs. Warrant compliance with all federal and state laws, statutes and regulations. Facilitate efficient administrative operations for disaster team. Exercise high degree of judgment when interpreting policies / regulations, to determine most effective approach. Evaluate and assess safety control measures, and provide situational reports reflecting gained intelligence, facts and goals. Deployed to Hurricanes Katrina, Gustav, Ivan; 2004 Democratic Convention Dignitary Medical coverage; and other Federal austere medical theaters.

CarePlus Ambulance Service, Merrimack NH  
**NREMT-Intermediate / Field Training Officer**

01/2009 – 09/2013

Inter-facility transport (ITF) service. Triage medical calls and situations, and established priority of care. Provided efficient assessment and emergency medical treatment, following established protocols. Stabilized victims with life or health threatening conditions. Administered medications while managing patient care. Notified hospital emergency departments of patient's medical history, nature/extent of injuries/condition, and treatment provided. Provided leadership, additional training and mentoring of staff. Coordinated, evaluated and supervised student ride-alongs as FTO. Inventoried and safeguarded drug and medical supplies. Cleaned and decontaminated vehicles and equipment.

## **EDUCATION**

Southern NH University – College for America  
Bryant University

Pursuing Bachelor's Degree in Business Management  
Business Management / Legal Courses (74 Credits)

## **SOFTWARE APPLICATIONS / DATABASE RESEARCH**

MS Office Suite	IMC Fire RMS	IamResponding
ImageTrend Elite	NFPA	
HURREVAC (Sponsored by FEMA, NOAA, NWS, U.S. Army Corps of Engineers)		

## **PROFESSIONAL DEVELOPMENT / CERTIFICATIONS / TRAINING**

Firefighter II, National Pro Board Certified  
NREMT Advanced EMT Certification, Exp 03/2020  
BLS Instructor (CPR, First Aid, AED), American Heart Association  
Active Position of Public Trust Security Clearance (Federal DHHS/NDMS)  
AAIR (Active Attack Integrated Response Course), Advanced Law Enforcement Rapid Response Training Center  
TCCC (Tactical Combat Casualty Care), Certified Provider (NAEMT)  
PHTLS (Pre-Hospital Trauma Life Support), Certified Provider (NAEMT)  
HAZMAT Decontamination, National Pro Board Certified  
STS (Safety Trained Supervisor), National Commission for Certifying Agencies Accredited, OSHA recognized  
ICS-100: Introduction to Incident Command System  
ICS-200: ICS for Single Resources and Initial Action Incidents  
ICS-300: Intermediate Incident Command System for Expanding Incidents  
ICS-400: Advanced Incident Command System Command and General Staff - Complex Incidents  
ICS-700: National Incident Management System (NIMS), An Introduction  
ICS-800.A: National Response Plan (NRP), An Introduction  
State of NH CDL B, Air Brake & Tank Endorsement License

## **AFFILIATIONS / COMMUNITY**

Hudson NH Professional Firefighters, Local 3154 Trustee, 2019  
New Hampshire Medical Task Force 1, 2009 – Present  
Manchester North Soccer League, Board Member, 2016 – Present  
Eagle Scout

**Subject:** \_Metropolitan Medical Responses System Services - Commanders for COVID-19 (SS-2020-0COM-1 5-METRO-0 I)

**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

### AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

### GENERAL PROVISIONS

#### I. IDENTIFICATION.

1.1 State Agency Name New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Paul Mortimer, Jr.		1.4 Contractor Address 379 North Bay St Manchester, NH 03104	
1.5 Contractor Phone Number (603) 851-0848	1.6 Account Number 05-095-5676-103- 502664-9501099	1.7 Completion Date May 29, 2020	1.8 Price Limitation \$9,900
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature <i>ptteJ, W MM(U11e1") Jr, Date:26May2020</i>		1.12 Name and Title of Contractor Signatory Paul William Mortimer, Jr. ("Bill") MMRS Team Lead	
1.13 State Agency Signature <i>[Signature]</i> <b>Date: /-J</b>		1.14 Name and Title of State Agency Signatory <i>Christa Lopez, Associate Commissioner</i>	
1.15 Approval the N.H. Department of Administration, Division of Personnel (if applicable)			

By: *9P-;?--J7/'*

On: *Lfr 2020*

1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable)

By: *Anne M. tdwan{s*

On: June 8, 2020

1.17 Approval by the Governor and Executive Council (if applicable)

G&C Item number:

G&C Meeting Date:

**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

## 9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

## 10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

## 12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

#### 15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.



## EXHIBIT A

### REVISIONS TO STANDARD CONTRACT PROVISIONS

#### 1. Revisions to Form P-37, General Provisions

- 1.1. Paragraph 3, Subparagraph 3.1, Effective Date/Completion of Services, is amended as follows:
  - 3.1. Notwithstanding any provision of this Agreement to the contrary, and subject to contract approval, this agreement, and all obligations of the parties hereunder, shall become effective retroactive to April 17, 2020.
- 1.2. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:
  - 3.3. The parties may extend the Agreement for up to one (1) additional year from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and appropriate State approval.
- 1.3. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:
  - 12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.

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~~2019 May 2020~~  
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## EXHIBIT B

### Scope of Services

#### 1. Statement of Work

- 1.1. The Contractor shall provide team leadership services to support the six (6) COVID-19 statewide testing initiative in strategic areas around the state, as implemented by the State of New Hampshire. The Contractor shall:
  - 1.1.1. Assist in the process of setting up testing sites; configure and arrange the site for testing in the response to COVID-19.
  - 1.1.2. Provide subject matter expertise to the State of New Hampshire Metropolitan Medical Response System (MMRS).
- 1.2. The Contractor shall provide direct supervision of volunteer MMRS Medical Task Force 1 (MTF-1) team members, which may include but are not limited to:
  - 1.2.1. Doctors.
  - 1.2.2. Nurses.
  - 1.2.3. Pharmacists.
  - 1.2.4. Paramedics.
  - 1.2.5. EMT's.
  - 1.2.6. Mental health professionals.
  - 1.2.7. Non-medical personnel.
- 1.3. The Contractor shall ensure the volunteers selected for the MMRS MTF-1 team are qualified to perform tasks/duties pertinent to his/her medical profession and/or license.
- 1.4. The Contractor shall maintain a method of receiving communications from the Department. The Contractor shall:
  - 1.4.1. Provide overall oversight of the clinic operation.
  - 1.4.2. Maintain ongoing communications with the MMRS Commander prior to, during and post deployment:
  - 1.4.3. Develop a roster of MMRS MTF-1 members to be deployed within (24) hours of receiving notice of need, unless otherwise specified.
  - 1.4.4. Alert selected team members in Section 2.4.3, above, of deployment.
  - 1.4.5. Use the alert system to notify volunteer MMRS MTF-1 members of confirmed deployment details.
- 1.5. The Contractor shall ensure the MMRS MTF-1 team is ready for deployment by:

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## EXHIBIT B

- 1.5.1. Coordinating with the MMRS Task Force – 1 Logistics Coordinator to ensure all materials, pharmaceuticals, protective gear, and other necessary equipment are ready for deployment.
- 1.5.2. Confirming credentials of all volunteers being deployed.
- 1.5.3. Communicating action plan for deployment to all volunteers, including but not limited to, briefing volunteers of the testing clinic
- 1.5.4. Confirming and communicating transportation plans to and from testing clinic.
- 1.5.5. Confirming and communicating expectations of methods of communication to be utilized in the field during the testing clinics.
- 1.5.6. Coordinating, confirming and communicating any other pertinent information needed to effectively deploy the MMRS MTF-1 team.

## 2. Reporting Requirements

- 2.1. The Contractor shall provide the MMRS Commander with after action reports, which detail information regarding the Testing clinic, and other reports determined by the State to be necessary.

## 3. Additional Terms

### 3.1. Impacts Resulting from Court Orders or Legislative Changes

- 3.1.1. The Contractor agrees that, to the extent future state or federal legislation or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.

### 3.2. Culturally and Linguistically Appropriate Services (CLAS)

- 3.2.1. The Contractor shall utilize Department interpretation and translation services, as needed, in the event of an emergency.

### 3.3. Operation of Facilities: Compliance with Laws and Regulations

- 3.3.1. In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said



## EXHIBIT B

license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

### 4. Records

- 4.1. The Contractor shall keep records that include, but are not limited to:
  - 4.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor.
  - 4.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

### 5. Confidentiality

- 5.1. Any and all confidential information obtained or received by the Contractor shall be kept confidential and shall not be disclosed to anyone for any reason, unless required by law. "Confidential Information" means all information owned, managed, created, or received from the Individuals, the Department, any other agency of the State, or any medical provider, that is protected by Federal or State information security, privacy or confidentiality laws or rules. Confidential Information includes, but is not limited to, Derivative Data, protected health information (PHI), personally identifiable information (PII), federal tax information (FTI), Social Security Administration information (SSA) and criminal justice information services (CJIS) and any other sensitive confidential information provided under the Agreement. This covenant shall survive the termination of the Agreement.
- 5.2. The Contractor shall comply with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996.



## EXHIBIT C

### Payment Terms

1. This Agreement is funded by 100% General Funds.
2. For the purposes of this Agreement, the Department has identified the Contractor as a Contractor, in accordance with 2 CFR 200.330.
3. Payment to the Contractor shall be made on a monthly basis subject to the following conditions:
  - 3.1.1. The Contractor shall submit invoices by the fifteenth (15th) day of each month, which identifies hours billed, date worked, rate, total and activity completed.
  - 3.1.2. The State shall pay the Contractor on a bi-weekly basis, a maximum of \$3,300 for a total contract value \$9,900, for services performed in accordance with the Exhibit B, Scope of Services and in compliance with funding requirements through the Contract Completion Date indicated on in Block Form P-37, General Provisions.
  - 3.1.3. The State shall pay the Contractor a maximum of \$100 for vehicle use.
  - 3.1.4. The total of the payments made pursuant to this Agreement shall not exceed the price limitation set forth in Block 1.8 of the Form P-37 General Provisions.
4. The Contractor shall submit an invoice in a form satisfactory to the State on a bi-weekly basis for the duration of the contract, which identifies and requests reimbursement for authorized expenses incurred in the prior two weeks. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to Beth.Kelly@dhhs.nh.gov, or invoices may be mailed to:

Beth Kelly, Financial Manager  
Department of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301
6. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.
7. Should the Contract Term be extended beyond the original Contract Completion date for any length of time in accordance with Exhibit A, Revisions to Standard Contract Provisions, Section 1, Subsection 1.2, the weekly rate for

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## EXHIBIT C

additional weeks shall be no more than an all inclusive bi-weekly rate of \$3,300 per two week.

8. The final invoice shall be due to the State no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
9. The Contractor must provide the services in Exhibit B, Scope of Services, in compliance with funding requirements.
10. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services.
11. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.
12. Notwithstanding Paragraph 18 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.



A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.
3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic mail,

DHHS Information Security Requirements



all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.
8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.
11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

**I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR**

**A. Business Use and Disclosure of Confidential Information.**

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
2. The Contractor must not disclose any Confidential Information in response to a request

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DHHS Information Security Requirements



for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.

3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

## II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open

**DHHS Information Security Requirements**



wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.

9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

**III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS**

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

**A. Retention**

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, must have aggressive intrusion-detection and firewall protection.

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DHHS Information Security Requirements



6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:

1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

DHHS Information Security Requirements



3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.
8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.
10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.
11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from the breach,

DHHS Information Security Requirements



including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.
13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doit/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.
15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.
16. The Contractor must ensure that all End Users:
  - a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.
  - b. safeguard this information at all times.
  - c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.
  - d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.

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- e. limit disclosure of the Confidential Information to the extent permitted by law.
- f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).
- g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.
- h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.
- i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

**V. LOSS REPORTING**

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

- 1. Identify Incidents;
- 2. Determine if personally identifiable information is involved in Incidents;
- 3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
- 4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and
- 5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different

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options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

**VI. PERSONS TO CONTACT**

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov