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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES

Lori A. Shibanette
Commissioner

Lisa M. Morris
Director

29 HAZEN DRIVE, CONCORD, NH 03301
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March 18, 2020

His Excellency, Governor Christopher T. Sununu
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 **Retroactive, Sole Source** amendment to an existing contract with Susan Fischer Davis, M.D. (VC#302124), Concord, NH for clinical consulting services, by increasing the price limitation by \$75,000 from \$207,357 to \$282,357 with no change to the contract completion date of June 29, 2021 retroactive to March 9, 2020 upon Governor and Council approval. The original contract was approved by Governor and Council on April 17, 2019, item #20. 100% Federal Funds.

Funds are available in the following accounts for State Fiscal Years 2020 and 2021, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-90-902010-12270000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF POPULATION HEALTH AND COMMUNITY SERVICES, COMBINED CHRONIC DISEASE

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2019	102-500731	Contracts for Prog Svc	90017003	\$46,080	\$0	\$46,080
2019	102-500731	Contracts for Prog Svc	90017002	\$23,039	\$0	\$23,039
2020	102-500731	Contracts for Prog Svc	90017003	\$46,080	\$0	\$46,080
2020	102-500731	Contracts for Prog Svc	90017002	\$23,039	\$0	\$23,039
2021	102-500731	Contracts for Prog Svc	90017003	\$46,080	\$0	\$46,080
2021	102-500731	Contracts for Prog Svc	90017002	\$23,039	\$0	\$23,039
			Subtotal	\$207,357	\$0	\$207,357

05-95-90-902510-70390000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF INFECTIOUS DISEASE CONTROL, PUBLIC HEALTH CRISIS RESPONSE

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Prog Svc	90027027	\$0	\$50,000	\$50,000
2021	102-500731	Contracts for Prog Svc	90027027	\$0	\$25,000	25,000
			Subtotal	\$ 0	\$75,000	\$75,000
			Totals	\$207,357	\$75,000	\$282,357

EXPLANATION

This request is **Retroactive** and **Sole Source** to allow the Department to increase clinical capacity to effectively respond to the COVID 19 Pandemic. As previously stated, the original contract was approved by Governor and Council on April 17, 2019, Item #20.

The purpose of this request is to secure access to an infectious disease and epidemiology consultant who can provide consultation in infectious disease case and outbreak management and infectious disease prevention services to support the Department's response to COVID 19 Pandemic. The vendor will continue to provide clinical consultation on diabetes and heart disease to the Department.

The Contractor will be providing consultation on a daily basis to Bureau of Infectious Disease Control staff as they investigate infectious disease and respond to outbreaks. They will be providing healthcare provider communication such as health alters and clinical guidance on the COVID 19 Pandemic. The Contractor will respond to healthcare providers and Department staff to inform, investigate, and recommend strategies for disease control measures and public health emergency response. In regards to clinical consultation on diabetes and heart disease, the Contractor will be providing the Department with review and reports on the prevalence, incidence and mortality rates of diabetes and heart disease.

The Department will monitor contracted services using the following performance measures:

- Monthly report summarizing the work completed;
- One (1) written report, educational material or presentation;
- One (1) written update for the Department two (2) days prior to the monthly CDC Project Officer calls.

As referenced in Exhibit C-1 of the original contract, the parties have the option to extend the agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is not exercising its option to renew at this time.

Should the Governor and Council not authorize this request the Department would lack the ability to effectively respond to the COVID 19 Pandemic.

Area served: Statewide

Source of Funds: 100% Federal Funds from the Centers of Disease Control CFDA #93.354/ FAIN # TBD

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lori A. Shibinette', with a long horizontal flourish extending to the right.

FOY . Lori A. Shibinette
Commissioner



**New Hampshire Department of Health and Human Services
Clinical Consultant**

**State of New Hampshire
Department of Health and Human Services
Amendment #1 to the Clinical Consultant**

This 1st Amendment to the Clinical Consultant contract (hereinafter referred to as "Amendment #1") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Susan Fischer Davis, M.D., (hereinafter referred to as "the Contractor"), a consultant with a place of business at 122 School Street Concord, NH 03301.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on April 17, 2019, (Item #20), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

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

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

1. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:
\$282,357
2. Modify Exhibit A, Scope of Services by replacing in its entirety with Exhibit A Amendment #1, Scope of Services, which is attached hereto and incorporated by reference herein.
3. Exhibit B, Methods and Conditions Precedent to Payment, Section 2, to read:
 2. This Agreement is funded with funds from the Centers for Disease Control, CFDA #93.426, Federal Award Identification Number (FAIN) NU58DP006515 and Centers of Disease Control CFDA #93.354 Federal Award Identification Number (FAIN) TBD.
4. Exhibit B, Methods and Conditions Precedent to Payment, Section 4, Subsection 4.1, to read:
 - 4.1 Payment shall be on an hourly reimbursement rate of one hundred (\$100) per hour inclusive of travel, for actual hours worked, and shall not exceed \$282,357.

New Hampshire Department of Health and Human Services
Clinical Consultant



All terms and conditions of the Contract not inconsistent with this Amendment #1 remain in full force and effect. This amendment shall be retroactively effective to March 9, 2020 or upon the date of Governor and Executive Council approval.

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

State of New Hampshire
Department of Health and Human Services

3/18/2020
Date

[Signature]
for Name: Lisa Morris
Title: Director

Susan Fischer Davis, M.D.

March 18, 2020
Date

[Signature]
Name: Susan Fischer Davis, M.D.
Title: Clinical Consultant

Acknowledgement of Contractor's signature:

State of New Hampshire County of Merrimack on March 18, 2020 before the undersigned officer, personally appeared the person identified directly above, or satisfactorily proven to be the person whose name is signed above, and acknowledged that s/he executed this document in the capacity indicated above.

[Signature]
Signature of Notary Public or Justice of the Peace

[Signature]
Name and Title of Notary or Justice of the Peace

My Commission Expires: 12/6/22

BARBARA A. WHITE, NOTARY PUBLIC
STATE OF NEW HAMPSHIRE
MY COMMISSION EXPIRES December 6, 2022

New Hampshire Department of Health and Human Services
Clinical Consultant



The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

3/22/20
Date

Christina Assistant Attorney General
Name:
Title:

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor agrees that, to the extent future legislative action by the New Hampshire General Court or federal or state court orders may have an impact on the Services described herein, the Department has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.
- 1.2. For the purposes of this Agreement, the Department has identified the Contractor as a contractor in accordance with 2 CFR 200.300.
- 1.3. The Contractor shall work on-site at the New Hampshire Department of Health and Human Services, Division of Public Health Services, 29 Hazen Drive, Concord, New Hampshire, the Contractor shall provide the following consultative services to the Department:
 - 1.3.1. Infectious disease prevention services consultant
 - 1.3.2. Heart disease, stroke, and diabetes consultant

2. Scope of Services – Infectious Disease Prevention Services Consultant – Funded by Public Health Crisis Response Grant.

- 2.1. The Contractor shall provide consultation on a daily basis to Bureau of Infectious Disease Control staff as they investigate infectious diseases and respond to outbreaks.
- 2.2. The Contractor shall serve as subject matter expert in novel coronavirus infectious disease responses.
- 2.3. The Contractor shall develop healthcare provider communication materials that include, but are not limited to:
 - 2.3.1. Health alerts.
 - 2.3.2. Clinical guidance.
- 2.4. The Contractor shall respond to requests from healthcare providers and Department staff to inform, investigate, and recommend strategies for disease control measures and public health emergency response.

3. Scope of Services – Heart Disease and Diabetes Consultant- Funded by Combined Chronic Disease – State Fiscal Year 2020

- 3.1. The Contractor shall be the liaison between the Department, public health professionals and medical providers on chronic diseases clinical best



Exhibit A, Amendment # 1

- practices and guidelines with a focus on heart disease and diabetes prevention and management and evidence-based public health strategies by providing professional and technical consultation.
- 3.2. The Contractor shall maintain a working knowledge of heart disease, stroke and diabetes clinical guidelines and evidence-based public health strategies.
 - 3.3. The Contractor shall represent Chronic Disease programs at Department meetings with contractors and partners by establishing new relationships and maintaining working relationships with community, state and federal clinical and public health professionals that include but are not limited to:
 - 3.3.1. Health and education agencies.
 - 3.3.2. Community health centers.
 - 3.3.3. Local and national voluntary agencies and associations.
 - 3.3.4. Private sector.
 - 3.3.5. Federal agencies.
 - 3.4. The Contractor shall assist Chronic Disease programs to develop and implement heart disease and diabetes quality improvement initiatives in health systems, statewide.
 - 3.5. The Contractor shall assist the Department, as requested, with drafting press releases and other communications that may include but are not limited to social media messages, regarding important findings related to diabetes, heart disease and stroke.
 - 3.6. The Contractor shall provide guidance on the epidemiology of heart disease, stroke, and diabetes for NH with national comparison.
 - 3.7. The Contractor shall review and edit outreach and educational products produced by Chronic Disease programs, contractors and partners, as needed, as clinical guidelines and practices change over time. The Contractor shall:
 - 3.7.1. Review educational products and consult with the Department on any discrepancies; and
 - 3.7.2. Edit educational products in accordance with current clinical guidelines and best practices.
 - 3.8. The Contractor shall assist Department staff with writing grant applications and reports.
 - 3.9. The Contractor shall provide guidance and education to Department staff on heart disease and diabetes best practices and clinical guidelines in formats that include, but are not limited to:
 - 3.9.1. Written communications.



- 3.9.2. One-on-one with program managers.
- 3.9.3. Group settings.

4. Scope of Services – Heart Disease and Diabetes Consultant- Funded by Combined Chronic Disease – State Fiscal Year 2021

- 4.1. The Contractor shall respond to inquiries from the general public, Department contractors and partners on heart disease and diabetes.
- 4.2. The Contractor shall provide information regarding heart disease that includes, but is not limited to:
 - 4.2.1. Updated state, county, and age group mortality data through 2017 and beyond, as data become available, which may include but is not limited to:
 - 4.2.2. Additional demographic information that may include but is not limited to, gender and race.
 - 4.2.3. Trends over time statewide and by selected demographics.
 - 4.2.4. Supplement analysis with other data sources to fill in epidemiological pictures, which may include but is not limited to:
 - 4.2.4.1. BRFSS.
 - 4.2.4.2. Hospital discharge data.
 - 4.2.4.3. Claims data.
- 4.3. The Contractor shall define more precisely possible contributions of opioid deaths to increases in mortality.
- 4.4. The Contractor shall define specific causes of heart disease, which may include but is not limited to:
 - 4.4.1. Coronary artery disease.
 - 4.4.2. Pulmonary heart disease.
 - 4.4.3. Ischemic heart disease.
- 4.5. The Contractor shall review and report on diabetes and hypertension as independent contributing causes of death on death certificates with heart disease as the underlying cause of death.
- 4.6. The Contractor shall identify costs related to heart disease mortality.
- 4.7. The Contractor shall integrate data and studies showing that mortality rates for heart disease tend to be higher in non-metropolitan areas (as does prevalence of risk factors such as obesity, hypertension, lack of access to health care, and physical inactivity), which shall be presented to community-based practitioners, Department colleagues, and other organizations/committees/ individuals.



Exhibit A, Amendment # 1

- 4.8. The Contractor shall work closely with Chronic Disease program management to be sure interventions and efforts are targeted in areas showing greatest need based on epidemiology.
- 4.9. The Contractor shall provide information regarding strokes to the Department that includes, but is not limited to:
 - 4.9.1. Updated state, county, and age group mortality data through 2017 and beyond, as data become available and as numbers allow, as well as additional demographic information that may include but is not limited to:
 - 4.9.2. Gender and race.
 - 4.9.3. Trends over time statewide and by selected demographics.
 - 4.9.4. Supplement analysis with other data sources to fill in epidemiological pictures, which may include but is not limited to:
 - 4.9.4.1. BRFSS.
 - 4.9.4.2. Hospital discharge data.
 - 4.9.4.3. Claims data.
- 4.10. The Contractor shall define specific pathophysiology of stroke epidemiology, which may include, but is not limited to:
 - 4.10.1. Ischemic stroke.
 - 4.10.2. Hemorrhagic stroke.
 - 4.10.3. Transient ischemic attack
- 4.11. The Contractor shall review and report on diabetes and hypertension as independent contributing causes of death on death certificates with stroke as the leading cause of death.
- 4.12. The Contractor shall identify costs related to stroke mortality.
- 4.13. The Contractor shall provide information regarding diabetes to the Department, that includes, but is not limited to:
 - 4.13.1. A Review and report on diabetes prevalence, incidence, mortality rates, and trends over time statewide and nationwide, which may include but is not limited to:
 - 4.13.1.1. Diabetes as contributing causes of death on death certificates with heart disease and stroke (independently) as the underlying cause of death.
 - 4.13.1.2. Prediabetes data in statewide and nationwide with particular attention to younger age groups.
 - 4.13.1.3. Additional demographics, which may include but are not limited to gender and race.



4.13.1.4. Other data sources to fill in epidemiological picture, which may include BRFSS.

4.14. The Contractor shall review and provide information regarding risk factors for heart disease, stroke, and diabetes. The Contractor shall:

4.14.1. To the extent possible, define the prevalence and relative contribution to these diseases of known risk factors with focus on hypertension and obesity (see 12/19/19 NEJM article: Projected U.S. State-Level Prevalence of Adult Obesity and Severe Obesity and 9/2019 Trust for America's Health report: The State of Obesity: Better Policies for a Healthier America, 2019).

4.14.2. Describe demographics, which may include but is not limited to:

4.14.3. Gender.

4.14.4. Race.

4.14.5. Age groups.

4.14.6. Geographic regions.

5. Scope of Services – Heart Disease and Diabetes Consultant-Funded by Combined Chronic Disease – State Fiscal Years 2020 and 2021

5.1. The Contractor shall work collaboratively with and serve as liaison between Centers for Disease Control and Prevention, Bureau of Health Statistics and Informatics, Chronic Disease Epidemiologist, and Chronic Disease Program Management.

5.2. The Contractor shall participate in related professional development trainings and meetings as requested by the Department.

5.3. The Contractor shall review Department and Centers for Disease Control (CDC) evidence based materials.

5.4. The Contractor shall meet all information security and privacy requirements, as established by the Department.

5.5. The Contractor shall have the following licenses and certifications:

5.5.1. A valid and unrestricted Medical Doctorate license.

5.5.2. A valid driver's license and be free from any mental or physical impairment or conditions which would preclude the Contractor's ability to competently perform the functions or duties under this Agreement.



6. Reporting

- 6.1. The Contractor shall submit monthly Activity Reports no later than the 20th business day of each month that include, but are not limited to:
 - 6.1.1. A summary of the work performed during the previous month.
 - 6.1.2. An invoice for reimbursement, in a format approved by the Department.
- 6.2. The Contractor shall oversee development and dissemination of annual 'New Hampshire Leading Causes of Death Brief,' which includes but is not limited to the 10 leading causes of death in NH by:
 - 6.2.1. Counts.
 - 6.2.2. Rate per 100,000.
 - 6.2.3. Gender counts and rates per 100,000.
 - 6.2.4. Age grouping where possible (may only be for heart disease and cancer).
 - 6.2.5. Geographic distribution of deaths by county.

7. Deliverables

- 7.1. The Contractor shall provide a minimum of one (1) technical consult to the Department, and/or medical or public health professionals, each month of the contract period.
- 7.2. The Contractor shall provide a summary of each consult in the monthly report described in Section 4. Reporting.
- 7.3. The Contractor shall provide a minimum of one (1) product each month of the contract period, which may include but is not limited to:
 - 7.3.1. Written reports.
 - 7.3.2. Educational material.
 - 7.3.3. Presentations.
- 7.4. The Contractor shall provide a minimum of one (1) written update for Department review no later than two (2) business days prior to the scheduled monthly CDC Project Officer calls.
- 7.5. The Contractor shall develop and submit a Corrective Action Plan for any deliverable not met to the Department by May 30th each year of the contract period.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/14/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USAA INSURANCE AGENCY INC/PHS 65812845 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	CONTACT NAME: PHONE (888) 242-1430 FAX (888) 443-6112 (A/C, No, Ext): (A/C, No):	
	E-MAIL ADDRESS:	
INSURED Susan Fischer Davis 122 SCHOOL ST, CONCORD NH 03301-2909	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Twin City Fire Insurance Company	NAIC# 29459
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> General Liability			65 SBM AA3274	03/14/2020	03/14/2021	EACH OCCURRENCE \$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:						DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000
							MED EXP (Any one person) \$10,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
							PRODUCTS - COMPROP AGG \$2,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person)
							BODILY INJURY (Per accident)
							PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB EXCESS LIAB						EACH OCCURRENCE
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						AGGREGATE
	DED: RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER
							E.L. EACH ACCIDENT
							E.L. DISEASE - EA EMPLOYEE
							E.L. DISEASE - POLICY LIMIT
A	EMPLOYMENT PRACTICES LIABILITY			65 SBM AA3274	03/14/2020	03/14/2021	Each Claim Limit \$10,000 Aggregate Limit \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Those usual to the Insured's Operations.

CERTIFICATE HOLDER NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES 129 PLEASANT ST CONCORD NH 03301-3852	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Suzan D. Castaneda</i>
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SUSAN FISCHER DAVIS, M.D.

122 School Street
Concord, New Hampshire 03301
(804) 512-2156
sfischer.davis@yahoo.com

EDUCATION AND TRAINING

M.D.	Dartmouth Medical School, 1987 Hanover, New Hampshire
B.A.	Smith College, 1981 Northampton, Massachusetts
Preventive Medicine Residency	Centers for Disease Control and Prevention, 1991-1993 Atlanta, Georgia
Epidemic Intelligence Service, Fellowship	Centers for Disease Control and Prevention, 1990-1992 Atlanta, Georgia
Intern, Internal Medicine	Newton-Wellesley Hospital, 1987-1988 Tufts University Newton, Massachusetts

PROFESSIONAL AND WORK EXPERIENCE

4/2019 - present **Clinical Consultant**
Division of Public Health Services (DPHS)
New Hampshire Department of Health and Human Services (DHHS)
Concord, New Hampshire

Provide epidemiologic, subject matter expertise, and technical consultation to DPHS and serve as a liaison between DPHS and public health professionals and medical providers on evidence-based public health strategies and epidemiology related to chronic diseases with a focus on heart disease, stroke, and diabetes.

10/2017 – 7/2018 **Bureau Chief, Public Health Statistics and Informatics**
Division of Public Health Services
New Hampshire Department of Health and Human Services
Concord, New Hampshire

Directed and oversaw a Bureau responsible for critical public health data systems, New Hampshire Division of Public Health's interactive data portal (WISDOM) which is dedicated to compiling and displaying information from many datasets on hundreds of health-related indicators, and the analysis and integration of data and technology to optimize the sharing of public health information to be used to improve health outcomes. Worked collaboratively with other Bureaus and Divisions within the Department of Health and Human Services, and with other federal, state, and community partners. Data collected, analyzed, and maintained by the Bureau included the Behavioral Risk Factor Surveillance Survey (BRFSS), the Youth Risk Behavior Survey (YRBS), and the New Hampshire Hospital Discharge Data.

8/2009 – 9/2017 **Director, Henrico Health District**
Henrico County Health Department
Virginia Department of Health (VDH)
Richmond, Virginia

Began as Acting Director and assumed directorship in 12/2009. Oversaw all operations of local health department including administration; \$7,100,000 budget; human resources; epidemiology; environmental health; emergency planning, coordination, and response; population health; clinical services, including refugee health, maternity, family planning, sexually transmitted infections, tuberculosis control, and immunization. Managed a staff of ~100 employees, including 8-10 direct reports. Worked closely and collaboratively with constituents in community including county officials, private physicians, Federally Qualified Health Centers, and other health care providers to keep them up-to-date and informed about public health issues; collaborated with other district health directors and state and federal agencies. Served on interdisciplinary Henrico County Heroin Task Force. Led response to emerging public health threats, including Zika, Ebola, and the 2009 H1N1 influenza outbreak. Served as Incident Commander for large tuberculosis contact investigation. Directed planning and implementation for \$6,500,000 clinic in East Henrico. Health District comprised of Henrico County (population ~330,000).

8/2010 – 1/2012 **Acting Director, Chickahominy Health District**
Virginia Department of Health (VDH)
Richmond, Virginia

While serving as Director for Henrico Health District, oversaw all operations of a second local health department. Initiated and oversaw major structural re-organization. Chickahominy Health District comprised of Goochland, Hanover, New Kent, and Charles City counties (total population ~150,000).

6/2008 – 6/2010 Acting Assistant Editor and Associate Editor
MMWR *Series*
Editorial and Production Staff
Centers for Disease Control and Prevention
Atlanta, Georgia
(worked remotely from Richmond, Virginia)

Medical editor for manuscripts submitted for publication in serial MMWR *Series*. Worked with MMWR editor and writer-editors at all draft stages of manuscripts. Consulted with authors of manuscripts as needed.

2/2006 – 5/2008 Deputy Director
Office of Epidemiology
Virginia Department of Health
Richmond, Virginia

Began as Acting Deputy Director and assumed deputy directorship in 9/2006. Directly oversaw activities and supervision of personnel within Divisions of Environmental Epidemiology and Radiological Health. Indirectly oversaw activities and supervision of personnel within Divisions of Immunization, Disease Prevention, and Surveillance and Investigation. Assisted with management of IT issues related to staffing and technical needs of Divisions. Worked directly with members of General Assembly on all aspects of legislative process, including preparation of legislative action summaries, fiscal impact statements, and talking points for health-related bills. Provided medical and epidemiologic advice to Divisions within Office of Epidemiology, medical practitioners, health district personnel, and general public. Secondary supervisor for Virginia-assigned EIS officer. Responded to issues raised by VDH senior management. Served as VDH representative on multi-disciplinary Governor-Appointed Biosolids Expert Panel studying impact of land application of biosolids on human health and the environment. Final report presented to the Governor in January 2009. Worked collaboratively with other offices within VDH and with other state and federal agencies. Assumed directorship of Office of Epidemiology in absence of Director.

9/2005 – 9/2006 Acting Director
Division of Zoonotic and Environmental Epidemiology
Office of Epidemiology
Virginia Department of Health
Richmond, Virginia

Directed Division of Zoonotic and Environmental Epidemiology (DZEE). Supervised State Public Health Veterinarian, manager of environmental health section, and State Public Health Entomologist, and CSTE Epidemiology Fellow, among other staff. Provided medical, technical, and epidemiologic advice to DZEE staff, medical practitioners, health district personnel, and general public. Subject matter areas included rabies, avian influenza, WNV, harmful algae, and

monitoring of environmental contamination of Virginia beaches. Worked collaboratively with Virginia Department of Game and Inland Fisheries, Department of Agriculture and Consumer Services, Department of Environmental Quality, and Department of Consolidated Laboratory Services.

10/2003 - 9/2005 **Medical Epidemiologist**
Division of Zoonotic and Environmental Epidemiology
Office of Epidemiology
Virginia Department of Health
Richmond, Virginia

Projects and responsibilities included writing zoonotic emergency response plan, articles and brochures on harmful algae, and documents on selected potential bioterrorist agents/diseases. Supervised CSTE fellow; activities included providing extensive assistance in preparing and editing talks for presentation and manuscripts. Presented information on reportable and communicable diseases to public health practitioners.

1998-1999 **Medical Epidemiologist**
Office of Epidemiology
Virginia Department of Health
Richmond, Virginia

Revised and edited Infection Control Manual for Virginia Department of Health. Provided technical information about reportable diseases to general public and medical practitioners.

1993-1997 **Medical Epidemiologist**
Division of HIV/AIDS
Centers for Disease Control and Prevention
Atlanta, Georgia

Directed national population-based serosurveillance of HIV infection among U.S. childbearing women. Conducted study to estimate the number of children born with HIV infection in the U.S. Analyzed HIV infection trends among childbearing women in the U.S. Prepared manuscripts and published articles in peer-reviewed journal.

1991-1993 **Preventive Medicine Resident**
Centers for Disease Control and Prevention and
Georgia Department of Human Resources
Atlanta, Georgia

Centers for Disease Control and Prevention 1991-1992: year 2 of Epidemic Intelligence Service (see below). Georgia State Health Department 1992-1993: investigated and evaluated reported

increased incidence of thrombocytopenia among pregnant women in Savannah, Georgia. Analyzed data abstracted from birth and death certificates to determine prevalence of meconium aspiration as a contributing cause of death among Georgia infants. Taught case-studies in epidemiology courses at CDC.

1990-1992 **Epidemic Intelligence Service (EIS) Officer, Fellowship**
Division of Immunization
Centers for Disease Control and Prevention
Atlanta, Georgia

Directed national surveillance systems for pertussis and diphtheria in the U.S. Investigated dual outbreaks of pertussis and *Mycoplasma pneumoniae* infection (Quincy, IL). Evaluated the completeness of reporting during an investigation of city-wide measles outbreak (New York, NY). Provided technical expertise about vaccine-preventable diseases to local and state health departments, general public, and medical practitioners. Taught sections of vaccine-preventable disease course. Prepared manuscripts and published articles in peer-reviewed journal.

1988-1989 **Assistant State Epidemiologist**
New Hampshire Division of Public Health
Concord, New Hampshire

Directed surveillance and outbreak investigations of reportable diseases. Editor of monthly *New Hampshire Epidemiology Bulletin*. Provided technical assistance about reportable diseases to local health departments, general public, and medical practitioners.

1987-1988 **Internal Medicine Intern**
Newton-Wellesley Hospital
Tufts University Medical School
Newton, Massachusetts

1981-1983 **Clinical and Research Assistant**
Rural Health Office
University of Arizona College of Medicine
Tucson, Arizona

Assisted in delivery of primary health care from mobile clinic to rural community in southern Arizona. Planned for permanent clinic with university faculty and community members. Compiled directory of state and medical school involvement in rural health.

PUBLICATIONS

Lindegren ML, Byers RH Jr, Thomas P, Davis SF, Caldwell B, Rogers M, Gwinn M, Ward JW, Fleming PL. Trends in perinatal transmission of HIV/AIDS in the United States. *JAMA* 1999;282:531-538.

Davis SF, Rosen DH, Steinberg S, Wortley PM, Karon JM, Gwinn M. Trends in HIV prevalence among childbearing women, United States, 1989-1994. *Journal of Acquired Immune Deficiency Syndromes and Human Retrovirology* 1998;19:158-164.

Byers RH, Caldwell MB, Davis S, Gwinn M, Lindegren ML. Projection of AIDS and HIV incidence among children born infected with HIV. *Statistics in Medicine* 1998;17:169-181.

Wortley PM, Fleming PL, Lindegren ML, Sweeney PA, Davis SF. Using HIV/AIDS surveillance to monitor public health efforts to reduce perinatal transmission of HIV – Letter to the Editor. *Journal of Acquired Immune Deficiency Syndromes and Human Retrovirology* 1996;11:205-206.

Davis SF, Byers RH, Lindegren ML, Caldwell MB, Karon JM, Gwinn M. Prevalence and incidence of vertically acquired HIV infection in the United States. *JAMA* 1995;274:952-955.

Davis SF, Sutter RW, Strebel PM, Orton C, Alexander V, Sanden GN, Cassell GH, Thacker WL, Cochi SL. Concurrent outbreaks of pertussis and *Mycoplasma pneumoniae* infection: clinical and epidemiological characteristics of illnesses manifested by cough. *Clinical Infectious Diseases* 1995;20:621-628.

Davis SF, Strebel PM, Atkinson WL, Markowitz LE, Sutter RW, Scanlon KS, Friedman S, Hadler SC. Reporting efficiency during a measles outbreak in New York City, 1991. *American Journal of Public Health* 1993;83:1011-1015.

Davis SF, Strebel PM, Cochi SL, Zell ER, Hadler SC. Pertussis surveillance, United States, 1989-1991. *MMWR* 1992;41(No. SS-8).

INVITED PRESENTATIONS

Davis SF, Steinberg S, Jean-Simon M, Rosen D, Gwinn M. HIV prevalence among U.S. childbearing women, 1989-1994. Presented at the XI International Conference on AIDS, Vancouver, B.C., Canada, July 1996.

Davis SF, Byers RH, Lindegren ML, Caldwell MB, Karon JM, Gwinn M. Prevalence and incidence of vertically acquired HIV infection in the United States. Presented at the 2nd National Conference on Human Retroviruses and Related Infections, Washington, D.C., February 1995.

Davis SF, Byers RH, Lindegren ML, Caldwell MB, Wasser S, Karon JM, Gwinn M. The potential impact of zidovudine on vertical transmission of HIV. Presented at the 34th Interscience Conference on Antimicrobial Agents and Chemotherapy (ICAAC), Orlando, Florida, October 1994.

Davis SF, Gwinn M, Wasser S, Fleming P, Karon J. HIV Prevalence among U.S. childbearing women, 1989-1992. Presented at the 1st National Conference on Human Retroviruses and Related Infections, Washington, D.C., December 1993.

Davis SF. Extent of the Problem: HIV in childbearing women and infants in the U.S. Presented at the Annual Meeting of the American Academy of Pediatrics, Washington, D.C., November 1993.

Davis SF, Strebel PM, Atkinson BA, Markowitz LE, Sutter RW, Scanlon KS, Friedman S, Hadler SC. Reporting efficiency during a large measles outbreak in New York City, 1991. Presented at the 41st Conference of the Epidemic Intelligence Service, Atlanta, Georgia, April 1992.

Davis SF, Sutter, RW, Strebel PM, Sanden G, Cassell GH, Cochi SL. Evaluation of pertussis outbreak clinical case definition during a dual outbreak of pertussis and Mycoplasma pneumoniae infection. Presented at the 31st Interscience Conference on Antimicrobial Agents and Chemotherapy (ICAAC), Chicago, Illinois, October 1991.

MEDICAL LICENSURE

Commonwealth of Virginia, License number: 0101058827
State of New Hampshire, License number: 20199

Updated January 17, 2020

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Jeffrey A. Meyers
Commissioner

Lisa M. Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

March 20, 2019

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health, to enter into an agreement with Susan Fischer Davis, M.D., Vendor #TBD, 122 School Street, Concord, NH 03301 to provide clinical consulting services in an amount not to exceed \$207,357 effective upon the date of Governor and Executive Council approval through June 29, 2021. 100% Federal Funds.

Funds are available in the following account for State Fiscal Year (SFY) 2019 and are anticipated to be available in SFY 2020 and SFY 2021, with authority to adjust amounts within the price limitation and adjust encumbrances between SFYs through the Budget Office if needed and justified, without further approval from the Governor and Executive Council.

05-95-90-902010-12270000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF POPULATION HEALTH AND COMMUNITY SERVICES, COMBINED CHRONIC DISEASE

Fiscal Year	Class/Account	Class Title	Job Number	Budget Amount
2019	102-500731	Contracts for Program Services	90017317	\$46,080
2019	102-500731	Contracts for Program Services	90017417	\$23,039
2020	102-500731	Contracts for Program Services	90017317	\$46,080
2020	102-500731	Contracts for Program Services	90017417	\$23,039
2021	102-500731	Contracts for Program Services	90017317	\$46,080
2021	102-500731	Contracts for Program Services	90017417	\$23,039
			Total	\$207,357

EXPLANATION

The purpose of this request is to expand the knowledge and expertise of Department staff who work in chronic disease programs relative to the prevention and management of heart disease, diabetes and related chronic health conditions. The Contractor will provide clinical guidance to inform grant strategies related to the prevention and management of chronic diseases; they will represent the Department in meetings with clinical partners and advise partners on clinical subject matter; and they will review grant materials and strategies for clinical appropriateness.

Heart disease and stroke are the second (2nd) and fifth (5th) leading causes of death in New Hampshire, Diabetes is the seventh (7th) leading cause, with nine percent (9%) of the population affected, and an additional estimated thirty-seven percent (37%) of adults have prediabetes. These diseases have been identified in the New Hampshire State Health Improvement Plan as priority areas for improvement due to their direct effect on the citizens of New Hampshire.

Services provided by the Contractor will target healthcare providers, clinical team members and public health professionals, statewide. The Contractor's expertise will be utilized to determine clinical guidelines, evidence-based self-management strategies, and other clinical recommendations. In addition, the Contractor will provide expert guidance on clinical quality improvement initiatives including recommended clinical guidelines for preventive health services and self-management strategies and information. Expected long-term outcomes for citizens may include improved quality of life, averting or delaying onset or progression of disease and avoiding costly complications, disability and premature death.

Contract payment shall be reimbursed at an hourly rate of sixty (60) dollars per hour, for actual hours worked; and shall not exceed one thousand one hundred fifty-one (1,151) hours per State Fiscal Year (SFY), for a total contract value of up to \$207,357 over three years. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The Contractor shall keep records of her activities related to Department programs and services. Given the dynamic nature of grant reporting and deliverables, it is anticipated that there will be variation in the intensity of time required by the Clinical Consultant each month and this will be reflected in the documentation submitted on a monthly basis.

The work of the consultant will be guided by the Centers for Disease Control and Prevention (CDC) work plan. The Clinical Consultant is a licensed physician, which is essential when working with other physicians. The Clinical Consultant will contribute to a number of activities in the work plan, including, but not limited to:

- Direct efforts to respond to the top three provider (physician/physician assistant) needs for Diabetes Self-Management Education and Support (DSMES) services;
- Gather information from providers on barriers and challenges to implementing Collaborative Practice Agreements;
- Assess medical guidelines, algorithms, risk calculators used for hypertension/cholesterol treatment, to determine what tools and resources are needed for medical teams to improve quality measures;
- Determine how the Medicare rule change allowing billing for Chronic Care Remote Physiologic Monitoring can benefit New Hampshire clinics.

The Clinical Consultant will provide to the Department, a minimum of one (1) technical consult per month; one (1) product (which may include but is not limited to: written reports, educational material and/or presentations) per month; and one (1) written update prepared no later than two (2) business days prior to the monthly CDC Project Officer calls. In addition, the Contractor must demonstrate maintenance of knowledge of heart disease, diabetes, related conditions and risk factors through activities that include but are not limited to: participation in relevant professional development trainings and meetings, and reviews of evidence based materials provided by the Department and the CDC.

The contractor is contributing to a larger system of services to achieve performance measures as outlined in the diabetes and heart disease cooperative agreement, which include:

- Increased proportion of adults who have achieved blood pressure control;
- Increased proportion of patients with total cholesterol at goal;
- Decreased proportion of people with diabetes with an A1C > 9%;
- Increased number of people with prediabetes participating in CDC-recognized lifestyle change programs who have achieved 5-7% weight loss;
- Increased medication adherence among patients with high blood pressure and high blood cholesterol;
- Increased number of patients in health care systems with high blood pressure and high blood cholesterol referred to an evidence-based lifestyle program;
- Increased number of health care systems with systems to report standardized clinical quality measures for the management and treatment of patients with high blood pressure; and
- Increased number of pharmacists engaged in the practice of medication therapy management to promote medication self-management and lifestyle modification for high blood pressure and high blood cholesterol.

Additionally, expected long-term impact includes improved quality of life, averting or delaying onset or progression of disease and avoiding costly complications, disability and premature death.

Susan Fischer Davis, M.D., was selected for this project through a competitive bid process. A Request for Applications (RFA) was posted on the Department of Health and Human Services' website beginning October 30, 2018 through February 26, 2019. The RFA was scheduled to close originally on November 29, 2018. Because no applications were received, Addendum #1 was posted on the Department's website on November 29, 2018 to extend the RFA closing date to "Open until filled." On January 8, 2019, Addendum #2 was published to the Department's website to re-open the Question and Answer period for potential applicants. The Department received one (1) application. The application was reviewed and scored by a team of individuals with program specific knowledge. The review included a thorough discussion of the strengths and weaknesses of the application. The Summary Scoresheet is attached.

As referenced in the Request for Applications and in Exhibit C-1 of the attached contract, this agreement includes the option to extend services for up to two (2) additional year(s), contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Executive Council.

Notwithstanding any other provision of the contract to the contrary, no services shall continue after June 30, 2019, and the Department shall not be liable for any payments for services provided after June 30, 2019, unless and until an appropriation for these services has been received from the state legislature and funds encumbered for the SFY 2020-2021 biennium.

Should the Governor and Executive Council not authorize this request, the Department may not have the capacity to provide clinical expert consultation to public health and clinical partners to prevent and manage chronic disease at the population level. The ability to improve quality of life, prevent or delay costly complications and premature death related to diabetes and heart disease among Granite Staters could be jeopardized.

Area served: Statewide

Source of Funds: 100% Federal Funds from the Centers for Disease Control and Prevention, Prevention and Management of Diabetes and Heart Disease in New Hampshire.

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

Respectfully submitted,



Jeffrey A. Meyers
Commissioner



New Hampshire Department of Health and Human Services
Office of Business Operations
Contracts & Procurement Unit
Summary Scoring Sheet

Clinical Consultant

RFA-2019-DPHS-03-CLINI

RFA Name

RFA Number

Reviewer Names

Bidder Name

1. Susan Fischer Davis, M.D.

Maximum Points	Actual Points
100	65.5

1. Whitney Hammond, Chronic Disease Director, DPHS
2. Monica DeRico, Chronic Disease Prog Specialist, DPHS
3. Marisa Lara, Administ I, Bureau of Comm & Hlth Srvs, DPHS

Subject: Clinical Consultant (RFA-2019-DPHS-03-CLINI)

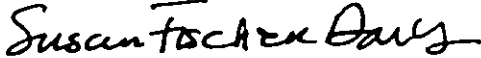



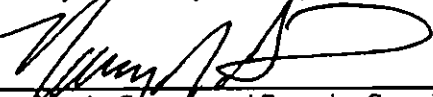
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Susan Fischer Davis, M.D.		1.4 Contractor Address 122 School Street Concord, NH 03301	
1.5 Contractor Phone Number 603-512-2156	1.6 Account Number 05-95-90-902010-12270000-102-500731	1.7 Completion Date June 29, 2021	1.8 Price Limitation \$207,357
1.9 Contracting Officer for State Agency Nathan D. White, Director Bureau of Contracts and Procurement		1.10 State Agency Telephone Number 603-271-9631	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Susan Fischer Davis, contractor	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>February 22</u> , 2019, 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.			
1.13.1 Signature of Notary Public or Justice of the Peace 			
1.13.2 Name and Title of Notary Public or Justice of the Peace Jenilee Batchelder, Notary Public			
1.14 State Agency Signature  Date: <u>3/11/19</u>		1.15 Name and Title of State Agency Signatory LISA MORRIS, DIRECTOR DPHS	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <u>March 4th, 2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>3/11/2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) 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, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("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. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. 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 notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and 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 \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form 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 thirty (30) 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 provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) 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 unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

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.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor agrees that, to the extent future legislative action by the New Hampshire General Court or federal or state court orders may have an impact on the Services described herein, the State Agency has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.
- 1.2. Notwithstanding any other provision of the Contract to the contrary, no services shall continue after June 30, 2019, and the Department shall not be liable for any payments for services provided after June 30, 2019, unless and until an appropriation for these services has been received from the state legislature and funds encumbered for the SFY 2020-2021 biennium.

2. Scope of Services

- 2.1. The Contractor shall:
 - 2.1.1. Be the liaison between the Department, public health professionals and medical providers on chronic diseases clinical best practices and guidelines with a focus on heart disease and diabetes prevention and management and evidence-based public health strategies by providing professional and technical consultation;
 - 2.1.2. Maintain a working knowledge of heart disease and diabetes clinical guidelines and evidence-based public health strategies;
 - 2.1.3. Represent Chronic Disease programs at Department meetings with contractors and partners by establishing new relationships and maintaining working relationships with community, state and federal clinical and public health professionals. Partners include, but is not limited to:
 - 2.1.3.1. Health and education agencies,
 - 2.1.3.2. Community health centers,
 - 2.1.3.3. Local and national voluntary agencies and associations,
 - 2.1.3.4. Private sector, and
 - 2.1.3.5. Federal agencies;
 - 2.1.4. Assist Chronic Disease programs to develop and implement heart disease and diabetes quality improvement initiatives in health systems, statewide;
 - 2.1.5. Review and edit outreach and educational products produced by Chronic Disease programs, contractors and partners as needed; as clinical guidelines and practices change over time. The Contractor shall:



Exhibit A

- 2.1.5.1. Review educational products and consult with the Department on any discrepancies; and
- 2.1.5.2. Edit educational products in accordance with current clinical guidelines and best practices.
- 2.1.6. Assist Department staff with writing grant applications and reports;
- 2.1.7. Provide guidance and education to Department staff on heart disease and diabetes best practices and clinical guidelines in formats that include, but are not limited to:
 - 2.1.7.1. Written communication;
 - 2.1.7.2. One-on-one with program managers; and
 - 2.1.7.3. Group setting.
- 2.1.8. Respond to inquiries from the general public, Department contractors and partners on heart disease and diabetes; and
- 2.1.9. Work on-site at the New Hampshire Department of Health and Human Services, Division of Public Health Services, 29 Hazen Drive, Concord, New Hampshire; for no less than two (2) days a week for a set number of hours per day, as determined by the Department, between the hours of 7:00 am and 5:00 pm.
- 2.2. The Contractor shall participate in related professional development trainings and meetings as requested by the Department.
- 2.3. The Contractor shall review Department and Centers for Disease Control (CDC) evidence based materials.
- 2.4. The Contractor shall meet all information security and privacy requirements as set by the Department.
- 2.5. Licenses and Certifications
 - 2.5.1. The Contractor shall possess and maintain a valid and unrestricted Medical Doctorate license.
 - 2.5.2. The Contractor shall possess and maintain a valid driver's license and be free from any mental or physical impairment or conditions which would preclude the Contractor's ability to competently perform the functions or duties under this Agreement.

3. Reporting

The Contractor shall submit monthly Activity Reports summarizing the work performed in the previous month to the Department, along with the monthly invoice for reimbursement, in a format approved by the Department no later than the twentieth (20th) business day of each month.



Exhibit A

4. Deliverables

- 4.1. The Contractor shall ensure:
 - 4.1.1. A minimum of one (1) technical consult is provided to the Department, and/or medical or public health professionals, each month of the contract period.
 - 4.1.2. A summary of each consult is included in the monthly report described in Section 3. Reporting.
 - 4.1.3. A minimum of one (1) product is produced each month of the contract period, which may include but is not limited to:
 - 4.1.3.1. Written reports.
 - 4.1.3.2. Educational material.
 - 4.1.3.3. Presentations.
 - 4.1.4. A minimum of one (1) written update is prepared for Department review no later than two (2) business days prior to the scheduled monthly CDC Project Officer calls.
- 4.2. The Contractor shall develop and submit a Corrective Action Plan for any deliverable not met to the Department by May 30th each year of the contract period.



Exhibit B

Method and Conditions Precedent to Payment

1. The State shall pay the Contractor an amount not to exceed the Form P-37, Block 1.8, Price Limitation for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.
2. This Agreement is funded with funds from the Centers for Disease Control, CFDA #93.426, Federal Award Identification Number (FAIN) NU58DP006515.
3. The Contractor agrees to provide the services in Exhibit A, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for said services shall be made monthly as follows:
 - 4.1. Payment shall be on an hourly reimbursement rate of sixty dollars (\$60) per hour inclusive of travel, for actual hours worked, and shall not exceed one thousand one hundred fifty-one (1,151) hours per State Fiscal Year (SFY).
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The invoice must be completed, signed, dated and returned to the Department in order to initiate payment. The Contractor agrees to keep records of their activities related to Department programs and services.
 - 4.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 4.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.
 - 4.5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to dphscontractbilling@dhhs.nh.gov, or invoices may be mailed to:

Financial Administrator
Department of Health and Human Services
Division of Public Health Services
29 Hazen Drive
Concord, NH 03301
 - 4.6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit A, Scope of Services and in this Exhibit B.
5. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this Contract may be withheld, in whole or in part, in the event of noncompliance with any State or Federal law, rule or regulation applicable to the services provided, or if the said services have not been completed in accordance with the terms and conditions of this Agreement.



**New Hampshire Department of Health and Human Services
Clinical Consultant**

Exhibit B

6. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining further approval of the Governor and Executive Council.



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 funders 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 funders, 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;



- 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.



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. **Equal Employment Opportunity Plan (EEO):** The Contractor will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of \$500,000 or more. If the recipient receives \$25,000 or more and has 50 or



more employees, it will maintain a current EEO on file and submit an EEO Certification Form to the OCR, certifying that its EEO is on file. For recipients receiving less than \$25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEO Certification Form to the OCR certifying it is not required to submit or maintain an EEO. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEO requirement, but are required to submit a certification form to the OCR to claim the exemption. EEO Certification Forms are available at: <http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf>.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.

18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, \$150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF
WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. **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 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:

- 19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 19.2. 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
- 19.3. Monitor the subcontractor's performance on an ongoing basis



- 19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- 19.5. 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 STANDARD CONTRACT LANGUAGE

1. Revisions to Form P-37, General Provisions

1.1. Section 4, 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.

1.2. Section 10, 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.

2. Renewal

2.1. The Department reserves the right to extend this agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, written agreement of the parties and approval of the Governor and Executive Council.



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:

2-22-19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: contractor

Contractor Initials SFD

Date 2-22-19



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:

2-22-19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: contractor



**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



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 (11)(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:

2-22-19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: contractor



**CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO
FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND
WHISTLEBLOWER PROTECTIONS**

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:

Contractor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

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.

Exhibit G

Contractor Initials SPD

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

New Hampshire Department of Health and Human Services
Exhibit G



In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

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 comply with the provisions indicated above.

Contractor Name:

2.22.19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: Contractor

Exhibit G

Contractor Initials SFD

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections



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:

2-22-19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: contractor

Contractor Initials SFD

Date 2-22-19



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.

(2) **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.

- a. 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 (I). 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) I, 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 Services

The State

[Handwritten Signature]

Signature of Authorized Representative

LISA MORRIS

Name of Authorized Representative

Director, DPHS

Title of Authorized Representative

3/1/19

Date

Susan Fischer Davis

Name of the Contractor

[Handwritten Signature]

Signature of Authorized Representative

Susan Fischer Davis

Name of Authorized Representative

Contractor

Title of Authorized Representative

2-22-19

Date



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:

2-22-19
Date

Susan Fischer Davis
Name: Susan Fischer Davis
Title: Contractor



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: _____
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: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____
Name: _____	Amount: _____

New Hampshire Department of Health and Human Services



Exhibit K

DHHS Information Security Requirements

A. Definitions

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

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

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

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



DHHS Information Security Requirements

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

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

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

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



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

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

II. METHODS OF SECURE TRANSMISSION OF DATA

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



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

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

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

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

A. Retention

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

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whole, must have aggressive intrusion-detection and firewall protection.

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

B. Disposition

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

IV. PROCEDURES FOR SECURITY

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

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

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

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

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

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

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

V. LOSS REPORTING

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

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

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and

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5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

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

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov