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**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

29 HAZEN DRIVE, CONCORD, NH 03301-6527
603-271-4517 1-800-852-3345 Ext. 4517
Fax: 603-271-4519 TDD Access: 1-800-735-2964



Nicholas A. Toumpas
Commissioner

José Thier Montero
Director

May 27, 2014

90% Fed
10% Other
Sole Source

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health Services, to enter into a **sole source** agreement with Welligent, Inc. (Vendor #162643), 5205 Colley Avenue, Norfolk, VA 23508, in an amount not to exceed \$202,268, to provide continued administration, hosting, support and maintenance of the NH AURIS system, a web-based application used to track maternal and child health data collected in the state of New Hampshire, to be effective the date of Governor and Council approval through June 30, 2017.

Funds are available in the following accounts for SFY 2015, and are anticipated to be available in SFY 2016 and SFY 2017, depending upon the availability and continued appropriation of funds in the future operating budgets, with authority to adjust amounts if needed and justified between the State Fiscal Years.

05-95-90-902010-4526 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SERVICES, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF POPULATION HEALTH AND COMMUNITY SERVICES, MCH DATA LINKAGE

Fiscal Year	Class Account	Class Title	Job Number	Total Amount
SFY 2015	102-500731	Contracts for Program Services	90080099	\$ 3,056
SFY 2016	102-500731	Contracts for Program Services	90080099	\$ 3,056
SFY 2017	102-500731	Contracts for Program Services	90080099	\$ 3,056
			Sub-Total	\$ 9,168

05-95-90-902010-5190 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SERVICES, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF POPULATION HEALTH AND COMMUNITY SERVICES, MATERNAL AND CHILD HEALTH

Fiscal Year	Class Account	Class Title	Job Number	Total Amount
SFY 2015	102-500731	Contracts for Program Services	90004005	\$ 57,700
SFY 2016	102-500731	Contracts for Program Services	90004005	\$ 57,700
SFY 2017	102-500731	Contracts for Program Services	90004005	\$ 57,700
			Sub-Total	\$ 173,100

01-03-06-030010-7695 GENERAL GOVERNMENT, DEPT OF INFORMATION TECHNOLOGY, IT FOR DHHS

Fiscal Year	Class Account	Class Title	Job Number	Total Amount
SFY 2015	046-500465	Consultants	03950136	\$ 20,000
			Sub-Total	\$ 20,000
			TOTAL	\$ 202,268

EXPLANATION

This **sole source** request is being made because the Early Hearing Detection and Intervention Program requires a software system to allow for identification and follow-up of deaf or hard of hearing infants who need intervention services. The NH AURIS tracking system allows hospitals and birth facilities to report infant hearing screening to the Division of Public Health Services' Early Hearing Detection & Intervention Program in accordance with New Hampshire Administrative Rule He-P 3008.15, "Reporting of Newborn Hearing Screening Information to the Early Hearing Detection and Intervention Program". The Program has used the NH AURIS system software since 2003 for this purpose and seeks to enter into a new multi-year agreement because the existing agreement will lapse June 30, 2014; the NH AURIS vendor and system have performed well; the vendor is ideally suited to continue to host, maintain and support the system; and, the Program does not have sufficient funds to competitively bid and build a new system.

Funds in this agreement will be used to pay the costs of Welligent, Inc.'s continued administration, hosting, support and maintenance of the NH AURIS system, a secure, web-based tracking and surveillance system used to manage and report newborn hearing screening results, diagnostic testing results and dates of enrollment in early intervention services. The application is hosted, supported and maintained by the vendor, Welligent, Inc. NH AURIS users in hospitals and free-standing birth centers use the system to report newborn hearing screening results, and audiologists throughout the State use the system to report diagnostic test results. Program personnel are able to use the system to match screening results with birth records and generate statistical reports of program activities. This agreement will allow the Early Hearing Detection and Intervention Program to continue using the NH AURIS system to meet these national health goals, increase the proportion of newborns who: are screened for hearing loss by one month of age; have audiologic evaluation by three months of age; and, are enrolled in appropriate intervention services by six months of age.

The services provided in this contract will allow the Early Hearing Detection and Intervention Program and partners to maintain continuous, timely input of newborn hearing screening data; to report outcomes to the Centers for Disease Control and Prevention; and, to ensure that infants with hearing loss are identified promptly and receive appropriate services. Hearing loss is the most commonly occurring congenital disability in the United States. In New Hampshire, fourteen infants were identified in 2013 as deaf or hard of hearing. The Early Hearing Detection and Intervention Program receives funding from the Federal Health Resources and Services Administration and the Centers for Disease Control and Prevention to support the Early Hearing Detection and Intervention Program activities and to maintain this tracking and surveillance system. Prior to the establishment of newborn hearing screening programs, estimates for the average age of diagnosis of hearing loss in infants ranged from 14 months to three years. The optimal time for the development of learning language, either signed or spoken, occurs during the infant and toddler stages. Any delay of diagnostic testing is significant.

Additional support is often needed to help late-identified children learn language. As a condition of funding, the New Hampshire Early Detection and Intervention Program is required to collect and provide annual data reports to the Centers for Disease Control and Prevention, detailing aggregated information about the hearing status for all infants born in New Hampshire.

Should Governor and Executive Council not authorize this Request, a replacement data system would need to be procured or developed to allow the Early Hearing Detection and Intervention Program to properly identify and track infants with hearing loss in New Hampshire. This would require the investment of funds and hours to duplicate the work completed to date.

The Department of Health and Human Services, in its sole discretion, may decide to extend this agreement for up to ten (10) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Executive Council.

The following performance measures will be used to measure the effectiveness of the agreement:

- The format and layout of extract files conforms to the specifications of the Maternal and Child Health Section Data Mart.
- Urgent issues involving access to or use of the AURIS tracking system are addressed within 24 hours of notification.

Area served: Statewide.

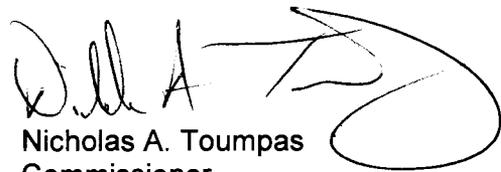
Source of Funds is 86% from Centers for Disease Control and Prevention, Federal Award Identification Number 5UR3DD000827; 4% Federal Funds from Health Resources and Services Administration, Federal Award Identification Number H18MC00033; and, 10% Other Funds, Transfer from Other Agencies.

In the event that the Federal Funds become no longer available, General Funds will not be required to support this program.

Respectfully submitted,


José Thier Montero, MD, MHCDS
Director

Approved by:


Nicholas A. Toumpas
Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY

27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Peter C. Hastings
Commissioner

May 28, 2014

Nicholas Toumpas, Commissioner
State of New Hampshire
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301-3857

Dear Commissioner Toumpas:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to contract with Welligent, Inc. (Vendor #162643), 5205 Colley Avenue, Norfolk, VA, as described below and referenced as DoIT 2014-125.

This contract will enable Welligent to continue to provide administration, hosting, support, and maintenance of the NH AURIS system, a web-based application used to track maternal and child health data collected in the State of New Hampshire by the Department of Health and Human Services, Division of Public Health Services. The contract shall become effective upon Governor and Council approval through June 30, 2017. The amount of this contract is \$202,268.00.

A copy of this letter should accompany the Department of Health and Human Services' submission to Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink that reads "Peter C. Hastings".

Peter C. Hastings

PCH/ltn
2014-125
cc: Leslie Mason, DoIT
Martha Wells, DHHS DPHS

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AURIS HOSTING, MAINTENANCE, OPERATIONS AND SUPPORT SERVICES
CONTRACT 2014-125 AGREEMENT- PART 1**

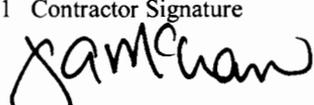
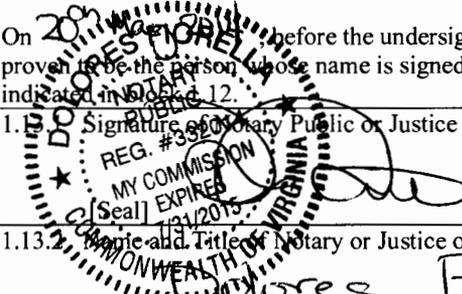
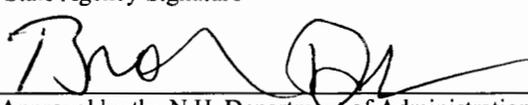
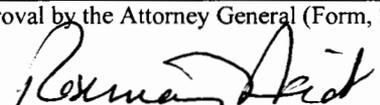
Subject: AURIS Hosting, Maintenance, Operations, and Support Services

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301	
1.3 Contractor Name Welligent, Inc		1.4 Contractor Address 5205 Colley Avenue Norfolk, VA 23508	
1.5 Contractor Phone Number 757-213-5980	1.6 Account Number 05-95-90-902010-4526-102-500731 05-95-90-902010-5190-102-500731 01-03-03-30010-7695-046-500465	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$202,268
1.9 Contracting Officer for State Agency Brook Dupee, Bureau Chief		1.10 State Agency Telephone Number 603-271-4483	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Andy McCraw, President	
1.13 Acknowledgement: State of VIRGINIA ^{CITY} of County ^{CITY} of NORFOLK On <u>20th</u> day of <u>June</u> , 2017, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.14 Signature of Notary Public or Justice of the Peace 			
1.13.1 Name and Title of Notary or Justice of the Peace Dorella Furriella		1.15 Name and Title of State Agency Signatory Brook Dupee, Bureau Chief	
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Brook Dupee, Bureau Chief	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable). By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>6-3-14</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/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 A 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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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, and 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 terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account 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 B 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 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 opportunity laws. In addition, the Contractor shall comply with all applicable copyright 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 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further 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 remedied, 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 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 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 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.

9.2 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.

9.3 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.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall 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 A.

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. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. 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 maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 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 fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

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. 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. WAIVER OF BREACH. 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.

17. 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.

18. 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.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be 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.

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 provisions set forth in the attached EXHIBIT C 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 relating hereto.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AURIS HOSTING, MAINTENANCE, OPERATIONS AND SUPPORT SERVICES
CONTRACT 2014-125
CONTRACT AGREEMENT - PART 2**

INTRODUCTION

This Contract is by and between the State of New Hampshire, acting through the Department of Health and Human Services (DHHS) and Welligent, Inc. a Corporation, having its principal place of business at 5205 Colley Ave., Norfolk, VA, 23508.

Welligent, Inc. will provide continued hosting, operations, maintenance and support of the AURIS tracking system. AURIS is a secure, authenticated, web-based data collection system used to manage and report newborn hearing screenings, diagnostic testing results and dates of enrollment in early intervention services. The AURIS application will continue to be a hosted solution, meaning the Welligent, Inc. supplies hardware, software and connectivity to the system without using state resources. Welligent, Inc. shall maintain the system, offer training if the State opts to use the Change Order Process to request that Welligent, Inc. provide AURIS training, and provide Enhancements to the software by Change Orders agreed upon by the State and Welligent, Inc..

RECITALS

The State desires to have Welligent, Inc. provide Software AURIS hosting, operations, maintenance and support Services for DHHS;

Welligent, Inc. wishes to provide AURIS Software hosting, operations, maintenance and support Services for the State.

The parties therefore agree as follows:

1. CONTRACT DOCUMENTS

1.1 Contract Documents

This Contract is comprised of the following documents (Contract Documents):

- A. Part 1 – State Terms and Conditions contained in the Form P-37
- B. Part 2 – The Contract Agreement
- C. Part 3 – Consolidated Exhibits
 - Exhibit A- Contract Deliverables
 - Exhibit B- Price and Payment Schedule
 - Exhibit C- Special Provisions
 - Exhibit D- Administrative Services
 - Exhibit E- Implementation Services (not used)
 - Exhibit F- Testing Services
 - Exhibit G- Hosting, Maintenance, Operations and Support Services
 - Exhibit H- Requirements
 - Exhibit I- Work Plan (not used)
 - Exhibit J- Software License
 - Exhibit K- Warranty and Warranty Services
 - Exhibit L- Training Services
 - Exhibit M- Agency RFP with Addendums, by reference (not used)
 - Exhibit N- The Vendor Proposal, by reference (not used)
 - Exhibit O- Certificates and Attachments

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AURIS HOSTING, MAINTENANCE, OPERATIONS AND SUPPORT SERVICES
CONTRACT 2014-125
CONTRACT AGREEMENT - PART 2**

1.2 Order of Precedence

In the event of conflict or ambiguity among any of the text of the Contract Documents, the following Order of Precedence shall govern:

- a. *The State of New Hampshire Terms and Conditions*, Form P-37-Contract Agreement Part 1
- b. State of New Hampshire, DHHS Contract 2014-125.

2. COMPENSATION

2.1 Contract Price

The Contract price, method of payment, and terms of payment are identified and more particularly described in Contract Exhibit B: *Price and Payment Schedule*.

2.2 Non-Exclusive, NOT TO EXCEED Contract

This is a Sole Source, Not to Exceed (“NTE”) Contract with price and term limitations as set forth in the Contract.

The State reserves the right, at its discretion, to retain other contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal. Welligent, Inc. shall not be responsible for any delay, act, or omission of such other contractors, except that Welligent, Inc. shall be responsible for any delay, act, or omission of the other contractors if such delay, act, or omission is caused by or due to the fault of Welligent, Inc..

Notwithstanding any other provision of the Contract to the contrary, in no event shall total payments under the Contract exceed \$202,268.

3. CONTRACT MANAGEMENT

The Project will require the coordinated efforts of a Project Team consisting of both Welligent, Inc. and State personnel. Welligent, Inc. shall provide all necessary resources to perform its obligations under the Contract. Welligent, Inc. shall be responsible for managing the Project to its successful completion.

3.1 Welligent, Inc. Contract Manager

Welligent, Inc. shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. Welligent, Inc.’s Contract Manager is:

Andy McCraw
President
5205 Colley Avenue
Norfolk, VA 23508
Tel: 757-213-5980
Fax: 757-213-5965
Email: amccraw@welligent.com

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AURIS HOSTING, MAINTENANCE, OPERATIONS AND SUPPORT SERVICES
CONTRACT 2014-125
CONTRACT AGREEMENT - PART 2

3.2 Welligent, Inc.'s Project Manager

3.2.1 Contract Project Manager

Welligent, Inc. shall assign a Project Manager who meets the requirements of the Contract. Welligent, Inc.'s selection of Welligent, Inc.'s Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Welligent, Inc.'s Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of Welligent, Inc.'s Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

3.2.2 Welligent, Inc.' Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as Welligent, Inc.'s representative for all administrative and management matters. Welligent, Inc.'s Project Manager shall perform the duties required under the Contract. Welligent, Inc.'s Project Manager must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State. If requested, Welligent, Inc.'s Project Manager may travel on-site if pre-approved travel expenses are reimbursed by project funds. Welligent, Inc.'s Project Manager must work diligently and use his/ her best efforts on the Project.

3.2.3 Welligent, Inc. shall not change its assignment of Welligent, Inc.'s Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of Welligent, Inc.'s Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than the Welligent, Inc. Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in Contract Agreement Part 2, Section 3.2.1: *Contract Project Manager*, and in Contract Agreement Part 2, Section 3.6: *References and Background Checks*, below. Welligent, Inc. shall assign a replacement Welligent, Inc. Project Manager within ten (10) business days of the departure of the prior Welligent, Inc. Project Manager, and Welligent, Inc. shall continue during the ten (10) business days' period to provide competent Project Management Services through the assignment of a qualified interim Welligent, Inc. Project Manager.

3.2.4 Notwithstanding any other provision of the Contract, the State shall have the option, at its discretion, to terminate the Contract, declare the Contracted Vendor in default and pursue its remedies at law and in equity, if Welligent, Inc. fails to assign a Welligent, Inc. Project Manager meeting the requirements and terms of the Contract.

3.2.5 Welligent, Inc.'s Project Manager is:

Rick Hasson
Senior Software Engineer
5205 Colley Avenue
Norfolk, VA 23508
Tel: 757-213-5960, 5947

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Fax: 757-213-5965
Email: rhasson@Welligent.com

3.3 Welligent, Inc.'s Key Project Staff

- 3.3.1 Welligent, Inc. shall assign Key Project Staff who meet the requirements of the Contract, and can implement the Software Solution meeting the requirements set forth in this contract. The State may conduct reference and background checks on Welligent, Inc.'s Key Project Staff. The State reserves the right to require removal or reassignment of Welligent, Inc.'s Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with the Contract Agreement Section 3.6: *Reference and Background Checks*.
- 3.3.2 Welligent, Inc. shall not change any of Welligent, Inc.'s Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of Welligent, Inc.'s Key Project Staff will not be unreasonably withheld. The replacement of Welligent, Inc.'s Key Project Staff shall have comparable or greater skills than Welligent, Inc.'s Key Project Staff being replaced; meet the requirements of the Contract, including but not limited to the requirements set forth in Exhibit H: *Requirements* and be subject to reference and background checks described in Contract Agreement-Part 2, Section 3.6: *Reference and Background Checks*,
- 3.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare Welligent, Inc. in default and to pursue its remedies at law and in equity, if Welligent, Inc. fails to assign Key Project Staff meeting the requirements and terms of the Contract or if it is dissatisfied with Welligent, Inc.'s replacement Key Project staff.

3.3.3.1 Welligent, Inc.'s Key Project Staff shall consist of the following individuals in the roles identified below:

Welligent, Inc.'s Key Project Staff:

Key Member(s)	Title
Andy McCraw	President
Alexis Williams	Director of Project Management Operations
Rick Hasson	Senior Software Engineer
Anita Williams	Welligent, Inc. Help Desk Manager

3.4 State Contract Manager

The State shall assign a Contract Manager who shall function as the State's representative with regard to Contract administration. The State Contract Manager is:

Patricia Tilley, Bureau Chief
NH DHHS, Division of Public Health Services
29 Hazen Drive, Concord, NH 03301

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Tel: (603) 271-4526
Fax: (603) 271-4519
Email: ptilley@dhhs.state.nh.us

3.5 State Project Manager

The State shall assign a Project Manager. The State Project Manager's duties shall include the following:

- a. Leading the Project;
- b. Engaging and managing Welligent, Inc.;
- c. Managing significant issues and risks.
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;
- f. Review and approval of change proposals; and
- g. Managing stakeholders' concerns.

The State Project Manager is:

Ruth Fox, Coordinator
Early Hearing Detection & Intervention (EHDI) Program
NH DHHS, Division of Public Health Services
29 Hazen Drive, Concord, NH 03301
Tel: (603) 271-1037
Fax: (603) 271-4519
Email: rfox@dhhs.state.nh.us

3.6 Reference and Background Checks

The State may, at its sole expense, conduct reference and background screening of Welligent, Inc.'s Project Manager and Welligent, Inc.'s Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Agreement, Part 2-Section 11: *Use of State's Information, Confidentiality*.

4. DELIVERABLES

4.1 Vendor Responsibilities

Welligent, Inc. shall be solely responsible for meeting all requirements, and terms and conditions specified in this Contract, regardless of whether or not a Subcontractor is used.

Welligent, Inc. may subcontract Services subject to the provisions of the Contract, including but not limited to, the terms and conditions in the *Contract Agreement Part 1: State of New Hampshire Terms and Conditions-P-37*. Welligent, Inc. must submit all information and documentation relating to the Subcontractor, including terms and conditions consistent with this Contract. The State will consider Welligent, Inc. to be wholly responsible for the performance of the Contract and the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

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4.2 Deliverables and Services

Welligent, Inc. shall provide the State with the Deliverables and Services in accordance with the time frames in Contract Exhibit A: *Contract Deliverables*.

Upon its submission of a Deliverable or Service, Welligent, Inc. represents that it has performed its obligations under the Contract associated with the Deliverable or Service.

4.2.3 Non-Software and Written Deliverables Review and Acceptance

After receiving written Certification from Welligent, Inc. that a Non-Software or Written Deliverable is final, complete, and ready for Review, the State will Review the Deliverable to determine whether it meets the Requirements outlined in Contract Exhibit A: *Contract Deliverables*. The State will notify Welligent, Inc. in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of Welligent, Inc.'s written Certification. If the State rejects the Deliverable, the State shall notify Welligent, Inc. of the nature and class of the Deficiency and Welligent, Inc. shall correct the Deficiency within the period identified in Exhibit H: *Requirements*. If no period for Welligent, Inc.'s correction of the Deliverable is identified, Welligent, Inc. shall correct the Deficiency in the Deliverable within five (5) business days. Upon receipt of the corrected Deliverable, the State shall have five (5) business days to review the Deliverable and notify Welligent, Inc. of its Acceptance or rejection thereof, with the option to extend the Review Period up to five (5) additional business days. If Welligent, Inc. fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require Welligent, Inc. to continue until the Deficiency is corrected, or immediately terminate the Contract, declare Welligent, Inc. in default, and pursue its remedies at law and in equity.

4.3 System/Software Testing and Acceptance

System/Software Testing and Acceptance shall be performed as set forth in *Contract Agreement – Part 3 – Exhibit F: Testing Services*.

4.4 Security

The State must ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of its information technology resources, information, and services. State resources, information, and services must be available on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and safeguard State networks, Systems and Data.

IT Security involves all functions pertaining to the securing of State Data and Systems through the creation and definition of security policies, procedures and controls covering such areas as identification, authentication and non-repudiation.

All components of the Software shall be reviewed and tested to ensure they protect the State's hardware and software and its related Data assets. The State shall ensure that all end Users comply with AURIS System minimum end user technical requirements. See *Contract Agreement –Part 3 – Exhibit F: Testing* for detailed information on requirements for Security testing.

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5. SOFTWARE

5.1 COTS Software and Documentation

Welligent, Inc. shall provide the State with Software Licenses and Documentation set forth in the Contract, and particularly described in Exhibit J: *Software License*.

5.2 COTS Software Support and Maintenance

Welligent, Inc. shall provide the State with Software support and Maintenance Services set forth in the Contract, and particularly described in Exhibit J: *Software License*.

5.3 Restrictions

Except as otherwise permitted under the Contract, the State agrees not to:

- a. Remove or modify any program markings or any notice of Welligent, Inc.'s proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

5.4 Title

Welligent, Inc. must hold the right to allow the State to use the Software or hold all title, right, and interest in the Software and its associated Documentation.

6. WARRANTY

Welligent, Inc. shall provide the Warranty and Warranty Services set forth in the Contract, and particularly described in Exhibit K: *Warranty and Warranty Services*.

7. SERVICES

Welligent, Inc. shall provide the Services required under the Contract Documents. All Services shall meet, and be performed, in accordance with the Specifications.

7.1 Administrative Services

Not used.

7.2 Implementation Services

Not used.

7.3 Testing Services

Welligent, Inc. shall perform testing Services for the State set forth in the Contract, and particularly described in Exhibit F: *Testing Services*.

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7.4 Training Services

Welligent, Inc. shall provide the State with training Services set forth in the Contract, and particularly described in Exhibit L: *Training Services*.

7.5 Maintenance and Support Services

Welligent, Inc. shall provide the State with Maintenance and support Services for the Software set forth in the Contract, and particularly described in Exhibit G: *Hosting, Maintenance, Operations and Support Services*.

8. WORK PLAN DELIVERABLE

Not used.

9. CHANGE ORDERS

The State may make changes or revisions at any time by written Change Order. The State originated changes or revisions shall be approved by the Department of Information Technology. Within five (5) business days of Welligent, Inc.'s receipt of a Change Order, Welligent, Inc. shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

Welligent, Inc. may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to Welligent, Inc.'s requested Change Order within five (5) business days. The State Agency, as well as the Department of Information Technology, must approve all Change Orders in writing. The State shall be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.

All Change Order requests from Welligent, Inc. to the State, and the State acceptance of Welligent, Inc.'s estimate for a State-requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

10. INTELLECTUAL PROPERTY

WELLIGENT, INC. SHALL HOLD ALL TITLE, RIGHTS, AND INTEREST IN THE SOFTWARE.

Other than for custom reports requested by the State during the Term and delineated in Exhibit A, which have been paid for using contract funds on a time and materials basis, for which Welligent, Inc. has delivered and the State has issued Final Acceptance, Welligent, Inc. shall hold all ownership, title, and rights in any existing core Welligent, Inc. software and any Custom Software developed in connection with performance of obligations under the Contract, or modifications to the Software, and their associated Documentation including any and all performance enhancing operational plans and Welligent, Inc.' special utilities. Welligent, Inc. shall have sole right to produce, publish, or otherwise use such Software, modifications, and Documentation developed under the Contract and to authorize others to do so.

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10.1 State's Data

All rights, title and interest in State Data shall remain with the State.

10.2 Welligent, Inc.'s Materials

Subject to the provisions of this Contract, Welligent, Inc. may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the confidentiality provision of this Contract, Welligent, Inc. shall not distribute any products containing or disclose any State Confidential Information. Welligent, Inc. shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of the State Confidential Information by Welligent, Inc. employees or third party consultants engaged by Welligent, Inc..

Without limiting the foregoing, the parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data use to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.

10.3 State Website Copyright

WWW Copyright and Intellectual Property Rights

All right, title and interest in the State WWW site, including copyright to all Data and information, shall remain with the State. The State shall also retain all right, title and interest in any user interfaces and computer instructions embedded within the WWW pages. All WWW pages and any other Data or information shall, where applicable, display the State's copyright.

10.4 Custom Software Source Code

In the event that Welligent, Inc. develops Custom Software for the State, other than for custom reports requested by the State during the Term and delineated in Exhibit A, which have been paid for using contract funds on a time and materials basis, for which Welligent, Inc. has delivered and the State has issued Final Acceptance, Welligent, Inc. shall hold all ownership, title, and rights in any existing core Welligent, Inc. software and any Custom Software developed in connection with performance of obligations under the Contract, or modifications to the Software, and their associated Documentation including any and all performance enhancing operational plans and Welligent, Inc.' special utilities. Welligent, Inc. shall have sole right to produce, publish, or otherwise use such Software, modifications, and Documentation developed under the Contract and to authorize others to do so.

10.5 Survival

This Contract Agreement Section 10: *Intellectual Property* shall survive the termination of the Contract.

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11. USE OF STATE'S INFORMATION, CONFIDENTIALITY

11.1 Use of State's Information

In performing its obligations under the Contract, Welligent, Inc. may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings* (see e.g. RSA Chapter 91-A: 5 *Exemptions*). Welligent, Inc. shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as directly connected to and necessary for Welligent, Inc.'s performance under the Contract.

11.2 State Confidential Information

Welligent, Inc. shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to Welligent, Inc. in connection with its performance under the Contract, regardless of its form.

Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

Any disclosure of the State Confidential Information shall require the prior written approval of the State. Welligent, Inc. shall immediately notify the State if any request, subpoena or other legal process is served upon Welligent, Inc. regarding the State Confidential Information, and Welligent, Inc. shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State.

In the event of the unauthorized release of State Confidential Information, Welligent, Inc. shall immediately notify the State, and the State may immediately be entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

11.3 Welligent, Inc. Confidential Information

Insofar as Welligent, Inc. seeks to maintain the confidentiality of its confidential or proprietary information, Welligent, Inc. must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that Welligent, Inc. considers the Software and Documentation to be Confidential Information. Welligent, Inc. acknowledges that the State is subject to State and federal laws governing disclosure of information including, but not limited to, RSA Chapter 91-A. The State shall

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maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State and federal laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by Welligent, Inc. as confidential, the State shall notify Welligent, Inc. and specify the date the State will be releasing the requested information. At the request of the State, Welligent, Inc. shall cooperate and assist the State with the collection and review of Welligent, Inc.'s information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be Welligent, Inc.'s sole responsibility and at Welligent, Inc.'s sole expense. If Welligent, Inc. fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to Welligent, Inc., without any liability to Welligent, Inc..

11.4 Survival

This Contract Agreement Section 11, *Use of State's Information, Confidentiality*, shall survive termination or conclusion of the Contract.

12. LIMITATION OF LIABILITY

12.1 State

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to Welligent, Inc. shall not exceed the total Contract price set forth in Contract Agreement, Section 1.8 of the *Contract Agreement –Part 1-General Provisions*.

Notwithstanding the foregoing and any provision of this Contract to the contrary, in no event does the State waive its sovereign immunity or any applicable defenses or immunities.

12.2 The Contracted Vendor

Subject to applicable laws and regulations, in no event shall Welligent, Inc. be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and Welligent, Inc.'s liability to the State shall not exceed two times (2X) the total Contract price set forth in Contract Agreement, Section 1.8 of the *Contract Agreement –Part 1-General Provisions*.

Notwithstanding the foregoing, the limitation of liability in this Section 12.2 shall not apply to Welligent, Inc.'s indemnification obligations set forth in the *Contract Agreement Part 1-Section 13: Indemnification* and confidentiality obligations in Contract Agreement-Part 2- Section 11: *Use of State's Information, Confidentiality*, which shall be unlimited.

12.4 State's Immunity

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 shall survive termination or Contract conclusion.

12.4 Survival

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This *Contract Agreement*- Part 2-Section 12: *Limitation of Liability* shall survive termination or Contract conclusion.

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13. TERMINATION

This Section 13 shall survive the termination or Contract Conclusion.

13.1 Termination for Default

Any one or more of the following acts or omissions of Welligent, Inc. shall constitute an event of default hereunder ("Event of Default"):

- a. Failure to perform the Services satisfactorily or on schedule;
- b. Failure to submit any report required; and/or
- c. Failure to perform any other covenant, term or condition of the Contract

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

- a. Unless otherwise provided in the Contract, the State shall provide Welligent, Inc. written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If Welligent, Inc. fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving Welligent, Inc. notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.
- b. Give Welligent, Inc. a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to Welligent, Inc. during the period from the date of such notice until such time as the State determines that Welligent, Inc. has cured the Event of Default shall never be paid to Welligent, Inc..
- c. Set off against any other obligations the State may owe to Welligent, Inc. any damages the State suffers by reason of any Event of Default;
- d. Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.
- e. Procure Services that are the subject of the Contract from another source and Welligent, Inc. shall be liable for reimbursing the State for the replacement Services, and all administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties,

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and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

13.1.2 Welligent, Inc. shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

13.1.3 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 shall survive termination or Contract Conclusion.

13.2 Termination for Convenience

13.2.1 The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to Welligent, Inc.. In the event of a termination for convenience, the State shall pay Welligent, Inc. the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated under the Contract shall be paid, in whole or in part, generally in accordance with Contract Exhibit B, *Price and Payment Schedule*, of the Contract.

13.2.2 During the thirty (30) day period, Welligent, Inc. shall wind down and cease Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

13.3 Termination for Conflict of Interest

13.3.1 The State may terminate the Contract by written notice if it determines that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.

In such case, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance costs. The State shall pay all other contracted payments that would have become due and payable if Welligent, Inc. did not know, or reasonably did not know, of the conflict of interest.

13.3.2 In the event the Contract is terminated as provided above pursuant to a violation by Welligent, Inc., the State shall be entitled to pursue the same remedies against Welligent, Inc. as it could pursue in the event of a default of the Contract by Welligent, Inc.

13.4 Termination Procedure

13.4.1 Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require Welligent, Inc. to deliver to the State any property,

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including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.

- 13.4.2** After receipt of a notice of termination, and except as otherwise directed by the State, Welligent, Inc. shall:
- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
 - b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
 - c. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession Welligent, Inc. and in which the State has an interest;
 - d. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State; and
 - e. Provide written Certification to the State that Welligent, Inc. has surrendered to the State all said property.
 - f. Assist in Transition Services, as reasonably requested by the State at no additional cost.

14. CHANGE OF OWNERSHIP

In the event that Welligent, Inc. should change ownership for any reason whatsoever, the State shall have the option of continuing under the Contract with Welligent, Inc., its successors or assigns for the full remaining term of the Contract; continuing under the Contract with Welligent, Inc., its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to Welligent, Inc., its successors or assigns.

15. ASSIGNMENT, DELEGATION AND SUBCONTRACTS

15.1 Welligent, Inc. shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void, and may constitute an event of default at the sole discretion of the State.

15.2 Welligent, Inc. shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Subcontractors, or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State, and the Assigns fully assumes in writing any and all

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obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract, or other transfer shall neither relieve Welligent, Inc. of any of its obligations under the Contract nor affect any remedies available to the State against Welligent, Inc. that may arise from any event of default of the provisions of the contract. The State shall consider Welligent, Inc. to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

15.3 Notwithstanding the foregoing, nothing herein shall prohibit Welligent, Inc. from assigning the Contract to the successor of all or substantially all of the assets or business of Welligent, Inc. provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that Welligent, Inc. should change ownership, as permitted under this Contract Agreement Part 2, Section 14: *Change of Ownership*, the State shall have the option to continue under the Contract with Welligent, Inc., its successors or assigns for the full remaining term of the Contract; continue under the Contract with Welligent, Inc., its successors or assigns for such period of time as determined necessary by the State; or, immediately terminate the Contract without liability to Welligent, Inc., its successors or assigns.

16. DISPUTE RESOLUTION

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted under the Contract.

The parties shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table

LEVEL	CONTRACTOR	STATE	<u>CUMULATIVE ALLOTTED TIME</u>
Primary	Andy McCraw, President	Patricia Tilley, Bureau Chief, Population Health & Community Services	5 Business Days
First	Charles Sutelan, CEO	Director José T. Montero	10 Business Days
Second	Carter Smith, COO	Commissioner Nick Toumpas	15 Business Days

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The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

17. ESCROW OF CODE

If requested by the State, after an amendment is executed to add funds to this Contract sufficient for Escrow Services, Welligent, Inc. will enter into a source and configuration code escrow agreement, with a State approved escrow agent. The escrow agreement requires Welligent, Inc. to put Welligent, Inc.'s Software source and configuration code in escrow. The source code shall be released to the State if one of the following events has occurred:

- a. Welligent, Inc. has made an assignment for the benefit of creditors;
- b. Welligent, Inc. institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- c. a receiver or similar officer has been appointed to take charge of all or part of Welligent, Inc.'s assets; or
- d. Welligent, Inc. or its Subcontractor terminates its Maintenance and Operations Support Services for the State for the Software or has ceased supporting and maintaining the Software for the State, whether due to its ceasing to conduct business generally or otherwise.

18. GENERAL PROVISIONS

18.1 Travel Expenses

Except where the State requests Welligent, Inc. staff to perform any service on-site, the State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services.

Other than the aforementioned, Welligent, Inc. must assume all travel and related expenses by "fully loading" the proposed labor rates to include, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.

18.2 Shipping and Delivery Fee Exemption

The State will not pay for any shipping or delivery fees unless specifically itemized in the Contract.

18.3 Project Workspace and Office Equipment

The State agency will work with Welligent, Inc. to determine the requirements for providing all necessary workspace and office equipment, including desktop computers for Welligent, Inc.'s staff.

18.4 Access/Cooperation

As applicable, and reasonably necessary, and subject to the applicable State and federal laws and regulations and restrictions imposed by third parties upon the State, the State shall provide Welligent, Inc. with access to all program files, libraries, personal computer-based systems,

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software packages, network systems, security systems, and hardware as required to complete contracted services.

The State shall use reasonable efforts to provide approvals, authorizations, and decisions reasonably necessary to allow Welligent, Inc. to perform its obligations under the Contract.

18.5 Required Work Procedures

All work done must conform to standards and procedures established by the Department of Information Technology and the State.

18.6 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), Welligent, Inc. understands and agrees to the following rules:

- a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use and that at no time shall Welligent, Inc. access or attempt to access any information without having the express authority to do so.
- c. That at no time shall Welligent, Inc. access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times Welligent, Inc. must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by Welligent, Inc.. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.
- e. That if Welligent, Inc. is found to be in violation of any of the above-stated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

18.7 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal Email systems" or "State-funded Email systems". Welligent, Inc. understands and agrees that use of email shall follow State standard policy (available upon request).

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18.8 Internet/Intranet Use

The Internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to State standard policy (available upon request).

18.9 Regulatory Government Approvals

Welligent, Inc. shall obtain all necessary and applicable regulatory or other governmental approvals necessary to perform its obligations under the Contract.

18.10 Force Majeure

Neither Welligent, Inc. nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lock outs, riots, and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

Except in the event of the foregoing, Force Majeure events shall not include Welligent, Inc.'s inability to hire or provide personnel needed for Welligent, Inc.'s performance under the Contract.

18.11 Insurance

18.11.1 Welligent, Inc. Insurance Requirement

See Contract Agreement Part 1-Form P-37 Section 14.

18.11.2 The ACORD Insurance Certificate should note the Certificate Holder in the lower left hand block including State of New Hampshire, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301 for the funding of the contracts and his/her address.

18.12 Exhibits

The Exhibits referred to, in and attached to the Contract are incorporated by reference as if fully included in the text.

18.13 Venue and Jurisdiction

Any action on the Contract may only be brought in the State of New Hampshire, Merrimack County Superior Court.

18.14 Survival

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so survive, including, but not limited to, the terms of the Contract Agreement Part 2-Section 11: *Use of State's Information, Confidentiality* and Contract Agreement Part 1-Section 13: *Indemnification* which shall all survive the termination of the Contract.

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19. TERMS AND DEFINITIONS

The following general contracting terms and definitions apply except as specifically noted elsewhere in this document:

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Letter	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Period	The timeframe during which the Acceptance Test is performed
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables listed in Exhibit A.
Access Control	Supports the management of permissions for logging onto a computer or network
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document
Application	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
Audit Trail	Supports the identification and monitoring of activities within an application or system
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
AURIS	Name given to the application developed by Welligent, Inc., for the tracking of early hearing screening in newborns.
BCRP	Birth Conditions Registry Program
Best and Final Offer (BAFO)	For negotiated procurements, a Vendor's final offer following the conclusion of discussions.
Birth Conditions and Registry Program	The NH program is the primary resource for information on congenital birth conditions in NH: it promotes use of this information for improved surveillance, research, health care service delivery, and prevention.
Birthing Centers	A healthcare facility, staffed by nurse-midwives, midwives and/or obstetricians, for mothers in labor, who may be assisted by doulas and coaches.
CCP	Change Control Procedures
CDC	Centers for Disease Control and Prevention

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Centers for Disease Control and Prevention	The national public health institute of the United States; it is a federal agency under the US Department of Health and Human Services.
Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Control	Formal process for initiating changes to the proposed solution or process once development has begun.
Change Order	Formal documentation prepared for a proposed change in the Specifications.
CM	Configuration Management
Completion Date	End date for the Contract
Confidential Information	Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i>
Contract	This Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract (See Contract Agreement, Section 1.1)
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities. (See Section 4: <i>Contract Management</i>)
Contracted Vendor/Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Conversion Test	A test to ensure that a Data conversion process correctly takes Data from a legacy system and successfully converts it to a form that can be used by the new System.
COTS	Commercial Off-The-Shelf Software
CR	Change Request
Cure Period	The thirty (30) day period following written notification of a default within which a contracted vendor must cure the default identified.

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Custom Code	Code developed by the Vendor specifically for this project for the State of New Hampshire
Custom Reports	A report that is an extension of the standard reports and often requires report definition and creation by the vendor.
Custom Software	Software developed by the Vendor specifically for this project for the State of New Hampshire
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the Contract Term
Data Exchange	The process of taking data structured under a source schema and transforming it into data structured under a target schema, so that the target data is an accurate representation of the source data.
DBA	Database Administrator
Deficiencies/Defects	A failure, deficiency or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.
	Class A Deficiency – <i>Software</i> - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service.
	Class B Deficiency – <i>Software</i> - important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service.
	Class C Deficiency – <i>Software</i> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
Department	An agency of the State

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Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
Department of Health and Human Services	NH State agency that is responsible for the health, safety and well-being of the citizens of New Hampshire
DHHS	Department of Health and Human Services
Digital Signature	Guarantees the unaltered state of a file
Division of Public Health Services	A Division of the NH DHHS, with responsibility to protect and promote the public's health.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
DPHS	Division of Public Health Services
Early Hearing Detection and Intervention	Early Hearing Detection and Intervention (EHDI) refers to the practice of screening every newborn for hearing loss prior to hospital discharge.
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract
EHDI	Early Hearing Detection and Intervention
Encryption	Supports the encoding of data for security purposes
Enhancement Services	Services provided by a vendor to improve the hardware or software associated with a software product.
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders
Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Harvest	Software to archive and/or control versions of software
Help Desk	A resource intended to provide the customer or end user with information and support related to a company's or institution's products and services.

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Hosting	A type of Internet hosting service that allows individuals and organizations to make their website accessible via the World Wide Web. Web hosts are companies that provide space on a server owned or leased for use by clients, as well as providing Internet connectivity, typically in a data center. Web hosts can also provide data center space and connectivity to the Internet for other servers located in their data center, called colocation
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
Implementation	The process for making the System fully operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Input Validation	Ensure the application is protected from buffer overflow, cross-site scripting, SQL injection, and canonicalization
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Invoking Party	In a dispute, the party believing itself aggrieved
Key Project Staff	Personnel identified by the State and by the contracted Vendor as essential to work on the Project.
Licensee	The State of New Hampshire
Maintenance	Any work done to change the software after it is in operation. The purpose is to preserve the value of software over the time. The value can be enhanced by expanding the customer base, meeting additional requirements, becoming easier to use, more efficient and employing newer technology.
Maternal and Child Health Section	An organizational unit of the NH DPHS, made up of a broad array of programs in order to improve the availability of and access to high quality preventive and primary health care for all children and to reproductive health care for all women and their partners regardless of their ability to pay.
MCHS	Maternal and Child Health Section
NH AURIS	NH's application developed by Welligent, Inc., for the tracking of early hearing screening in newborns.

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NH AURIS System Administrator(s)	In NH AURIS, a limited number of individuals who handle support requests from System Users; enter data and/or submit data via electronic upload; update, approve, and maintain NH AURIS System Users, including granting permissions based on role; de-duplicate records; use standard and custom reports and data extracts from the NH AURIS system; and, maintenance of NH AURIS form letters.
NH Electronic Birth Certificate Record	An individual's birth data stored in an electronic form made available to DPHS by statute and administrative rule.
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
Notice to Proceed (NTP)	The State Contract Manager's written direction to the Vendor to begin work on the Contract on a given date and time
Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operating System	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
Operational	Operational means that the System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Operations and Maintenance	Services carried out by a vendor to ensure an information system is fully functional and performs optimally until the system reaches its end of life.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence
Patches	A software update comprised code inserted (or patched) into the code of an executable program. Typically, a patch is installed into an existing software program. Patches are often temporary fixes between full releases of a software package

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PCDF	Perinatal Client Data Form
Perinatal Client Data Form	Form used to collect client data form Prenatal Clinic clients in local agencies
Personnel	The people who work for a particular company or organization.
Prenatal Clinics	Clinics in community health agencies, funded by MCHS, that provide prenatal care to low income, uninsured and underinsured pregnant women.
Production	The setting where software and other products are actually put into operation for their intended uses by end users
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
Project Management Plan	A document that describes the processes and methodology to be employed by the Vendor to ensure a successful Project.
Project Managers	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP)
Project Staff	State personnel assigned to work with the Vendor on the Project
Project Team	The group of State employees and contracted Vendor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality
Proposal	The submission from a Vendor in response to the Request for a Proposal or Statement of Work
Regression Test Plan	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process.
Review	The process of reviewing Deliverables for Acceptance
Review Period	The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days.
RFP (Request for Proposal)	A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
SaaS- Software as a Service	Occurs where the COTS application is hosted but the State does not own the license or the code. The vendor allows the use of the software as a part of their service.

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Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract
Service Level Agreement (SLA)	A signed agreement between the Vendor and the State specifying the level of Service that is expected of, and provided by, the Vendor during the term of the Contract.
Services	The work or labor to be performed by the Vendor on the Project as described in the Contract.
Software	All custom Software and COTS Software provided by the Vendor under the Contract
Software Deliverables	COTS Software and Enhancements
Software License	Licenses provided to the State under this Contract
Software Modifications	Modification of software to keep it usable in a changed or changing environment, to correct discovered faults, or to improve performance or maintainability.
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Specifications. The off-the-shelf Software and configured Software customized for the State provided by the Vendor in response to this RFP.
Special Medical Services	The NH Title V Program for Children with Special Health Care Needs, administers health programs and services for children ages' birth to 21 years, who have, or are at risk for, a chronic medical condition, disability or special health care need.
Specifications	The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
Standard Reports	Those reports that are integral to a software system and are usually provided by the vendor at no additional cost.
State	STATE is defined as:
	State of New Hampshire
	Department of Health and Human Services
	129 Pleasant Street
	Concord, NH 03301
	Reference to the term "State" shall include applicable agencies

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State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year
State Project Leader	State's representative with regard to Project oversight
State's Confidential Records	<u>State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to RSA Chapter 91-A</u>
State's Project Manager (PM)	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor. The Contract Agreement SOW defines the results that the Vendor remains responsible and accountable for achieving.
Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor
Support	Technical help or knowledge provided by Welligent, Inc. Team
Support Central	Ticket Tracking System utilized by Welligent, Inc.
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
System Administration	Responsibilities and actions carried out by a system administrator.
System Security	Computer security refers to three core areas, which can be conveniently summarized by the acronym "CIA": Confidentiality - Ensuring that information is not accessed by unauthorized persons; Integrity - Ensuring that information is not altered by unauthorized persons in a way that is not detectable by authorized users; and Authentication - Ensuring that users are the persons they claim to be.
System Users	A person who uses a computer or network service. A user often has a user account and is identified by a username (also user name)
TBD	To be determined

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Technical Authorization	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the Contract Agreement
Term	Period of the Contract from the Effective Date through termination.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Training	Vendor provided services by which someone is taught the skills and knowledge that are needed to use and administrate the NH AURIS system.
Transition Services	Services and support provided when the contracted vendor is supporting System changes.
UAT	User Acceptance Test
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
Update	A software update provides bug fixes for features that aren't working quite right and minor software enhancements, and sometimes include new drivers to support printers or DVD drives. A software update is sometimes called a patch because it is installed over software you're already using and it isn't a full software package installation.
Upgrades	Generally, a replacement of hardware, software or firmware with a newer or better version, in order to bring the system up to date or to improve its characteristics.
User	A person who uses a computer or network service. A user often has a user account and is identified by a username (also user name)
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization
Vendor/ Contracted Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.

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Verification	Supports the confirmation of authority to enter a computer system, application or network
Walk Through	A step-by-step review of a Specification, usability features or design before it is handed off to the technical team for development
Warranty Period	A period of coverage during which the Contracted Vendor is responsible for providing a guarantee for products and Services delivered as defined in the Contract.
Warranty Releases	Code releases that are done during the Warranty Period.
Warranty Services	The Services to be provided by the Vendor during the Warranty Period.
Welligent, Inc.	A Corporation, having its principal place of business at 5205 Colley Ave., Norfolk, VA, 23508
Work Hours	Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.
Work Plan	The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Written Deliverables	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

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EXHIBIT A
CONTRACT DELIVERABLES

1. DELIVERABLES

Welligent, Inc., shall provide the State with technical services, including, but not limited to ongoing hosting, maintenance, operations, and support services of the NH AURIS application and databases. The NH AURIS System is a secure, authenticated, web-based application used by the State to track, manage and report on screening, birth, diagnostic and follow-up information for maternal and child health data collected in the state of New Hampshire.

Welligent, Inc., provided services under Contract number 2005-039 that encompass the Early Hearing Detection and Intervention (EHDI) Program, and during the period of that contract, added the Perinatal Client Data Form (PCDF) Linkage Project for DHHS' Prenatal Clinics and added the NH Birth Conditions Registry Program (BCRP) Tracking and Reporting Project under a separate but collaborative contract/agreement with the Dartmouth Hitchcock Medical Center, working as a NH DHHS agent.

This contract, Contract number 2014-125, is intended to provide for the continuation of services provided under Contract number 2005-039 in addition to continuation of the infrastructure needed to support the enhancements that were added via work orders and via the Dartmouth Hitchcock Medical Center Birth Conditions contract.

The Deliverables are set forth in the Schedule described below in Section 2. By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.

1.1 Statement of Work

Welligent, Inc. will be responsible for providing ongoing hosting, maintenance, operations, and support services for the application and databases, including system administration, support to Users, as well as AURIS software modification and customization services as required for the NH AURIS System.

1.2 Hosting and General Support Services

A. General Support - Welligent, Inc. will provide support to NH AURIS System Administrator(s) who handle support requests from program staff as well as to 40 geographically disparate and administratively separate hospitals, follow-up facilities, and intervention agencies. There are up to 150 Named Users within up to 40 sites. Said support shall insure continued application functionality including but not limited to:

- Allowing System Administrator(s) and community-based Users to enter data and/or submit data via electronic upload, to be loaded into the Oracle database hosted Welligent, Inc.;
- Allowing System Administrator(s) to update, approve, and maintain NH AURIS system Users, including granting permissions based on role;
- Allowing System Administrator(s) to de-duplicate records;

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- Allowing System Administrator(s) and community-based Users to use standard and custom reports and data extracts from the NH AURIS system;
- Maintenance of NH AURIS form letters; and,
- Secure internal messaging between AURIS Users

B. System Administration

Welligent, Inc. shall continue to demonstrate capability and experience in the area of general system administration including functions related to the day-to-day management of the hardware, software, network system, and databases while ensuring that there are necessary security restrictions/controls on those that provide administrative services. These functions can be grouped into the following categories:

1. Hosting Site hardware and software administration,
2. Code and assessment table maintenance, and
3. Administration of the various data exchanges with other related software systems (i.e. MCH Data Linkages).

C. Help Desk Support

Two levels of Help Desk support are required:

1. Welligent, Inc. shall maintain an online NH AURIS "Help Desk" for reporting software problems and usage issues. The web-based help desk shall post all inquiries from system Users and Help Desk responses. Up to 3 NH AURIS System Administrator(s) shall be able to utilize the Help Desk. Welligent, Inc. shall support and monitor the online Help Desk and respond to all issues posted to the system. As needed, Welligent, Inc. technicians shall contact the individual directly via telephone or email if more information is required to identify and resolve the issue; and,
2. Welligent, Inc. shall provide a call center staffed between 8 AM and 5 PM EST (Normal Business Hours) which shall be accessed by up to 3 NH AURIS System Administrator(s). The technician staffing the call center shall be trained in all aspects of the AURIS software and able to understand and resolve issues as they arise. Initial phone response must be within 30 minutes of call. When necessary, issues shall be relayed to AURIS developers. All issues shall be logged and made available to the rest of the NH AURIS network via the online help desk. Monthly reports detailing the type, number and severity of the help desk calls shall be generated and provided to DHHS.

D. System Security and Audit Trail

Welligent, Inc. shall insure that existing built-in online, Web and application security features, including but not limited to: user account/password protection, usage logs, transmission encryption, audit tables and security profiles are retained. These features are designed to protect the data from unauthorized external access as well as misuse and falsification of records by authorized Users. Any additions or changes made to an infant record by Users shall be tagged with the user's account name and the date/time the change was made. The security system shall track in a usage log, the date/time and network address for every user logging into the AURIS database. The usage logs are made available and may be examined by State Users daily to detect potential security breaches. When unusual network addresses, unusual login times and/or other

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inappropriate use are noted, the State may request Welligent, Inc. to follow up by telephone contact to the NH DHHS System Administrator who will ascertain and confirm that the access in question was legitimate.

E. Software Modifications and Updates

The State may opt to use the Change Order Process to make requests to Welligent, Inc. for custom enhancements to NH AURIS in response to policy, regulatory and statutory changes as well as the programmatic and functional requirements of the DHHS Maternal and Child Health programs utilizing the NH AURIS system. Each modification shall be designed so as not to impair the existing functionality of the system or invalidate any data already contained in the database. As per Part 3, Exhibit F; and Part 2, Section 4.4, System/Software Testing and Acceptance, and Section 9, Change Orders, of the Contract Agreement, said changes shall also be thoroughly tested for quality control before being moved to the production environment.

F. Reports

Welligent, Inc. shall provide for continued functionality within the NH AURIS application to allow the NH AURIS System Administrator(s) to generate standard and custom reports from the Oracle Database. The application shall report the following for each NH facility individually and in the aggregate: screening results; screening rates; referral rates; reasons not screened; risk indicators; re-screening rates; age of infants at re-screening; diagnostic evaluation results; age of infants at the time of diagnostic evaluation; infants diagnosed with hearing loss; age of infants diagnosed with hearing loss; hearing loss diagnosis breakdown; hearing loss classification breakdown; infants transferred to other hospitals; infants with missing data; infants with incomplete records; infants not matched with birth certificate data; hospitals with no entries for 4 weeks; possible duplicate infants entered into system; and, re-screening results by reporting hospital. Note that, in order to meet all State and federal requirements, the State may opt to use the Change Order Process to make requests to Welligent, Inc. to create additional custom reports, or may jointly agree with Welligent, Inc. to use a less formal process to make such a request, such as a Support Central ticket.

G. Data Exchange

Welligent, Inc. shall Administer the various existing data exchanges with other related software systems (i.e. MCH Data Linkages). Welligent, Inc. shall ensure continued functionality within the NH AURIS application which allows the NH DHHS System Administrator(s) to do a functional element file compare of the NH electronic birth certificate record against the NH AURIS database and produce reports of unmatched individuals. The State may opt to use the Change Order Process to make requests to Welligent, Inc. to develop additional data exchange Enhancements.

H. Documentation

The State anticipates that modifications and updates to the project documentation, both electronic and paper, will be required. Documentation updates may include, user manuals, system documentation (logical and physical), and system operations. Whenever changes or updates occur in data items that have been delivered to the NH DHHS, the correction sheets shall specify

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the document number and title, date of the original issue, the date of the effective change, and change bars designating the changes.

Documentation developed by Welligent, Inc. shall be supplied in electronic format. The electronic version shall be provided in an industry standard electronic format, as mutually agreed to by Welligent, Inc. and the State. When major changes to a document are made, as determined by Welligent, Inc. in its reasonable discretion, a complete revision of the document shall be issued and delivered in accordance with the original instructions for the data item. Revisions shall be numbered and dated.

1.3 Enhancements

Enhancements - Upon receipt of a Change Order Request accompanied by requirements from the State for a customization or Enhancement to the NH AURIS System, Welligent, Inc. shall submit a proposal outlining the technical project details, and, utilizing the rates in **Table B1: Hourly Development Costs** within Exhibit B, the number of hours and total estimated cost required to make the Enhancement. Upon approval by the NH DHHS Maternal and Child Health Section Administrator and the DoIT Technical Reviewers, Welligent, Inc. shall proceed with the agreed-upon changes.

1.4 Training

Training – The State may opt to use the Change Order Process to request that Welligent, Inc. provide AURIS training for NH AURIS Users or Administrators, via web-based trainings. Trainings may be scheduled to accommodate the training needs of new AURIS Users; to instruct existing Users on new NH AURIS features; and/or as needed as refreshers for existing Users.

Pricing for Deliverables is set forth in Exhibit B: *Price and Payment Schedule*. Pricing will be effective for the Term of this Contract, and any extensions thereof.

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2. DELIVERABLES SCHEDULE

2.1 Hosting, Operations, Maintenance and Support Schedule –Deliverables

Table 1: Deliverables Schedule Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
1	Welligent, Inc. provides AURIS SaaS/Cloud subscription services for up to 150 Named Users	Software	Ongoing
1.1	Welligent, Inc. provides Hosting of NH AURIS Application	Non-Software	Ongoing
1.2	Welligent, Inc. provides Maintenance of NH AURIS Application	Non-Software	Ongoing
1.3	Welligent, Inc. provides Hosting-site Hardware and Software Administration for the NH AURIS Application	Non-Software	Ongoing
1.4	Welligent, Inc. provides Patches and regular AURIS Upgrades to the NH AURIS System without cost to the State	Software	TBD
1.5	User Acceptance after Patches and regular AURIS Upgrades	Non-Software	TBD
1.6	Welligent, Inc. manages daily backups, off-site data storage, and restore Operations	Non-Software	Ongoing
1.7	Welligent, Inc. provides Support to System Administrators of NH AURIS Application	Non-Software	Ongoing
1.8	Welligent, Inc. maintains existing PCDF Linkage Enhancements	Non-Software	Ongoing
1.9	Welligent, Inc. provides NH AURIS Help Desk Support to System Administrators and System Users for reporting and resolving software problems and usage issues	Software	Ongoing
1.10	Welligent, Inc. provides NH AURIS Help Desk monthly reports to Project Manager detailing the type, number, and severity of the Help Desk calls, as available on-demand in Support Central	Written	Ongoing
1.11	Welligent, Inc. provides NH AURIS System Security and Audit Trail Log, tracking date/time and network address of every User logging into the NH AURIS System, as an available stock Standard	Written	Ongoing

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Table 1: Deliverables Schedule Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
	Report in the NH AURIS System		
1.12	Welligent, Inc. provides testing of Software Modifications and Updates before releasing to the State in Production.	Non-software	As Needed
1.13	Welligent, Inc. provides a test application environment for User Acceptance Testing before promoting Software Modifications and Updates into Production	Software	As Needed
1.14	Welligent, Inc. provides within the NH AURIS System, Standard Reports (Reference Attachment A)	Software	Ongoing
1.15	Welligent, Inc. provides within the NH AURIS System, Maintenance of the various existing data-sharing methods used with related Software Systems for import/export to and from NH AURIS	Software	Ongoing
1.16	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow all Users with proper User rights, to enter and modify NH Electronic Birth Certificate Record data; Early Hearing Detection and Intervention (EHDI) data; Perinatal Client Data Form (PCDF) data; Birth Conditions data; and, Special Medical Services data, via user interface and/or file upload into NH AURIS.	Non-software	Ongoing
1.17	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS EHDI User with proper User rights to do a functional element file compare of the NH Electronic Birth Certificate Record against the NH AURIS database and produce reports of unmatched individuals. (Linkage algorithm applied to data)	Software	Ongoing
1.18	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS EHDI User with proper User rights to manually link NH	Software	Ongoing

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Table 1: Deliverables Schedule Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
	Electronic Birth Certificate Record with the NH AURIS database		
1.19	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS PCDF User with proper User rights to do a functional element file compare of the PCDF data with NH Electronic Birth Certificate Record. (Linkage algorithm applied to data).	Software	Ongoing
1.20	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS PCDF User with proper User rights to manually link NH Electronic Birth Certificate Record with the PCDF data	Software	Ongoing
1.21	Welligent, Inc. provides continued Maintenance of existing functionality within the NH AURIS Application to allow the NH Birth Conditions and Registry Program User with proper User rights to do a functional element file compare of the Birth Conditions data with data uploaded from Special Medical Services (Linkage algorithm applied to data)	Software	Ongoing
1.22	Welligent, Inc. provides continued Maintenance of existing functionality within the NH AURIS Application to allow the NH Birth Conditions and Registry Program User with proper User rights to manually link Birth Conditions data with data uploaded from Special Medical Services	Software	Ongoing
1.23	Welligent, Inc. provides User Documentation and System Administration Documentation including Documentation for new Updates and Enhancements, User manuals, and System Operations functions.	Written	Upon Request
1.24	Welligent, Inc. provides Documentation electronically, in a format mutually agreed	Written	Upon Request

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Table 1: Deliverables Schedule Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
	to by Welligent, Inc. and the State		
1.25	Welligent, Inc. provides Warranty Services on new System Updates and requested Enhancements; the Warranty Period shall remain in effect for the term of the Contract.	Non-Software	Ongoing
2	The State may opt to use the Change Order Process to request Enhancement Services, as well as to request User training, for the term of the contract.	Non-Software	TBD
2a	Welligent, Inc. provides custom software development services (Enhancement Services) at the request of the State via the Change Order Process.	Software	TBD
2a.1	Welligent, Inc. provides Updates or Enhancement Services to modify existing reports that need to be modified, as prioritized and requested by the State. <i>See list of Reports That May Need to be Modified below</i>	Software	TBD
2a.2	Welligent, Inc. provides Enhancement Services to Develop Reports, as prioritized and requested by the State for CDC grant reporting or quality improvement purposes. <i>See list of Reports That May Need to be Developed below</i>	Software	TBD
2a.3	Welligent, Inc. provides User Acceptance Testing after Enhancement Services are completed	Non-Software	TBD
2a.4	At the request of the state, Welligent, Inc. may work with Users to improve the percent agreement of the linkage algorithm which is applied to the matched data for the PCDF and NH Electronic Birth Certificate Record.	Software	TBD
2b	Welligent, Inc. provides web-based training Services for the Contract Term at the request of the State via the Change Order Process.	Non-Software	TBD

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Table 1: Deliverables Schedule Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
Table 1a: Year One Penetration Testing Deliverables			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
3	System Audit Service – Security audit performed by outside third party including penetration testing	Non-software	9/30/14
3a	Welligent, Inc. technical service hours associated with System Audit Service. (Technical Consulting Services)	Non-software	9/30/14
3b	Mitigation services to correct security flaws if found during the System Audit Service	Non-software	12/31/14

Table 1b: Optional Deliverables Table			
Ref #	Deliverable	Deliverable Type	Projected Delivery Date
4	Optional Annual stress and load testing services	Non-Software	TBD
5	Source code escrow services with third party service (initial setup service)	Non-software	TBD
6	Source code escrow services with third party service (annual service)	Non-software	TBD

Reports That May Need to be Modified include, but are not limited to:

- Re-Screening Results by Hospital/Facility
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Screening Hospital
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Facility
- Report of Infants At Earliest Diagnostic Appointment With Diagnosis Of Hearing Loss
- Report of Infants Diagnosed with Hearing Loss

Reports that May Need to be Developed include, but are not limited to:

- Report of Infants with Hearing Loss by Age at Identification
- Report of Infants who Referred on Final Hearing Screening with No Diagnostic Testing Results- by birth facility
- Report of reasons for NO diagnostic testing
- Report of infants at Age of Enrollment in Early Intervention Services

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- Report of Infants identified with HL and reasons not enrolled in EI
- Report of Infants diagnosed with undetermined or inconclusive results
- Report of infants identified with temporary HL and age at diagnostic evaluation-by birth facility
- Report of Infants with Changes in their Hearing Loss
- Timeliness of data entry for infant hearing screening results by birth facility
- Timeliness of data entry for diagnostic evaluation results by diagnostic center
- Report of Infants with Hearing Loss By Birth Facility
- Report of Infants with Hearing Loss By Diagnostic Testing Facility
- Changes to Referral Information Choices and reports related to these choices

3. TRAINING DELIVERABLES

Training shall be provided upon request by the State and will be in accordance with the requirements set forth in Contract Exhibit L: *Training Services*. All pricing has been established in Contract Exhibit B: *Price and Payment Schedule*.

4. SOFTWARE SUBSCRIPTION LICENSES AND FEES

Software Subscription Licenses and fees (SaaS Fees) are set forth in Contract Exhibit J: *Software License* and associated pricing is established in Contract Exhibit B: *Price and Payment Schedule*. The license shall grant the State a perpetual, nonexclusive, and irrevocable license to Welligent, Inc.'s NH AURIS software, offered through a Software as a Service (SaaS) or Cloud-based delivery model, and its associated documentation

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1. DELIVERABLE PAYMENT SCHEDULE

1.1 Not to Exceed

This is a Not to Exceed (NTE) Contract totaling \$202,268 for the period between the Effective Date through June 30, 2017. Welligent, Inc. shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow Welligent, Inc. to invoice the State for the following Deliverables appearing in the price and payment tables below.

Table 1: Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
1	Welligent, Inc. provides AURIS SaaS/Cloud subscription services for up to 150 Named Users at \$26.66/user/month. Fixed for the contract Term	Software	Ongoing	\$48,000
1.1	Welligent, Inc. provides Hosting of NH AURIS Application	Non-Software	Ongoing	SaaS Fees
1.2	Welligent, Inc. provides Maintenance of NH AURIS Application	Non-Software	Ongoing	SaaS Fees
1.3	Welligent, Inc. provides Hosting-site Hardware and Software Administration for the NH AURIS Application	Non-Software	Ongoing	SaaS Fees
1.4	Welligent, Inc. provides Patches and regular AURIS Upgrades to the NH AURIS System without cost to the State	Software	TBD	SaaS Fees
1.5	User Acceptance after Patches and regular AURIS Upgrades	Non-Software	TBD	SaaS Fees
1.6	Welligent, Inc. manages daily backups, off-site data storage, and restore Operations	Non-Software	Ongoing	SaaS Fees
1.7	Welligent, Inc. provides Support to System Administrators of NH AURIS Application	Non-Software	Ongoing	SaaS Fees
1.8	Welligent, Inc. maintains existing PCDF Linkage Enhancements	Non-Software	Ongoing	SaaS Fees
1.9	Welligent, Inc. provides NH AURIS Help Desk Support to System Administrators and System Users for reporting and resolving software problems and usage issues	Software	Ongoing	SaaS Fees
1.10	Welligent, Inc. provides NH AURIS Help Desk monthly reports to Project Manager detailing the type, number, and severity of	Written	Ongoing	SaaS Fees

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Table 1: Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
	the Help Desk calls, as available on-demand in Support Central			
1.11	Welligent, Inc. provides NH AURIS System Security and Audit Trail Log, tracking date/time and network address of every User logging into the NH AURIS System, as an available stock Standard Report in the NH AURIS System	Written	Ongoing	SaaS Fees
1.12	Welligent, Inc. provides testing of Software Modifications and Updates before releasing to the State in Production.	Non-software	As Needed	SaaS Fees
1.13	Welligent, Inc. provides a test application environment for User Acceptance Testing before promoting Software Modifications and Updates into Production	Software	As Needed	SaaS Fees
1.14	Welligent, Inc. provides within the NH AURIS System, Standard and Custom Reports (Reference Attachment A)	Software	Ongoing	SaaS Fees or Enhancement Services
1.15	Welligent, Inc. provides within the NH AURIS System, Maintenance of the various existing data-sharing methods used with related Software Systems for import/export to and from NH AURIS	Software	Ongoing	SaaS Fees
1.16	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow all Users with proper User rights, to enter and modify NH Electronic Birth Certificate Record data; Early Hearing Detection and Intervention (EHDI) data; Perinatal Client Data Form (PCDF) data; Birth Conditions data; and, Special Medical Services data, via user interface and/or file upload into NH AURIS.	Non-software	Ongoing	SaaS Fees
1.17	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS EHDI User with proper User rights to do a functional element file compare of the NH Electronic Birth Certificate Record against the NH AURIS database and produce reports of	Software	Ongoing	SaaS Fees

Initial and Date All Pages:

Welligent, Inc.'s Initials *JAM*

Date *5/20/14*

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Table 1: Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
	unmatched individuals. (Linkage algorithm applied to data)			
1.18	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS EHDI User with proper User rights to manually link NH Electronic Birth Certificate Record with the NH AURIS database	Software	Ongoing	SaaS Fees
1.19	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS PCDF User with proper User rights to do a functional element file compare of the PCDF data with NH Electronic Birth Certificate Record. (Linkage algorithm applied to data).	Software	Ongoing	SaaS Fees
1.20	Welligent, Inc. provides continued Maintenance of the existing functionality within the NH AURIS Application to allow the NH AURIS PCDF User with proper User rights to manually link NH Electronic Birth Certificate Record with the PCDF data	Software	Ongoing	SaaS Fees
1.21	Welligent, Inc. provides continued Maintenance of existing functionality within the NH AURIS Application to allow the NH Birth Conditions and Registry Program User with proper User rights to do a functional element file compare of the Birth Conditions data with data uploaded from Special Medical Services (Linkage algorithm applied to data)	Software	Ongoing	SaaS Fees
1.22	Welligent, Inc. provides continued Maintenance of existing functionality within the NH AURIS Application to allow the NH Birth Conditions and Registry Program User with proper User rights to manually link Birth Conditions data with data uploaded from Special	Software	Ongoing	SaaS Fees

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Table 1: Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
	Medical Services			
1.23	Welligent, Inc. provides User Documentation and System Administration Documentation including Documentation for new Updates and Enhancements, User manuals, and System Operations functions.	Written	Upon Request	SaaS Fees
1.24	Welligent, Inc. provides Documentation electronically, in a format mutually agreed to by Welligent, Inc. and the State	Written	Upon Request	SaaS Fees
1.25	Welligent, Inc. provides Warranty Services on new System Updates and requested Enhancements; the Warranty Period shall remain in effect for the term of the Contract.	Non-Software	Ongoing	SaaS Fees
2	The State may opt to use the Change Order Process to request Enhancement Services, as well as to request User training, for the term of the contract.	Non-Software	TBD	Not to exceed \$12,756/ year
2a	Welligent, Inc. provides custom software development services (Enhancement Services) at the request of the State via the Change Order Process, at \$150/hour.	Software	TBD	Change Order Fees
2a.1	Welligent, Inc. provides Updates or Enhancement Services to modify existing reports that need to be modified, as prioritized and requested by the State. <i>See list of Reports That May Need to be Modified below</i>	Software	TBD	Change Order Fees
2a.2	Welligent, Inc. provides Enhancement Services to Develop Reports, as prioritized and requested by the State for CDC grant reporting or quality improvement purposes. <i>See list of Reports That May Need to be Developed below</i>	Software	TBD	Change Order Fees
2a.3	Welligent, Inc. provides User Acceptance Testing after Enhancement Services are completed	Non-Software	TBD	Change Order Fees
2a.4	Welligent, Inc. may work with Users to improve the percent agreement for the PCDF and NH Electronic Birth Certificate	Software	TBD	Change Order Fees

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Table 1: Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
	Record, if requested by the State.			
2b	Welligent, Inc. provides web-based training Services for the Contract Term at the request of the State via the Change Order Process.	Non-Software	TBD	Change Order Fees
Table 1a: Year One Penetration Testing Deliverables Price and Payment Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
3	System Audit Service – Security audit performed by outside third party including penetration testing	Non-software	9/30/14	Not to Exceed: \$12,000
3a	Welligent, Inc. technical service hours associated with System Audit Service. Offered at \$150/hour (Technical Consulting Services)	Non-software	9/30/14	Not to Exceed: \$3,750
3b	Mitigation services to correct security flaws if found during the System Audit Service	Non-software	12/31/14	Not to Exceed: \$4,250
	Year 1 TOTAL-Not to Exceed			\$80,756.00

Table 1b: Welligent, Inc. Quote for Optional Deliverables Table				
Ref #	Deliverables	Deliverable Type	Projected Delivery Date	Year 1 Payment Amount
6	Optional Annual stress and load testing services	Non-Software	TBD	\$6,500
7	Source code escrow services with third party service (initial setup service)	Non-software	TBD	\$3,000
8	Source code escrow services with third party service (annual service)	Non-software	TBD	\$900

Reports That May Need to be Modified include, but are not limited to:

- Re-Screening Results by Hospital/Facility
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Screening Hospital
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Facility

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PRICE AND PAYMENT SCHEDULE**

- Report of Infants At Earliest Diagnostic Appointment With Diagnosis Of Hearing Loss
- Report of Infants Diagnosed with Hearing Loss

Reports that May Need to be Developed include, but are not limited to:

- Report of Infants with Hearing Loss by Age at Identification
- Report of Infants who Referred on Final Hearing Screening with No Diagnostic Testing Results-by birth facility
- Report of reasons for NO diagnostic testing
- Report of infants at Age of Enrollment in Early Intervention Services
- Report of Infants identified with HL and reasons not enrolled in EI
- Report of Infants diagnosed with undetermined or inconclusive results
- Report of infants identified with temporary HL and age at diagnostic evaluation-by birth facility
- Report of Infants with Changes in their Hearing Loss
- Timeliness of data entry for infant hearing screening results by birth facility
- Timeliness of data entry for diagnostic evaluation results by diagnostic center
- Report of Infants with Hearing Loss By Birth Facility
- Report of Infants with Hearing Loss By Diagnostic Testing Facility
- Changes to Referral Information Choices and reports related to these choices

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Table 2 – Detailed License Deliverables and Pricing.			
	License		Net Price-
Description	Type	Quantity	License
Tech Products			
N/A			
N/A			
Application Products			
Welligent, Inc.'s AURIS SaaS Software	Subscription model	150	\$26.66/user/month/for up to 150 Users or \$48,000/year total
Grand Sub Total			\$48,000

Table 3- Welligent, Inc. Rates Pricing Worksheet (Hourly Rates)						
Position Title	SFY 2015 7/1/2014- 6/30/2015	SFY 2016 7/1/2015- 6/30/2016	SFY 2017 7/1/2016- 6/30/2017	SFY 2018 7/1/2017- 6/30/2018	SFY 2019 7/1/2018- 6/30/ 2019	SFY 2020 7/1/2019- 6/30/2020
Project Director	\$125	\$125	\$125	\$125-	\$125	\$125
Project Manager	\$125	\$125	\$125	\$125	\$125	\$125
Senior AURIS Software Engineer	\$150	\$150	\$150	\$150	\$150	\$150

2. TOTAL CONTRACT PRICE

Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed \$202,268 (“Total Contract Price”). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to Welligent, Inc. for all fees and expenses, of whatever nature, incurred by Welligent, Inc. in the performance hereof.

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services performed under this Contract.

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PRICE AND PAYMENT SCHEDULE**

3. INVOICING

Welligent, Inc. shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld. Welligent, Inc. shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.

Upon Acceptance of a Deliverable, and a properly documented and undisputed invoice, the State will pay the correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices will not be backdated and shall be promptly dispatched.

Invoices shall be sent to:

NH Department of Health and Human Services
Division of Public Health Services
Maternal and Child Health Section
29 Hazen Drive
Concord, NH 03301

4. PAYMENT ADDRESS

All payments shall be sent to the following address:

Welligent, Inc., Inc.
5205 Colley Avenue
Norfolk, VA 23508

5. OVERPAYMENTS TO Welligent, Inc.

Welligent, Inc. shall promptly, but no later than fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon discovery or notice from the State.

6. CREDITS

The State may apply credits due to the State arising out of this Contract, against Welligent, Inc.'s invoices with appropriate information attached.

7. PROJECT HOLDBACK

Not used.

8. CONTRACT SECURITY/PERFORMANCE BOND

Not used.

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EXHIBIT C
SPECIAL PROVISIONS**

1. SPECIAL PROVISIONS

1.1 Insurance

Subparagraph 14.1.1 of the General Provisions of this contract is deleted and the following subparagraph is added:

14.1.1 comprehensive general liability against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$1,000,000 per occurrence and umbrella liability coverage in the amount of \$5,000,000 per occurrence and

1.2 Extension

This agreement has the option for a potential extension up to ten (10) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.

1.3 Contract Term

The State does not require Welligent, Inc. to commence work prior to the Effective Date; however, if Welligent, Inc. commences work prior to the Effective Date, such work shall be performed at the sole risk of Welligent, Inc.. In the event that the Contract does not become effective, the State shall be under no obligation to pay Welligent, Inc. for any costs incurred or Services performed; however, if the Contract becomes effective, all costs incurred prior to the Effective Date shall be paid under the terms of the Contract.

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EXHIBIT D
ADMINISTRATIVE SERVICES**

1. STATE MEETINGS AND REPORTS

The State believes that effective communication and reporting are essential to Project success.

Welligent, Inc. Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract.

- a. Introductory Meeting:** Participants will include Welligent, Inc. Key Project Staff and State Project leaders from both the Department of Health and Human Services and the Department of Information Technology. This meeting will enable leaders to become acquainted and establish any preliminary Project procedures.
- b. Status Meetings:** Participants will include, at the minimum, the Welligent, Inc. Project Manager and the State Project Manager. These meetings will be conducted at least quarterly and more frequently if needed, to address overall Project status and any additional topics needed to remain on schedule and within budget. A status and error report from Welligent, Inc. shall serve as the basis for discussion.
- c. Special Meetings:** Need may arise for a special meeting with State leaders or Project stakeholders to address specific issues.

The Welligent, Inc. Project Manager or Welligent, Inc. Key Project Staff shall submit monthly status reports in accordance with the Schedule and terms of this Contract. All status reports shall be prepared in formats approved by the State. Welligent, Inc.'s Project Manager shall assist the State's Project Manager, or itself produce reports related to Project Management as reasonably requested by the State, all at no additional cost to the State. The meeting agenda shall contain, at a minimum, the following:

1. Project status;
2. Deliverable status;
3. Planned activities for the upcoming quarter; and,
4. Issues and concerns requiring resolution.
5. Status of requested Change Orders.

As reasonably requested by the State, Welligent, Inc. shall provide the State with information or reports regarding the Project. Welligent, Inc. shall prepare special reports and presentations relating to Project Management, and shall assist the State in preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

2. STATE-OWNED DOCUMENTS AND DATA

Welligent, Inc. shall provide the State access to all documents, State Data, materials, reports, and other work in progress relating to the Contract ("State Owned Documents"). Upon expiration or termination of the Contract with the State, Welligent, Inc. shall turn over all State-owned documents,

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material, reports, and work in progress relating to the Contract to the State at no additional cost to the State. State-owned Documents must be provided in electronic format.

3. RECORDS RETENTION AND ACCESS REQUIREMENTS

Welligent, Inc. shall agree to the conditions of all applicable State and federal laws and regulations, which are incorporated herein by reference, regarding retention and access requirements, including without limitation, retention policies consistent with the Federal Acquisition Regulations (FAR) Subpart 4.7 *Contractor Records Retention*.

Welligent, Inc. and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. Welligent, Inc. and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. Welligent, Inc. shall include the record retention and review requirements of this section in any of its subcontracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to Welligent, Inc.'s cost structure and profit factors shall be excluded from the State's review unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

4. ACCOUNTING REQUIREMENTS

Welligent, Inc. shall maintain an accounting system in accordance with generally accepted accounting principles. The costs applicable to the Contract shall be ascertainable from the accounting system and Welligent, Inc. shall maintain records pertaining to the Services and all other costs and expenditures.

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IMPLEMENTATION SERVICES

Exhibit E, Implementation Services, does not apply to this agreement.

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EXHIBIT F
TESTING SERVICES**

Welligent, Inc. shall provide the following Products and Services described in this Exhibit F, including but not limited to:

1. TESTING AND ACCEPTANCE PROCEDURES FOR CUSTOM SOFTWARE ENHANCEMENTS

Welligent, Inc. shall bear all responsibilities for Test Planning and preparation throughout the term of the Contract. Welligent, Inc. will also provide remote, web-based training as necessary to the State staff responsible for test activities. Welligent, Inc. shall be responsible for all aspects of testing contained in the Acceptance Test Plan in support of custom enhancements, including support, at no additional cost, during User Acceptance Test conducted by the State and the testing of the custom enhancements and training materials.

All Testing and Acceptance (both business and technically oriented testing) shall apply to testing custom software enhancements and the System as a whole, (e.g., software modules or functions, and Implementation(s)). This shall include planning, test scenario and script development, Data and System preparation for testing, and execution of Unit Tests, System Integration Tests, Conversion Tests, Installation tests, Regression tests, Performance Tuning, and support of the State during User Acceptance Test and Implementation.

In addition, working jointly with the State, Welligent, Inc. shall provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems identified during test execution. Welligent, Inc. shall also correct Deficiencies and support required re-testing.

1.1 User Acceptance Testing (UAT)

At no additional cost, in support of System updates and development of requested custom software enhancements by Welligent, Inc., Welligent, Inc. shall adhere to the User Acceptance Testing (UAT) procedures defined herein and procedures defined in Section 4.4, System/Software Testing and Acceptance, and Section 9, Change Orders of the Contract Agreement, Part 2.

UAT begins upon completion of any Software Enhancements, Modifications or Updates.) Testing ends upon issuance of an emailed notice of UAT Acceptance by the State.

Welligent, Inc.'s Project Manager must certify through an emailed notice, that Welligent, Inc.'s own staff has successfully executed all prerequisite Welligent, Inc. testing, along with reporting the actual testing results prior to the start of any testing executed by State staff.

The State shall be presented with all testing results, as well as emailed Certification notice that Welligent, Inc. has successfully completed the prerequisite tests, meeting the State-defined Acceptance Criteria, and performance standards. The State shall commence testing within five (5) business days of receiving Certification, in an emailed notice, from Welligent, Inc. that the

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update or enhancement is installed, configured, complete and ready for State testing. The State shall conduct the UAT utilizing scripts developed as identified in the Acceptance Test Plan to validate the functionality of the System and the interfaces, and verify Implementation readiness. UAT is performed in a development environment and can serve as a performance test of the production System. The User Acceptance Test may cover any aspect of the new System or custom enhancements, including application administrative features.

The User Acceptance Test (UAT) is a verification process performed in a development environment. The User Acceptance Test verifies System functionality against predefined Acceptance criteria that support the successful execution of approved business processes.

UAT will also serve as a performance test of any Modification of the System. It may cover any aspect of the Modified System, including administrative software features. The results of the UAT provide evidence that the Modified System meets the User Acceptance criteria as defined in the Change Order process.

Upon successful conclusion of UAT, the State will issue an emailed notice of UAT Acceptance and the respective Warranty Period shall commence

Activity Description	The System User Acceptance Tests verify System functionality against predefined Acceptance criteria that support the successful execution of approved processes.
Welligent, Inc. Team Responsibilities	<ul style="list-style-type: none"> • Provide the State an Acceptance Test Plan and selection of test scripts for the Acceptance Test. • Monitor the execution of the test scripts and assist as needed during the User Acceptance Test activities. • Work jointly with the State in determining the required actions for problem resolution.
State Responsibilities	<ul style="list-style-type: none"> • Define acceptance test criteria to be used during the Acceptance Test Plan • Approve the development of the User Acceptance Test Plan and the set of data for use during the User Acceptance Test. • Validate the Acceptance Test environment. • Execute the test scripts and conduct User Acceptance Test activities. • Document and summarize Acceptance Test results. • Work jointly with Welligent, Inc.in determining the required actions for problem resolution. • Provide Acceptance of the validated Systems.
Work Product Description	The Deliverable for User Acceptance Tests is the User Acceptance Test Results. These results provide evidence that the Modified System meets the User Acceptance criteria defined in the Change Order.

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1.2 Regression Testing

In support of System updates and development of requested custom software enhancements by Welligent, Inc., Welligent, Inc. shall adhere to the regression testing procedures defined herein.

As a result, of the user testing activities, problems will be identified that require correction. The State will notify Welligent, Inc. of the nature of the testing failures in writing. Welligent, Inc. will be required to perform additional testing activities in response to State and/or user problems identified from the testing results. Regression testing means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused unintended adverse effects, and to verify that the modified and related (possibly affected) System components still meet their specified requirements:

- a.) For each minor failure of an Acceptance Test, the Acceptance Period shall be extended by corresponding time required to complete the testing.
- b.) Welligent, Inc. shall notify the State no later than five (5) business days from Welligent, Inc.'s receipt of written notice of the test failure, when Welligent, Inc. expects the corrections to be completed and ready for retesting by the State. Welligent, Inc. will have up to five (5) business days to make corrections to the problem unless specifically extended in writing by the State.
- c.) When a programming change is made in response to a problem identified during user testing, a regression Test Plan should be developed by Welligent, Inc. based on the understanding of the program and the change being made to the program. The Test Plan has two objectives:
 1. validate that the change/update has been properly incorporated into the program; and
 2. validate that there has been no unintended change to the other reasonable, related portions of the program jointly determined by State and Welligent, Inc..
- d.) Welligent, Inc. will be expected to:
 1. Create a set of reasonable test conditions, test cases, and test data that will validate that the change has been incorporated correctly;
 2. Create a set of reasonable test conditions, test cases, and test data that will validate that selected unchanged portions of the program still operate correctly. Welligent, Inc. and State shall jointly determine the scope required testing to be performed; and
 3. Manage the entire cyclic process.

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- e.) Welligent, Inc. will be expected to execute the regression test, provide actual testing results, and certify its completion in emailed notice to the State prior to passing the modified Software application to the Users for retesting.

In designing and conducting such regression testing, Welligent, Inc. will be required to assess the risks inherent to the modification being implemented and weigh those risks against the time and effort required for conducting the regression tests. In other words, Welligent, Inc. will be expected to design and conduct regression tests that will identify the most likely unintended consequences of the modification while taking into account Schedule and economic considerations.

2. PERFORMANCE, TUNING AND STRESS TESTING

The following testing procedures, with the exception of Security testing, are optional requirements which are available for Welligent, Inc. to perform at the request of the State, based upon availability of project funds.

2.1 Performance Tuning and Stress Testing

Welligent, Inc. shall develop and document hardware and Software configuration and tuning of the AURIS Software infrastructure as well configure and tune the infrastructure to support the software throughout the Project.

2.1.1 Scope

The scope of **Performance Testing** shall be to measure the System level metrics critical for the development of the applications infrastructure and operation of the applications in the production environment.

It will include the measurement of response rates of the application for end-user transactions and resource utilization (of various servers and network) under various load conditions. These response rates shall become the basis for changes and retesting until optimum System performance is achieved.

Performance testing and tuning shall occur in the final production environment to provide the best results.

2.1.2 Test Types

Performance testing shall use two different types of testing to determine the stability of the application. They are baseline tests and load tests.

- a) **Baseline Tests:** Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics.

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b) **Load Tests:** Load testing will determine if the behavior of the System can be sustained over a long period of time while running under expected conditions. Load test helps to verify the ability of the application environment under different load conditions based on workload distribution. System response time and utilization is measured and recorded.

2.1.3 Tuning

Tuning will be Welligent, Inc. led and occur during both the development of custom software enhancements and load testing. Tuning is the process whereby the application performance is maximized. This can be the result of making code more efficient during development as well as making tuning parameter changes to the environment.

2.2 Security Review and Testing

IT Security involves all functions pertaining to the securing of State Data and Systems through the creation and definition of security policies, procedures, and controls covering such areas as identification, authentication and non-repudiation.

All relevant components of the Software shall be reviewed and tested to ensure they protect the State's Data assets.

Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include Penetration Tests (pen test) or code analysis and Review.

Service Component	Defines the set of capabilities that:
Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of Users
Access Control	Supports the management of permissions for logging onto a computer or network
Encryption	Supports the encoding of data for security purposes
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Verification	Supports the confirmation of authority to enter a computer system, application or network
Digital Signature	Guarantees the unaltered state of a file
User Management	Supports the administration of computer, application and network accounts within an organization.
Role/Privilege Management	Supports the granting of abilities to Users or groups of Users of a computer, application or network
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system

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Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.
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Tests shall focus on the technical, administrative, and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity, and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include 3rd party Penetration Tests (pen test) or code analysis and review. Welligent, Inc. shall provide results of all security testing to the Department of Information Technology for review and Acceptance. All Software and hardware shall be free of malicious code (malware).

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EXHIBIT G
MAINTENANCE AND SUPPORT SERVICES**

1. SYSTEM MAINTENANCE

Welligent, Inc. shall maintain and support the System in all material respects as described in the applicable program Documentation for (3) years of maintenance

1.2 Welligent, Inc.'s Responsibility

Welligent, Inc. shall maintain the Application System in accordance with the Contract.

1.1.1 Maintenance Releases

Welligent, Inc. shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.

2. SYSTEM SUPPORT

2.1 Welligent, Inc.'s Responsibility

Welligent, Inc. will be responsible for performing remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

As part of the Software maintenance agreement, ongoing Software maintenance and support levels, including all new Software releases, shall be responded to according to the following:

a. Class A Deficiencies - Welligent, Inc. shall have available to the State on-call telephone assistance during normal business hours, Monday – Friday, 9AM – 5PM EST, with web-based issue tracking available to the State twenty four (24) hours per day and seven (7) days a week with an initial email response within two (2) business hours of critical issues and requests and resolution with four (4) business hours;

b. Class B & C Deficiencies –The State shall notify Welligent, Inc. of such Deficiencies during regular business hours and Welligent, Inc. shall respond back within twenty-four (24) hours of notification of planned corrective action;

3. SUPPORT OBLIGATIONS AND TERM

3.1 Welligent, Inc. shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract;

3.2 Welligent, Inc. shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;

3.3 For all maintenance Services calls, Welligent, Inc. shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the

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Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified by; and

- 3.4** Welligent, Inc. must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.
- 3.5** If Welligent, Inc. fails to correct a Deficiency within the allotted period of time stated above, Welligent, Inc. shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 2 Section 13.1.1.2, as well as to return Welligent, Inc.'s product and receive a refund for all amounts paid to Welligent, Inc., including but not limited to, applicable license fees, within ninety (90) days of notification to Welligent, Inc. of the State's refund request
- 3.6** If Welligent, Inc. fails to correct a Deficiency within the allotted period of time Stated above, Welligent, Inc. shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 2 Section 13.1.1.2.

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EXHIBIT H
REQUIREMENTS

Attachment B: Requirements are incorporated herein.

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EXHIBIT I
WORKPLAN**

Exhibit I, Workplan, does not apply to this agreement.

2014-125 Exhibit I: Workplan
Initial and Date All Pages:
Welligent, Inc.'s Initials *Jam*
Date *5/20/14*

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EXHIBIT J
SOFTWARE LICENSE

1. LICENSE GRANT LICENSE TERMS

Subject to the payment of applicable license fees set forth in Contract Exhibit B: *Price and Payment Schedule*, Welligent, Inc. hereby grants to the State a worldwide, perpetual, irrevocable, non-exclusive, non-transferable, limited license to use the Software and its associated Documentation, subject to the terms of the Contract. The State may allow its agents and Contractors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Contractors that each shall abide by the terms and conditions set forth herein.

2. DOCUMENTATION COPIES

Welligent, Inc. shall provide the State with an electronic copy of the Software's associated Documentation in Microsoft WORD and PDF format. The State shall have the right to copy the Software and its associated Documentation for its internal business needs. The State agrees to include copyright and proprietary notices provided to the State by Welligent, Inc. on such copies.

3. RESTRICTIONS

Except as otherwise permitted under the Contract, the State agrees not to:

- a. Remove or modify any program markings or any notice of Welligent, Inc.'s proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

4. TITLE

Title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, shall remain with Welligent, Inc..

5. VIRUSES

Welligent, Inc. shall provide Software that shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

As a part of its internal development process, Welligent, Inc. will use reasonable efforts to test the Software for viruses. Welligent, Inc. shall also maintain a master copy of the appropriate versions of the Software, free of viruses.

6. AUDIT

Upon forty-five (45) days written notice, Welligent, Inc. may audit the State's use of the programs at Welligent, Inc.'s sole expense. The State agrees to cooperate with Welligent, Inc.'s audit and provide reasonable assistance and access to information. The State agrees that Welligent, Inc. shall not be responsible for any of the State's reasonable costs incurred in cooperating with the audit.

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SOFTWARE LICENSE**

Notwithstanding the foregoing, Welligent, Inc.'s audit rights are subject to applicable State and federal laws and regulations.

7. SOFTWARE NON-INFRINGEMENT

Welligent, Inc. warrants that it has good title to, or the right to allow the State to use all Services, equipment, and Software ("Material") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

The warranty of non-infringement shall be an on-going and perpetual obligation that shall survive termination of the Contract. In the event that someone makes a claim against the State that any Material infringe their intellectual property rights, Welligent, Inc. shall defend and indemnify the State against the claim provided that the State:

- a. Promptly notifies Welligent, Inc. in writing, not later than 30 days after the State receives actual written notice of such claim;
- b. Gives Welligent, Inc. control of the defense and any settlement negotiations; and
- c. Gives Welligent, Inc. the information, authority, and assistance reasonably needed to defend against or settle the claim.

Notwithstanding the foregoing, the State's counsel may participate in any claim to the extent the State seeks to assert any immunities or defenses applicable to the State.

If Welligent, Inc. believes or it is determined that any of the Material may have violated someone else's intellectual property rights, Welligent, Inc. may choose to either modify the Material to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, Welligent, Inc. may end the license, and require return of the applicable Material and refund all fees the State has paid Welligent, Inc. under the Contract. Welligent, Inc. will not indemnify the State if the State alters the Material without Welligent, Inc.'s consent or uses it outside the scope of use identified in Welligent, Inc.'s user Documentation or if the State uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the State at no additional cost. Welligent, Inc. will not indemnify the State to the extent that an infringement claim is based upon any information design, Specification, instruction, Software, data, or material not furnished by Welligent, Inc.. Welligent, Inc. will not indemnify the State to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by Welligent, Inc. without Welligent, Inc.'s consent.

8. SOFTWARE ESCROW

If requested by the State, after an amendment is executed to add funds to this Contract sufficient for Escrow Services, Welligent, Inc. shall provide the following Services:

- 8.1 If State elects to utilize Welligent, Inc.'s available source code escrow service, upon availability of project funds, Welligent, Inc. shall deposit the currently existing source code for the Software

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SOFTWARE LICENSE**

licensed to the State under the Contract, as well as the Documentation for such Software, and developer comments to the source code for the Software (the "Deposit Materials") in an escrow account maintained at NCC Group "Escrow Agent") as required by this Contract. Future Deposit Materials for major version releases (e.g., X.y.z) of the Software not otherwise delivered to the State Licensee as source code shall be deposited in the escrow account (normally within six (6) months after the first commercial shipment of each such release). Welligent, Inc. shall invoice the State for all escrow fees that become due under the Escrow Agreement to maintain the Software in escrow.

8.2 Welligent, Inc. agrees that, upon execution of this Contract, the State shall be added to the Escrow Agreement as a beneficiary. The Escrow Agent shall notify the State that it has been added as a subscriber within a commercially reasonable time. Thereafter, upon the request of the State, to be made no more frequently than annually, Welligent, Inc. shall provide the State with written verification that the Software has been deposited with the Escrow Agent.

8.3 The Escrow Agent shall make and release a copy of the applicable Deposit Materials to the State upon the occurrence of any of the following events ("Release Events"):

- (a) Welligent, Inc. has made an assignment for the benefit of creditors;
- (b) Welligent, Inc. institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- (c) A receiver or similar officer has been appointed to take charge of all or part of Welligent, Inc.'s assets;
- (d) Welligent, Inc. terminates its maintenance and operations support services for the State for the Software or has ceased supporting and maintaining the Software for the State whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;
- (e) Welligent, Inc. defaults under the Contract; or
- (f) Welligent, Inc. ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

8.4 In the event that Deposit Materials are released from escrow to the State, Welligent, Inc. hereby grants the State the right to use, copy, modify, display, distribute, and prepare derivative works of the Deposit Materials, and to authorize others to do the same on behalf of the State (Contractors, agents, etc.), solely to meet internal needs for the purpose of completing the performance of Welligent, Inc.'s obligations under the Contract, including, but not limited to, providing maintenance and support for the Software and subject to the rights granted in this Contract. In no event shall the State offer the AURIS Software, Deposit Materials or derivative works for sale or free of charge to any other business entities.

8.5 The State agrees to pay all costs associated with the escrow covered by this Contract.

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WARRANTY AND WARRANTY SERVICES**

1. WARRANTY

1.1 Services

Welligent, Inc. warrants that the System will operate to conform to the Specifications, terms, and requirements of the Contract.

1.2 Software

Welligent, Inc. warrants that the Software, including but not limited to the individual modules or functions furnished under the Contract, is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications and Terms of the Contract.

For any breach of the above Support and Maintenance warranty, the State's remedy, and Welligent, Inc.'s entire liability, shall be: (a) the correction of program errors that cause breach of the warranty, or if Welligent, Inc. cannot substantially correct such breach in a commercially reasonable manner, the State may end its program license and recover the fees paid to date to Welligent, Inc. for the program license and any unused, prepaid technical support fees the State has paid for the program license; or (b) the re-performance of the Deficient services, or (c) if Welligent, Inc. cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant services and recover the fees paid to Welligent, Inc. to date for the Deficient services.

1.3 Non-Infringement

Welligent, Inc. warrants that it has good title to, or the right to allow the State to use, all Services, equipment, and Software ("Material") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

1.4 Viruses; Destructive Programming

Welligent, Inc. warrants that the Software shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

1.5 Compatibility

Welligent, Inc. warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software components provided by Welligent, Inc. to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

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WARRANTY AND WARRANTY SERVICES**

1.6 Services

Welligent, Inc. warrants that all Services to be provided under the Contract will be provided expediently, in a professional manner, in accordance with industry standards and that Services will comply with performance standards, Specifications, and terms of the Contract.

1.7 Personnel

Welligent, Inc. 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.

1.8 Breach of Data

Welligent, Inc. shall be solely liable for costs associated with any breach of State data caused by Welligent, Inc. and housed at their location(s) including but not limited to notification and any damages assessed by the courts. Welligent, Inc. is not liable for breaches which are the direct use or misuse of the software by State employees, contractors or end Users of the application. The State shall be solely liable for costs associated with any breach of State data caused by State employees or its end Users from misuse of the Software.

Notwithstanding any provision of this Contract, pursuant to Contract Agreement -Part 2 Section 13.1, the State's option to declare Welligent, Inc. in default, terminate the Contract and pursue its remedies shall remain in effect until satisfactory completion of the full Warranty Period.

3. WARRANTY PERIOD

The Warranty Period shall remain in effect for the duration of the Contract.

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EXHIBIT L
TRAINING SERVICES**

Welligent, Inc. shall provide the following Training Services.

A. TRAINING

All courses are to be offered on-line using conference call and third party webinar services. Following the provision of classes, access to on-line course materials shall be provided for thirty (30) days through the online training library to the extent that it is available.

1. Delivery Method -Instructor-Led Class Training

This method helps build the in-depth knowledge and hands-on experience the State's employees will need to succeed in their job role with Welligent, Inc.. From in-class demonstrations led by experienced Welligent, Inc. instructors, to realistic hands-on labs, Instructor-Led In Class courses provide a dynamic learning environment.

This instruction is targeted to train the group of Users defined as Project Team, Users from Departments and selected Subject Matter Experts (SMEs).

2. Project Team Developed Training

a. Welligent, Inc. and the State agree to an end user training approach to meet training objectives, including:

- 1) developing "in house" experts and end-user support channels that involve and leverage internal resources and subject matter experts (SMEs); and
- 2) leveraging statewide access to computers and the Web by accessing On-line courses whenever possible to lessen time away from the job and reduce travel costs for those who are spread across the State.

b. Key activities of the approach are highlighted below:

User Training Approach	Role and Responsibility	
	Welligent, Inc. Team	State of NH
Develop Training Plan	Lead the development and Implementation of the Training Plan. Provide guidance, coaching, materials, and tools.	Assist in the development and Implementation of the Training Plan.
Develop Curriculum	Analyze skill requirements.	Assist to analyze skill requirements.
	Detail roles, course content, and estimated course length.	Assist to detail roles, course content, and estimated length.

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TRAINING SERVICES**

User Training Approach	Role and Responsibility	
	Welligent, Inc. Team	State of NH
Produce Training Materials and End-User Documentation	Lead the development of materials and Documentation to include: Welligent, Inc. providing baseline Documentation in electronic format that can be modified and reproduced.	Assist in the development of training materials.
	Welligent, Inc. and the State will together Conduct Train-the-Trainers for the State's Central Support Group through Implementation. Welligent, Inc. will assist in the first train the trainer class for each topic.	Attend Train-the-Trainers training. Train additional State End Users.
Conduct Training	Assist to identify an approach and a plan to conduct training needs assessment for Implementation.	Conduct training needs assessment for post go-live.
Evaluate Training Effectiveness		

c. Key User Training Approach Activities

1) Identify State End Users

The Welligent, Inc. Team shall lead the State in identifying and categorizing its end Users:

User Category 1—Power User Training: Power Users are those employees who frequently use the system. Training shall consist of a series of courses based on job functions, on business processes specific to job roles, and associated transactions. The training strategy shall be organized around the State's business processes and detailed transactions that support these processes.

User Category 2—Casual User Training: Casual Users shall access the system for inquiries or report viewing on an occasional basis. Their courses shall focus on the end-to-end business process instruction and structured inquiry exercises.

User Category 3—Specialty Users: Specialty Users include functional and technical analysts. They shall be trained on the software on the basis of assignments, and may include navigation training and module overview/orientation courseware, functional (modules/business process) training, and configuration.

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- 2) Develop Training Plan** The Welligent, Inc. Team shall act as the training lead and shall provide guidance, coaching, materials, and tools to assist the State Team to structure and implement a Training Plan—including a strategy for outlining the scope, roles, audiences, and deployment timeline throughout the Project lifecycle. The Plan is intended to 1) reinforce knowledge comprehension across the State by employing a train-the-trainer approach, 2) train employees on what they need to know and do to perform their jobs effectively, 3) establish an ongoing skills development process, 4) offer training Solutions that address the immediate and ongoing needs of the State to train new hires and transfers, and 5) implement a blended training delivery Solution that utilizes instructor-led (ILT) and On-line training to support learner interaction, and promotes effective, timely, and cost-efficient learning.

The Training Plan shall address the specific curriculum for each user category and provide support for the design, development, and deployment of training for each user category. It shall also provide a blueprint for the State's Team to manage its resources, activities, and timeline throughout the course of the initiative.

- 3) Develop Training Curriculum** Welligent, Inc. shall develop a recommended training curriculum for the State of New Hampshire End Users.
- 4) Produce Training Materials and End-User Documentation** The Welligent, Inc. team shall lead the efforts to produce the training materials and end-user Documentation.

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EXHIBIT M**

Exhibit M does not apply to this agreement.

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EXHIBIT N
CONTRACTOR PROPOSAL BY REFERENCE**

Exhibit N, Contractor Proposal by Reference, does not apply to this agreement.

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EXHIBIT O
CERTIFICATES AND ATTACHMENTS**

Attached are:

- A. Department of Health and Human Services Exhibits C-J
- B. Welligent, Inc. Inc.'s Certificate of Vote/Authority
- C. Welligent, Inc. Inc.'s Certificate of Good Standing
- D. Welligent, Inc. Inc.'s Certificate of Insurance



SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.
3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.
4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.
5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.
7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party fundors for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party fundors, the Department may elect to:
 - 7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
 - 7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

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- 7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:
- 8.1. **Fiscal Records:** books, records, documents and other 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 during the Contract Period, said records to 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.
- 8.2. **Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
- 8.3. **Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.
9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.
- 9.1. **Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.
- 9.2. **Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.
10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.

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Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports:** Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.
 - 11.1. Interim Financial Reports: Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
 - 11.2. Final Report: A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

12. **Completion of Services:** Disallowance of Costs: Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
 - 13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.

15. **Operation of Facilities: Compliance with Laws and Regulations:** 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 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.

16. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to



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subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

- 16.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 16.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
- 16.3. Monitor the subcontractor's performance on an ongoing basis
- 16.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- 16.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

DEFINITIONS

As used in the Contract, the following terms shall have the following meanings:

COSTS: Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

DEPARTMENT: NH Department of Health and Human Services.

FINANCIAL MANAGEMENT GUIDELINES: Shall mean that section of the Contractor Manual which is entitled "Financial Management Guidelines" and which contains the regulations governing the financial activities of contractor agencies which have contracted with the State of NH to receive funds.

PROPOSAL: If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

UNIT: For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

FEDERAL/STATE LAW: Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

CONTRACTOR MANUAL: Shall mean that document prepared by the NH Department of Administrative Services containing a compilation of all regulations promulgated pursuant to the New Hampshire Administrative Procedures Act. NH RSA Ch 541-A, for the purpose of implementing State of NH and federal regulations promulgated thereunder.

SUPPLANTING OTHER FEDERAL FUNDS: The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.



REVISIONS TO GENERAL PROVISIONS

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:
 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, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability 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 of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.

2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language:
 - 10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.
 - 10.2 In the event of early termination, 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, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.
 - 10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.
 - 10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.
 - 10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

JAM
5/20/14



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

**US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services
129 Pleasant Street,
Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
 - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
 - 1.2.1. The dangers of drug abuse in the workplace;
 - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
 - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - 1.4.1. Abide by the terms of the statement; and
 - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency



New Hampshire Department of Health and Human Services
Exhibit D

- has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted
 - 1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - 1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.
2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check if there are workplaces on file that are not identified here.

Contractor Name: Welligent, Inc

5/20/14
Date

JAMCraw
Name: Andy McCraw
Title: President



CERTIFICATION REGARDING LOBBYING

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):

- *Temporary Assistance to Needy Families under Title IV-A
- *Child Support Enforcement Program under Title IV-D
- *Social Services Block Grant Program under Title XX
- *Medicaid Program under Title XIX
- *Community Services Block Grant under Title VI
- *Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-1.)
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor Name: Welligent, Inc

5/20/14
Date

JAMcCraw
Name: Andy McCraw
Title: President



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

New Hampshire Department of Health and Human Services
Exhibit F



information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

- 11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of 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 a contract under a public transaction; 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;
 - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and
 - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

- 13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
 - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).
- 14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Contractor Name: Welligent, Inc

5/20/14
Date

Name: JAMcCraw
Title: Andy McCraw
President



**CERTIFICATION REGARDING
THE AMERICANS WITH DISABILITIES ACT COMPLIANCE**

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to make reasonable efforts to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

Contractor Name: Welligent, Inc

5/20/14
Date

Jamcraaw
Name: Andy McCraaw
Title: President



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Contractor Name: Welligent, Inc

5/20/14
Date

JAMcCraw
Name: Andy McCraw
Title: President



Exhibit I

HEALTH INSURANCE PORTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.



Exhibit I

- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
- m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. "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.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(3) Business Associate Use and Disclosure of Protected Health Information.

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business



Exhibit I

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- e. If the Covered Entity notifies the Business Associate that Covered Entity 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 Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate.

- a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.
- b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:
- o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - o The unauthorized person used the protected health information or to whom the disclosure was made;
 - o Whether the protected health information was actually acquired or viewed
 - o The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

- c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (l). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI



Exhibit I

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- i. Business Associate shall 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 CFR Section 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business



Exhibit I

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) **Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) **Termination for Cause**

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) **Miscellaneous**

- a. **Definitions and Regulatory References.** All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. **Amendment.** Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. **Data Ownership.** The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. **Interpretation.** The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.



Exhibit I

- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) l, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Svcs
The State

Brook Dupee
Signature of Authorized Representative

Brook Dupee
Name of Authorized Representative

Bureau Chief
Title of Authorized Representative

Date

Welligent, Inc
Name of the Contractor

JAMcCraw
Signature of Authorized Representative

Andy McCraw
Name of Authorized Representative

President
Title of Authorized Representative

5/20/14
Date

New Hampshire Department of Health and Human Services
Exhibit J



**CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY
ACT (FFATA) COMPLIANCE**

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$25,000 or more. If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
 - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually and
 - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Contractor Name: Welligent, Inc

5/20/14
Date

Name: J McCraw
Title: Andy McCraw
President

New Hampshire Department of Health and Human Services
Exhibit J



FORM A

As the Contractor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: 112629105

2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

NO YES

If the answer to #2 above is NO, stop here

If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

NO YES

If the answer to #3 above is YES, stop here

If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

Name: _____	Amount: _____

Contractor Initials JAM
Date 5/20/14

ATTACHMENT A – AURIS REPORTS
Existing Stock AURIS System Reports

The following is the list of existing reports in the AURIS System. These reports are part of the stock Welligent AURIS software, have been accepted and are currently being used by the EHDI and the Prenatal Program. Some of the reports not used frequently have been left in place as a platform to create or expand necessary reports for grant reporting and requirements.

EHDI Reports

Hospital Screening Reports (Screenings Prior to Discharge)

- Report of Reasons Not Screened by Hospital
- Report of Risk Indicators
- Report of Screening Tests Administered by Hospital
- Screening Referral Report
- Screening Results by Hospital

Re-Screening Reports (Screenings After Birth)

- Age Breakdown of Infants at the time of the Re-Screening
- Re-Screening Results by Hospital/Facility

Diagnostic Evaluation Reports

- Age Breakdown of Infants at the Time of the Diagnostic Evaluation
- Diagnostic Evaluation Results by Reporting Facilities
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Screening Hospital
- Number Who Received a Diagnostic Evaluation by 3 Months of Age By Facility

Hearing Loss Reports

- EHDI Hearing Screening Summary
- Hearing Loss/Risk Indicator Comparison
- Report of Infants At Earliest Diagnostic Appointment With Diagnosis Of Hearing Loss
- Report of Infants Diagnosed with Hearing Loss

Infant Reports

- Hospital Performance Measures
- Infant Disposition Report
- Infant Disposition Report by Month
- Infants entered into Auris without Addresses
- Infants Transferred to Another Hospital
- Infants by State Code
- Report of Infants Entered into Auris

Hospital Compliance Reports

- Count of Infants entered into Auris by Hospital
- Hospitals with no Infants Entered into Auris in 4 Weeks
- Report of Possible Duplicate Infants in Auris
- Re-Screen Results by Reporting Hospital

Administrative Reports

- Possible New Physicians

Perinatal Program (PCDF) Reports:

- Agency Extract Excel
- Matched Auto
- Matched Manual
- Never Matched
- PCDF Error Messages
- PCDF Report (numbers served and numbers for each item asked on the "form")
- SPSS Extract Text
- SPSS w/no street number Text
- Total Matched

Reports/extracts that are imported monthly from NH AURIS to the MCH Data Linkage Application:

- MCH Extract_Infant_v3
- MCH Extract_Contact_v3
- Prenatal_v4
- Tone Screening_v3
- Tone Followup_v3
- Tone Risk_v3
- Tone Diagnosis_v2
- Condition_v2
- Condition_Screen_v2
- Prenatal_Risk_v2

ATTACHMENT B
BUSINESS REQUIREMENTS

BUSINESS REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
For System Users		
	The system shall allow for the system users to:	
B1.1	Have a unique role-based login consisting of a username and password to access the System	M
B1.2	Add, modify and delete screening, birth, diagnostic and follow-up information based on role	M
B1.3	Run reports based on role	M
For System Administrator(s):		
	The system shall allow for the system administrator(s) to:	
B2.1	Assign and maintain unique user name and password for NH AURIS users, including granting permissions based on role	M
B2.2	Use a unique login consisting of a username and password to access the administrative interface	M
B2.3	Run standard and custom reports for each NH Facility individually and in the aggregate. (See Attachment 2: List of NH AURIS Standard and Custom Reports)	M
B2.4	Perform a functional element file compare of the NH electronic birth certificate record against the NH AURIS database and produce reports of unmatched individuals.	M
B2.5	Access linked (PCDF)data with NH Electronic Birth Record	M
System Features:		
	The successful vendor will provide the NH AURIS System that allows for:	M
B3.1	Up to 150 Named Users within 40 geographically disparate and administratively separate hospitals, follow-up facilities, and intervention agencies	M
B3.2	A help desk for system administrators and select users to access during normal business hours	M
Hosting and General Support Services		
	The Vendor Shall:	M
B4.1	application and database	M
B4.2	Provide to the NH Project Manager, documentation on backup procedures as well as backup power and redundancy	M
B4.3	Provide Documentation as well as documentation updates, to include user manuals, system documentation (logical and physical), and system operations.	O
B4.3a	Provide Project Documentation, both electronic and paper,	M
B4.4	Provide support to DHHS Program Staff	M
B4.5	Provide support to 40 geographically disparate and administratively separate hospitals, followup facilities and intervention agencies.	M
B4.6	Make NH AURIS System enhancements upon request and approval of the State	M
B4.7	Accommodate the training needs of NH AURIS users, via web-based. Trainings will be scheduled to accommodate the training needs of new AURIS users; to instruct existing users on new NH AURIS features; and/or as needed as refreshers for existing users.	M
B4.8	Retain qualified staff to provide training to NH AURIS users	M
B4.9	Provide AURIS Licensing for the duration of the contract .The license shall grant the State a perpetual, nonexclusive, and irrevocable license to the NH AURIS software and its associated documentation	M
	The System Shall:	M
B4.10	Allow New Hampshire DHHS System Administrator(s) and community-based users to enter data and/or submit data via electronic file, in a format mutually agreed upon by State and Vendor .	M

ATTACHMENT B
BUSINESS REQUIREMENTS

B4.11	Allow NH DHHS System Administrator(s) to Update, approve and maintain NH-AURIS System user accounts, including granting permissions based on role	M
B4.12	Allow NH DHHS System Administrator(s) to deduplicate records	M
B4.13	Allow maintenance of NH AURIS form letters	M
B4.14	Allow secure internal messaging between NH AURIS users	M
System Administration		
	The Vendor Shall:	
B5.1	Provide general system administration including, functions related to the day-to-day management of the hardware, software, network system, and databases	M
B5.2	Provide general system administration including, security restriction controls on the Vendor's staff who provide administrative services.	M
B5.3	Provide administrative services to include hosting-site hardware and software administration; code and assessment table maintenance; as well as various data exchanges with other related software systems, e.g. MCH Data Linkages, aka MCH Data Mart	M
B5.4	Administration of the Perinatal Client Data Form (PCDF) via online-form or file upload into Auris.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

APPLICATION SECURITY		
A2.1	Verify the identity or authenticate all of the system client applications before allowing use of the system to prevent access to inappropriate or confidential data or services.	M
A2.2	Verify the identity or authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services. .	M
A2.3	Enforce unique logins for all participants	M
A2.4	Enforce complex passwords for Administrator Accounts of ten characters or more in accordance with DoIT's statewide <i>User Account and Password Policy</i>	M
A2.5	Enforce the use of complex passwords for participants using capital letters, numbers and special characters	M
A2.6	Encrypt passwords in transmission and at rest within the database.	M
A2.7	Authorize users and client applications to prevent access to inappropriate or confidential data or services.	M
A2.8	Provide ability to limit the number of people that can grant or change authorizations	M
A2.9	Establish ability to enforce session timeouts during periods of inactivity.	M
A2.10	Ensure application has been tested and hardened to prevent critical application security flaws. (At a minimum, the application shall be tested against all flaws outlined in the Open Web Application Security Project (OWASP) Top Ten (http://www.owasp.org/index.php/OWASP_Top_Ten_Project))	M
A2.11	Ensure the protection of participants' personal information with HIPAA and FIPS 200 compliance	M
A2.12	Keep any sensitive Data or communications private from unauthorized individuals and programs.	M
A2.13	Subsequent application enhancements or upgrades shall not remove or degrade security requirements	M
A2.14	Data and hardware hosted by third party SSAE-16 accredited data centers	M
A2.15	Data can only be stored and and backed-up in the U.S.	M
A2.16	The application shall not store authentication credentials or sensitive Data in its code.	M
A2.17	Audit all attempted accesses that fail identification, authentication and authorization requirements	M
A2.18	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place. The logs must be kept Monthly.	M
A2.19	The application must allow a user to explicitly terminate a session. No remnants of the prior session should then remain.	M
A2.20	Use only the Software and System Services designed for use	M
A2.21	The application Data shall be protected from unauthorized use when at rest	M

ATTACHMENT B
BUSINESS REQUIREMENTS

Req #	Requirement Description	Criticality
T1.1	The Vendor shall be responsible for security testing, as appropriate. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability.	M
T1.2	Test for Identification and Authentication; supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users	M
T1.3	Test for encryption; supports the encoding of data for security purposes	M
T1.4	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system	M
T1.5	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network	M
T1.6	Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system	M
T1.7	Test Input Validation; ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.	M
T1.8	All components of the Software shall be reviewed and tested to ensure they protect the State's web site and its related Data assets.	M
T1.9	Test for Access Control; supports the management of permissions for logging onto a computer or network	M
T1.10	Test the Digital Signature; guarantees the unaltered state of a file	M
T1.11	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M
T1.12	Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network	M
T1.13	Prior to the System being moved into production, the Vendor shall provide results of all security testing to the Department of Information Technology for review and acceptance.	M
T2.1	The Vendor must perform application testing using an industry standard and State approved testing methodology, including but not limited to, user acceptance testing.	M
T2.2	The Vendor must perform application stress testing and tuning.	O
T2.3	Vendor shall provide results of all testing to the Department of Information Technology for review and acceptance.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
OPERATIONS		
H1.1	Vendor shall maintain a secure hosting environment providing all necessary hardware, software, and Internet bandwidth to manage the application and support users with permission based logins.	M
H1.2	State access will be via Internet Browser	M
H1.3	At the State's option, authorized third parties may be given limited access by the Vendor to certain levels of the State's system through the VPN or through a separate network connection that meets the Vendor's specifications.	M
H1.4	At a minimum, the System should support this client configuration; Pentium 4, 630/3.0GHz PC, Microsoft Windows XP Professional Version 2002, Internet Explorer 6, and 128 bit encryption.	M
H1.5	The State will be responsible for equipment, labor, and /or services necessary to set-up and maintain the internet connectivity at the State and/or other third party sites.	M
H1.6	Vendor will not be responsible for network connection issues, problems or conditions arising from or related to circumstances outside the control of the Vendor, ex: bandwidth, network outages and /or any other conditions arising on the State's internal network or, more generally, outside the Vendor's firewall or any issues that are the responsibility of the State Internet Service Provider.	M
H1.7	Vendor shall provide a secure Class A Data Center providing equipment (including dedicated servers), an on-site 24/7 system operator, managed firewall services, and managed backup Services.	M
H1.8	Data Center Air Conditioning – used to control temperature and humidity in the Data Center. Temperature ranges shall be between 68 and 75 °F.	M
H1.9	Data Center Humidity shall be non-condensing and be maintained between 40-55% with a maximum dew point of 62 °F.	M
H1.10	Data Center Backup Power – uninterruptible power supplies shall be sized to sustain computer systems and associated components for, at a minimum, the amount of time it takes for a backup generator to take over providing power. Where possible, servers shall contain redundant power supplies connected to commercial power via separate feeds.	M
H1.11	Data Center Generator – shall be sufficient to sustain computer systems and associated components for, at a minimum, the amount of time it takes for commercial power to return. Fuel tanks shall be large enough to support the generator at -full load for a period not less than 1 ½ days of operation.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
H1.12	Data Center Floor – A raised floor is required for more uniform air circulation in the form of a plenum for cold air as well as to provide space for power cabling and wetness monitoring.	M
H1.13	Data Center Fire Protection System – fire detectors in conjunction with suppression gaseous systems must be installed to reduce the risk of loss due to fire.	M
H1.14	The Data Center must be physically secured – restricted access to the site to personnel with controls such as biometric, badge, and others security solutions. Policies for granting access must be in place and followed. Access shall only be granted to those with a need to perform tasks in the Data Center.	M
H1.15	Vendor must monitor the application and all servers.	M
H1.16	Vendor shall manage the databases and services on all servers located at the Vendor's facility.	M
H1.17	Vendor shall install and update critical security patches within one week and OS patches as needed after six months of their being released unless there is an issue requiring the newer patches.	M
H1.18	Vendor shall monitor System, security, and application logs.	M
H1.19	Vendor shall manage the sharing of data resources.	M
H1.20	Vendor shall manage daily backups, off-site data storage, and restore operations.	M
H1.21	The Vendor shall monitor physical hardware.	M
H1.22	The Vendor shall immediately report any breach in security to the State of New Hampshire.	M
DISASTER RECOVERY		
H2.1	Vendor shall conform to adequate disaster recovery procedures as defined by the State of New Hampshire.	M
H2.2	Vendor shall have documented disaster recovery plans that address the recovery of lost State data as well as their own. Systems shall be architected to meet the defined recovery needs.	M
H2.3	The disaster recovery plan shall identify appropriate methods for procuring additional hardware in the event of a component failure. In most instances, systems shall offer a level of redundancy so the loss of a drive or power supply will not be sufficient to terminate services however, these failed components will have to be replaced.	M
H2.4	Vendor shall adhere to a defined and documented back-up schedule and procedure.	M
H2.5	Back-up copies of data are made for the purpose of facilitating a restore of the data in the event of data loss or System failure.	M
H2.5.1	Vendor shall provide quarterly backups of the NH AURIS Oracle data files to the State.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
H2.6	Scheduled backups of all servers must be completed regularly. At a minimum, Bluehost servers shall be backed up nightly, with one daily, one weekly, and one monthly backup stored in a secure location to assure data recovery in the event of disaster.	M
H2.7	The minimum acceptable frequency is differential backup daily, and complete backup weekly.	M
H2.8	Tapes or other back-up media tapes must be securely transferred from the site to another secure location to avoid complete data loss with the loss of a facility.	M
H2.9	If State data is personally identifiable, data must be encrypted in the operation environment and on back up tapes.	M
H2.10	Data recovery – In the event that recovery back to the last backup is not sufficient to recover State Data, the Vendor shall employ the use of database logs in addition to backup media in the restoration of the database(s) to afford a much closer to real-time recovery. To do this, logs must be moved off the volume containing the database with a frequency to match the business needs.	M
NETWORK ARCHITECTURE		
H3.1	The Vendor must operate hosting Services on a network offering adequate performance to meet the business requirements for the State application. For the purpose of this RFP, adequate performance is defined as 99.9% uptime, exclusive of the regularly scheduled maintenance window.	M
H3.2	The Vendor shall provide network redundancy deemed adequate by the State by assuring redundant connections provided by multiple Internet Vendors, so that a failure of one Internet connection will not interrupt access to the State application.	M
H3.3	Where redundant connections are not provided, then the Internet Vendor who provides the Internet service to the Vendor must have their service supplied by a provider(s) that has multiple feeds to ensure that a failure in one of the larger carriers will not cause a failure of the State's Service.	M
H3.4	The Vendor' network architecture must include redundancy of routers and switches in the Data Center.	M
H3.5	Remote access shall be customized to the State's business application. In instances where the State requires access to the application or server - resources not in the DMZ, the Vendor shall provide remote desktop connection to the server through secure protocols such as a Virtual Private Network (VPN).	N/A
HOSTING SECURITY		
H4.1	The Vendor shall employ security measures ensure that the State's application and data is protected.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
H4.2	If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted.	M
H4.3	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, shall have aggressive intrusion-detection and firewall protection.	M
H4.4	All components of the infrastructure shall be reviewed and tested to ensure they protect the State's hardware, software, and its related data assets. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide confidentiality, integrity and availability.	M
H4.5	In the development or maintenance of any code, the Vendor shall ensure that the Software is independently verified and validated using a methodology determined appropriate by the State. All software and hardware shall be free of malicious code.	M
H4.6	The Vendor shall notify the State's Project Manager of any security breaches within two (2) hours of the time that the Vendor learns of their occurrence.	M
H4.7	The Vendor shall ensure its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the Vendor' hosting infrastructure and/or the application.	M
H4.8	The Vendor shall be solely liable for costs associated with any breach of State data housed at their location(s) including but not limited to notification and any damages assessed by the courts.	M
H4.9	Welligent shall perform security audits, including vulnerability assessments, of Welligent's hosting infrastructure and/or the application.	M
H4.10	Logging should go to centralized logs server for security reasons. Logs should include System, Application, Web and Database logs.	M
H4.11	OS and DB should be built and hardened wherever possible to guidelines set forth by: CIS (Center Internet Security), NIST, and NSA	M
H4.12	The Vendor shall provide fire detection and suppression system, physical security of and infrastructure security of the proposed hosting facility. The environmental support equipment of the Vendor website hosting facility: power conditioning; HVAC; UPS; generator must be acceptable to the State.	M

SERVICE LEVEL AGREEMENT

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
H5.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M
H5.2	Maintain the hardware and Software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M
H5.3	Repair or replace the hardware or Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M
H5.4	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:30am to 5:00pm- Monday thru Friday EST;	M
H5.5	The Vendor response time for support shall conform to the specific deficiency class as described below: <ul style="list-style-type: none"> o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service. 	M
H5.6	As part of the Software maintenance agreement, ongoing software maintenance and support issues, shall be responded to according to the following: <ul style="list-style-type: none"> a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request; b. Class B & C Deficiencies –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract; 	M
H5.7	The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

HOSTING-CLOUD REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
H5.8	The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.	M
H5.9	A regularly scheduled maintenance window shall be identified (such as weekly, monthly, or quarterly) at which time all relevant server patches and application upgrades shall be applied.	M
H5.10	The Vendor response time for support shall conform to the specific deficiency class as described in requirement H5.6 above.	M
H5.11	Deficiencies are defined in requirement H5.5 above.	M
H5.12	The Vendor will give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M
H5.13	The Vendor shall guarantee 99.9% uptime, exclusive of the regularly scheduled maintenance window	M
H5.14	If The Vendor is unable to meet the 99.9% uptime requirement, The Vendor shall credit State's account in an amount based upon the following formula: (Total Contract Item Price/365) x Number of Days Contract Item Not Provided. The State must request this credit in writing.	M
H5.15	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M
H5.16	A critical outage will be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem.	M
H5.17	All hardware and software components of the Vendor hosting infrastructure shall be fully supported by their respective manufacturers at all times. All critical patches for operating systems, databases, web services, etc, shall be applied within sixty (60) days of release by their respective manufacturers.	M
H5.18	The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: Server up-time; All change requests implemented, including operating system patches; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close.	M
H5.19	The Vendor shall provide the State with a personal secure FTP site to be used the State for uploading and downloading files.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

SUPPORT & MAINTENANCE REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
SUPPORT & MAINTENANCE REQUIREMENTS		
S1.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M
S1.2	Maintain the hardware and Software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M
S1.3	Repair or replace the hardware or Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M
S1.4	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:30am to 5:00pm- Monday thru Friday EST:	M
S1.5	The Vendor response time for support shall conform to the specific deficiency class as described in H5.5 and H5.6.	M
S1.6	The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.	M
S1.7	The Vendor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.	M
S1.8	The Vendor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;	M
S1.9	For all maintenance Services calls, The Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information; 6) Resolved by; 7) Identifying number i.e. work order number; and, 8) Issue identified by.	M
S1.10	The Vendor must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.	M
WARRANTY SERVICES		
S2.1	a. Maintain the System Software in accordance with the Specifications and Terms of the Contract;	M
S2.2	b. Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms and requirements of the Contract;	M
S2.3	c. The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, twenty four (24) hours per day and seven (7) days a week with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;	M
S2.4	e. Maintain a record of the activities related to warranty repair or maintenance activities performed for the State;	M

DHHS 2014-125 AURIS Hosting, Maintenance, Operations Support Services

Welligent, Inc. Initials *JAM*

Date *5/20/14*

ATTACHMENT B
BUSINESS REQUIREMENTS

SUPPORT & MAINTENANCE REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
S2.5	f. For all Warranty Service calls, the Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information; 6) resolved by 7) Identifying number i.e. work order number; 8) issue identified by.	M
S2.6	g. The Vendor must work with the State to identify and troubleshoot potentially large-scale Software failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems; and	M
S2.7	h. All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by the Vendor no later than 5 business days, unless specifically extended in writing by the State, and at no additional cost to the State.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

PROJECT MANAGEMENT		
State Requirements		
Req #	Requirement Description	Criticality
PROJECT MANAGEMENT		
P1.1	All user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence must be maintained as project documentation. Documentation shall be maintained in a mutually agreeable format and location.	M
P1.2	Welligent Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract.	M

ATTACHMENT B
BUSINESS REQUIREMENTS

SOFTWARE TRAINING REQUIREMENTS		
State Requirements		
Req #	Requirement Description	Criticality
SUPPORT & MAINTENANCE REQUIREMENTS		
P1.1	Training per Contract Exhibit L.	M

WELLIGENT CERTIFICATE OF AUTHORITY

I, Charles Sutelan of Welligent, Inc., a corporation in Norfolk, Virginia, do hereby certify:

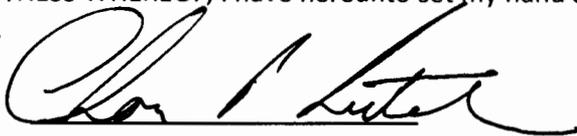
1. I am the duly appointed CEO for the Corporation;
2. I maintain and have custody of am familiar with the seal and minute books of the Corporation;
3. I am duly authorized to issue certificates with respect to the contents of such books and to affix such seal to such certificates;
4. The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 20th day of May, 2014, which meeting was duly held in accordance with the New Hampshire law and the by-laws of the corporation:

RESOLVED: That this corporation may enter into any and all contracts, amendments, renewals, revisions or modifications thereto, with the State of New Hampshire, acting through its Department of Health and Human Services, and that the CEO and President (or any of them acting singly), be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into contracts with the State and to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements, and other instruments and any amendments, revisions or modifications thereto, as he/she may deem necessary, desirable or appropriate.

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby:

1. The foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever and remain in full force and effect as of the date hereof; and
2. The following person(s) lawfully occupy the offices indicated below: Charles P. Sutelan, CEO, and Andrew McCraw, President.

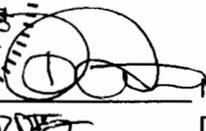
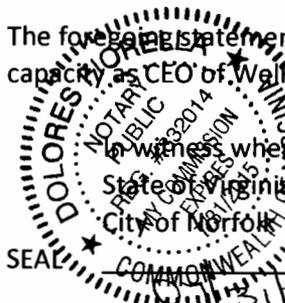
IN WITNESS WHEREOF, I have hereunto set my hand as the President of the Corporation this 20th day of May, 2014.



Charles Sutelan, CEO

The foregoing statement was acknowledged before me this 20th day of May, 2014, by Charles Sutelan in his capacity as CEO of Welligent, Inc., on behalf of said entity.

I, _____, witness whereof I hereunto set my hand and official seal.



Notary Public

Date Commissioner Expires

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that WELLIGENT, INC. a(n) Virginia corporation, is authorized to transact business in New Hampshire and qualified on May 2, 2003. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 3rd day of April, A.D. 2014

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

