

MJT 50



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF HUMAN SERVICES  
*DIVISION FOR CHILDREN, YOUTH & FAMILIES*

Nicholas A. Toumpas  
Commissioner

Maggie Bishop  
Director

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-4451 1-800-852-3345 Ext. 4451  
FAX: 603-271-4729 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

May 5, 2014

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

SOLE SOURCE  
100% federal funds

**Requested Action**

Authorize the Department of Health and Human Services, Division for Children, Youth and Families to amend an existing **sole source** agreement with Andrew Smith, 175 Concord Street, Nashua, NH 03064, (Vendor Code # 223706) as the Disproportionate Minority Contact Coordinator by amending the scope of services effective May 21, 2014, or upon Governor and Executive Council approval, whichever is later, with no change to the original contract amount of \$50,000 and no change to the contract end date of September 30, 2014. The Governor and Executive Council approved the original contract on October 2, 2013 (Item #40).

Funds are available in the following accounts in State Fiscal Year 2014 and 2015 with the ability to adjust encumbrances between State Fiscal Years through the Budget Office, without Governor and Executive Council approval, if needed and justified.

**05-95-42-421410-79060000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS  
DEPT OF, HHS: HUMAN SERVICES, SUNUNU YOUTH SERVICE CENTER, OJJDP**

State Fiscal Year	Class/Account	Activity Code	Class Title	Amount
2014	072-509073	42140610	Grants-Federal	\$12,500
2015	072-509073	42140610	Grants-Federal	\$37,500
			<b>Total:</b>	<b>\$50,000</b>

**Explanation**

The purpose of this **sole source** amendment is to change the scope of services by removing the requirement for the Contractor to form two (2) new local Disproportionate Minority Contact teams. The requirement to form two (2) Disproportionate Minority Contact teams has been removed and the requirement for the Contractor to initiate the formation of two (2) Disproportionate Minority Contact teams has been added. The Department cannot require the Contractor to establish Disproportionate Minority Contact teams at the local level, when the decision to do so lies solely with the municipality, not the State. The Contractor can only encourage and support the formation of local teams by collaborating with local authorities.

The State of New Hampshire participates in the Juvenile Justice and Delinquency Prevention Act's Part B Formula Grants program. This program requires the State to address juvenile delinquency prevention and system improvement efforts to reduce the over representation of minority youth in the nation's juvenile justice system.

The federal Office of Juvenile Justice and Delinquency Prevention administers the Formula Grants Program under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1988 and 1992 and reauthorized by Congress in 2002 [42 U.S.C. 5633, Section 22 State Plans 28c (1), (2) and (2-A)]. This Act requires states to address disproportionate minority contact to ensure equal and fair treatment for every youth in the juvenile justice system, regardless of race or ethnicity. Specifically, this act requires states to develop and implement plans to reduce the proportion of minority youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups if they exceed the percentage of minority youth in the general population.

Contributing factors to disproportionate minority contact are multiple and complex. Reducing disparity of minority youth in contact with the juvenile justice system requires comprehensive and multi-pronged strategies that include programmatic and systems change efforts. The federal Office of Juvenile Justice and Delinquency Prevention requires all states collect, report and use data to inform their administration of grant funds available to improve program performance. Participating states are required to identify the extent to which disproportionate minority contact exists, assess the reasons for disproportionate minority contact, develop and implement systems improvement strategies, as well as evaluate and monitor the effectiveness of chosen strategies.

New Hampshire needs a Disproportionate Minority Contact Coordinator in order to obtain grant money available through the Formula Grants Program under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act. Non-compliance with the disproportionate minority contact requirements results in the federal Office of Juvenile Justice and Delinquency Prevention withholding federal funds until the federal office either approves the state's disproportionate minority contact plan on how to address noncompliance or until noncompliance is resolved. Withholding of grant funds at the federal level will subsequently affect the amount of funds that can be passed through to communities throughout New Hampshire to provide delinquency prevention and intervention programs.

The Department of Health and Human Services formed a search committee for a Disproportionate Minority Contact Coordinator in 2010. This committee, comprised of law enforcement, city and state personnel, received seventy-three (73) vendor responses to statewide advertisement. Andrew Smith was selected as the top vendor due to his experience and knowledge of issues relative to cultural sensitivity and diversity, as well as his private and public sector training experience specific to cultural sensitivity and diversity at the local, national and international levels.

Longevity in this capacity has allowed Andrew Smith to develop partnerships at local and State levels, which have made him instrumental in creating local Disproportionate Minority Contact teams. Mr. Smith's personal experience in the realm of cultural diversity brings a perspective of cultural equality to local communities when working to build teams that deal directly with minority youth in contact with the juvenile justice system in the Rochester, Manchester and Nashua areas. Continuity of staff, including the Disproportionate Minority Contact Coordinator, will enable the Department to form additional teams at the local level, which will assist communities in preventing disparity in the number of minority youth in contact with the juvenile justice system. Mr. Smith has established affiliations with local and State personnel, and is familiar with changes in New Hampshire demographics. Retaining Mr. Smith in this sole source contract will ensure local communities have access to a seasoned

coordinator who understands the needs of local communities in relation to minority youth in contact with the juvenile justice system.

The Disproportionate Minority Contact Coordinator works with the State Disproportionate Minority Contact team, a subcommittee of the State Advisory Group, and local Disproportionate Minority Contact teams to ensure continued compliance with federal requirements. Each local team has different issues and concerns with minority over representation. The Disproportionate Minority Contact Coordinator assists local teams in navigating through the issues of minority over representation in the juvenile justice system and provides guidance to local communities so they can address their respective concerns. The Disproportionate Minority Contact Coordinator is responsible for collaborating with local communities to address racial and ethnic disparity of minorities in contact with the juvenile justice system to ensure equal and fair treatment of all youth in the juvenile justice system, regardless of race and ethnicity. With the changing demographics in NH, Andrew Smith has assisted New Hampshire to continue to be pro-active in educating teams, community groups and stakeholders throughout the state about disproportionate minority contact.

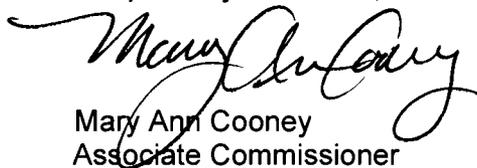
Should the Governor and Executive Council not approve this contract, the State of New Hampshire may be found in noncompliance with the Juvenile Justice and Delinquency Prevention Act [42 U.S.C. 5633, Section 22 State Plans 28c (1), (2) and (2-A)], which was reauthorized by Congress in 2002, resulting in the lost opportunity to secure federal grants that would benefit local communities.

Area Served: Statewide

Source of Funds: 100% Federal Funds

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

Respectfully submitted,



Mary Ann Cooney  
Associate Commissioner

Approved By:   
Nicholas A. Toumpas  
Commissioner



---

**State of New Hampshire  
Department of Health and Human Services  
Amendment #1 to the Disproportionate Minority Contact Coordinator Contract**

This 1st Amendment to the Disproportionate Minority Contact Coordinator contract (hereinafter referred to as "Amendment #1") dated this 4th day April of 2014, is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Andrew Smith (hereinafter referred to as "the Contractor"), a sole proprietorship with a place of business at 175 Concord Street, Nashua, NH 03064.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on October 2, 2013 (Item #40), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, the State and the Contractor have agreed to make changes to the scope of work, payment schedules and terms and conditions of the contract; and

WHEREAS, pursuant to the Form p-37, General Provisions, Paragraph 18, the State may amend the Contract by written agreement of the parties and the approval of the Governor and Executive Council;

WHEREAS both parties agree to change Exhibit A, Scope of Services;

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 as follows:

To amend as follows:

1. Exhibit A, Scope of Services, Section 3.3, to read:

- 3.3 Initiate the formation of two (2) new local DMC teams, at minimum, in addition to the existing three (3) local DMC teams established in Manchester, Rochester, and Nashua. For each new local DMC team formed, the Contractor shall:
- Work with the State DMC team to determine city/town/county options for establishing new, local DMC teams regardless of whether statistical information described in Section 3.2 indicates the existence of DMC.
  - Initiate contact, by telephone, to the police chief of the local community identified to establish a local DMC team to explain the State's findings regarding factors that may contribute to DMC and solicit to form a local DMC team.
  - Initiate telephone contact with local individuals/agencies identified by the police chief as being community stakeholders interested in serving on a local DMC team.
  - Initiate the first four (4) local DMC team meetings to assist the local DMC team in identifying a meeting chair and secretary.
  - Report membership of new local DMC teams to the State DMC team by providing a local DMC team membership list that includes members' names, agency/affiliation and contact information.
  - A team is considered formed when members meet quarterly, based on an agenda, and meetings are recorded by the keeping of minutes. Minutes will specify member attendance, DMC issues discussed, factors that contribute to DMC, and best practices used to address DMC.
  - Provide weekly reports to the Division for Children, Youth and Families (DCYF) indicating the planning activities conducted with community

**New Hampshire Department of Health & Human Services  
Disproportionate Minority Contact Coordinator Contract**



stakeholders and State personnel that focus on forming DMC teams at the local level.

2. Exhibit A, Scope of Services, Section 4.1, Program Metrics, to read:

<b>Program Metrics</b>	<b>Annual Goal</b>
Number of Activities Conducted for Local DMC Teams as described in 3.5	10
Number of Trainings to State DMC Team as described in Section 3.6	2
Local DMC Team Activities Conducted, as described in Section 3.2	20
State DMC Team Activities Conducted, as described in Section in 3.1 & 3.6	16
Number of State DMC Team meetings attended	12
Number of State DMC Meetings Facilitated by DMC Coordinator	9
Number of towns/cities contacted for initiation of New DMC Local Teams as specified in Section 3.3	2



New Hampshire Department of Health & Human Services  
Disproportionate Minority Contact Coordinator Contract

This amendment shall be effective 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

May 6, 2014  
Date

Nicholas A. Toumpas  
Nicholas A. Toumpas  
Commissioner

**Sustainable Results, LLC d/b/a  
Andrew Smith**

APRIL 1, 2014  
Date

Andrew Smith  
(Signature)  
NAME: ANDREW SMITH  
TITLE: MANAGING GENERAL PARTNER  
SUSTAINABLE RESULTS LLC

Acknowledgement:

State of NH, County of Hillsboro on April 1, 2014 before the undersigned officer, personally appeared the person identified 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 of Notary Public or Justice of the Peace

Evelyn Clark Smith  
Name and Title of Notary or Justice of the Peace

**New Hampshire Department of Health & Human Services  
Disproportionate Minority Contact Coordinator Contract**



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

OFFICE OF THE ATTORNEY GENERAL

5/16/14  
Date

[Signature]  
Name: Amanda C. Godlewski  
Title: Attorney

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:

State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Sustainable Results LLC is a New Hampshire limited liability company formed on September 6, 2013. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 1<sup>st</sup> day of April, A.D. 2014

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/05/2013

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).

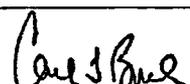
PRODUCER Hiscox Inc. 520 Madison Avenue 32nd Floor New York, NY 10022	CONTACT NAME:	
	PHONE (A/C, No, Ext): (888) 202-3007	FAX (A/C, No):
INSURED  Sustainable Results LLC DBA Andrew Smith 175 Concord Street  NASHUA NH 03064	E-MAIL ADDRESS: contactus@hiscoxusa.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Hiscox Insurance Company Inc	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		
		NAIC # 10200

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	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	N	N	UDC-1377872-CGL-13	09/03/2013	09/03/2014	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000						
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ S/T Gen. Agg.
	<b>AUTOMOBILE LIABILITY</b> <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						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB  <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE  DED      RETENTION \$						EACH OCCURRENCE \$
							AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATU-TORY LIMITS      OTH-ER
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

<b>CERTIFICATE HOLDER</b> NH Dept of Health and Human Services 129 Pleasant Street Concord NH 03301	<b>CANCELLATION</b> 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 



Nicholas A. Toumpas  
 Commissioner  
 Maggie Bishop  
 Director

STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 DIVISION FOR CHILDREN, YOUTH & FAMILIES

129 PLEASANT STREET, CONCORD, NH 03301  
 603-271-4451 1-800-852-3345 Ext. 4451  
 FAX: 603-626-2983 TDD Access: 1-800-735-2964

August 14, 2013

**G&C Approved**

Her Excellency, Governor Margaret Wood Hassan  
 And the Honorable Council  
 State House  
 Concord, NH 03301

Date 10-2-13  
 Item # 40

**Requested Action**

Authorize the Department of Health and Human Services, Division for Children, Youth and Families to enter into a **sole source** agreement with Andrew Smith, 175 Concord Street, Nashua, NH 03064, (Vendor Code # 223706), to provide services as the Disproportionate Minority Contact Coordinator, in an amount not to exceed \$50,000. This amount represents an award effective October 2, 2013 or date of Governor and Council approval through September 30, 2014.

Funds to support this request are available in the following account for State Fiscal Year 2014 and 2015 upon availability and continued appropriation of funds in the future operating budges, with authority to adjust amounts within the price limitation and amend the related terms of the contract without further approval from Governor and Executive Council:

**05-95-42-421410-79060000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT OF, HHS: HUMAN SERVICES, SUNUNU YOUTH SERVICE CENTER, OJJDP**

State Fiscal Year	Class/Account	Activity Code	Class Title	Amount
2014	072-509073	42140610	Grants-Federal	\$12,500
2015	072-509073	42140610	Grants-Federal	\$37,500
			<b>Total:</b>	<b>\$50,000</b>

**Explanation**

The purpose of this Request is to enter into a **sole source** agreement with Andrew Smith to provide services as the Disproportionate Minority Contact Coordinator. Mr. Smith has operated as the Disproportionate Minority Contact Coordinator since 2011.

The State of New Hampshire participates in the Juvenile Justice and Delinquency Prevention Act's Part B Formula Grants program. This program requires the State to address juvenile delinquency prevention and system improvement efforts to reduce the over representation of minority youth in the nation's juvenile justice system.

The federal Office of Juvenile Justice and Delinquency Prevention administers the Formula Grants Program under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act of 1974, as

Her Excellency, Margaret Wood Hassan

And the Honorable Council

August 14, 2013

Page 2 of 3

amended in 1988 and 1992 and reauthorized by Congress in 2002 [42 U.S.C. 5633, Section 22 State Plans 28c (1), (2) and (2-A)]. This Act requires states to address disproportionate minority contact to ensure equal and fair treatment for every youth in the juvenile justice system, regardless of race or ethnicity. Specifically, this act requires states to develop and implement plans to reduce the proportion of minority youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups if they exceed the percentage of minority youth in the general population.

Contributing factors to disproportionate minority contact are multiple and complex. Reducing disparity of minority youth in contact with the juvenile justice system requires comprehensive and multi-pronged strategies that include programmatic and systems change efforts. The federal Office of Juvenile Justice and Delinquency Prevention requires all states collect, report and use data to inform their administration of grant funds available to improve program performance. Participating states are required to identify the extent to which disproportionate minority contact exists, assess the reasons for disproportionate minority contact, develop and implement systems improvement strategies, as well as evaluate and monitor the effectiveness of chosen strategies.

New Hampshire needs a Disproportionate Minority Contact Coordinator in order to obtain grant money available through the Formula Grants Program under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act. Non-compliance with the disproportionate minority contact requirements results in the federal Office of Juvenile Justice and Delinquency Prevention withholding federal funds until the federal office either approves the state's disproportionate minority contact plan on how to address noncompliance or until noncompliance is resolved. Withholding of grant funds at the federal level will subsequently affect the amount of funds that can be passed through to communities throughout New Hampshire to provide delinquency prevention and intervention programs.

The Department of Health and Human Services formed a search committee for a Disproportionate Minority Contact Coordinator in 2010. This committee, comprised of law enforcement, city and state personnel, received seventy-three (73) vendor responses to statewide advertisement. Andrew Smith was selected as the top vendor due to his experience and knowledge of issues relative to cultural sensitivity and diversity, as well as his private and public sector training experience specific to cultural sensitivity and diversity at the local, national and international levels.

Longevity in this capacity has allowed Andrew Smith to develop partnerships at local and State levels, which have made him instrumental in creating local Disproportionate Minority Contact teams. Mr. Smith's personal experience in the realm of cultural diversity brings a perspective of cultural equality to local communities when working to build teams that deal directly with minority youth in contact with the juvenile justice system in the Rochester, Manchester and Nashua areas. Continuity of staff, including the Disproportionate Minority Contact Coordinator, will enable the Department to form additional teams at the local level, which will assist communities in preventing disparity in the number of minority youth in contact with the juvenile justice system. Mr. Smith has established affiliations with local and State personnel, and is familiar with changes in New Hampshire demographics. Retaining Mr. Smith in this sole source contract will ensure local communities have access to a seasoned coordinator who understands the needs of local communities in relation to minority youth in contact with the juvenile justice system.

The Disproportionate Minority Contact Coordinator works with the State Disproportionate Minority Contact team, a subcommittee of the State Advisory Group, and local Disproportionate Minority Contact teams to ensure continued compliance with federal requirements. Each local team has

Her Excellency, Margaret Wood Hassan  
And the Honorable Council  
September 10, 2013  
Page 3 of 3

different issues and concerns with minority over representation. The Disproportionate Minority Contact Coordinator assists local teams in navigating through the issues of minority over representation in the juvenile justice system and provides guidance to local communities so they can address their respective concerns. The Disproportionate Minority Contact Coordinator is responsible for collaborating with local communities to address racial and ethnic disparity of minorities in contact with the juvenile justice system to ensure equal and fair treatment of all youth in the juvenile justice system, regardless of race and ethnicity. With the changing demographics in NH, Andrew Smith has assisted New Hampshire to continue to be pro-active in educating teams, community groups and stakeholders throughout the state about disproportionate minority contact.

Should the Governor and Executive Council not approve this contract, the State of New Hampshire may be found in noncompliance with the Juvenile Justice and Delinquency Prevention Act [42 U.S.C. 5633, Section 22 State Plans 28c (1), (2) and (2-A)], which was reauthorized by Congress in 2002, resulting in the opportunity to secure federal grants that would benefit local communities.

Area Served: Statewide

Source of Funds: 100% Federal Funds

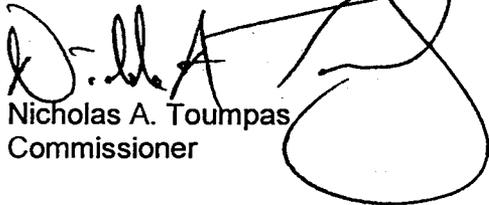
In the event that the Federal Funds become no longer available, additional General Funds will not be requested to support this contract.

Respectfully submitted,



Maggie Bishop, Director

Approved By:



Nicholas A. Toumpas  
Commissioner

Subject: Disproportionate Minority Contact Coordinator

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name DHHS Division for Children, Youth & Families		1.2 State Agency Address 1056 North River Road Manchester, NH 03104	
1.3 Contractor Name Andrew Smith.		1.4 Contractor Address 175 Concord Street Nashua, NH 03064	
1.5 Contractor Phone Number 603-759-3648	1.6 Account Number 010-042-7906-072-509073 42140610	1.7 Completion Date September 30, 2014	1.8 Price Limitation \$50,000
1.9 Contracting Officer for State Agency Eric D. Borrin		1.10 State Agency Telephone Number 603-271-9558	
1.11 Contractor Signature <i>Andrew C. Smith</i>		1.12 Name and Title of Contractor Signatory Andrew Smith - Sole Proprietor	
1.13 Acknowledgement: State of <u>N</u> , County of <u>Hillsborough</u> On <u>9/5/13</u> 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 [Seal] <i>Evelyn Clark Smith</i>			
1.13.2 Name and Title of Notary or Justice of the Peace <i>Evelyn J Clark-Smith Program Specialist III</i>			
1.14 State Agency Signature <i>Maggie Bishop</i>		1.15 Name and Title of State Agency Signatory <i>MAGGIE BISHOP, DIRECTOR</i>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>Jeanne P. Henick, Attorney</i> On: <i>6 Sept. 2013</i>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

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

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

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").  
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

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

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.  
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

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

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

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

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

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

## 8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

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

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

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

## 14. INSURANCE.

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

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

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each

certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

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

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

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

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

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

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

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

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

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

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.



---

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 Service(s) described herein, the State Agency has the right to modify Service priorities and expenditure requirements under this Contract so as to achieve compliance therewith.
- 1.2 The Contractor shall pursue any and all appropriate public sources of funds that are applicable to the funding of the Services, operations prevention, acquisition, or rehabilitation. Appropriate records shall be maintained by the Contractor to document actual funds received or denials of funding from such public sources of funds.

**2. Definitions Specific To This Contract**

- 2.3 Contact/Decision Point – a specific action/decision in the juvenile justice system that results from juvenile delinquency. The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention has established nine (9) contact/decision points that delinquent juveniles come into contact with the juvenile justice system, as follows:
- Arrest by law enforcement
  - Referral to juvenile intake agency or family court
  - Referral to diversion programs with no formal legal charges
  - Detention in a secure detention facility pending court decision
  - Petitions/charges that appear on court calendar
  - Delinquency findings resulting from juvenile court
  - Probation cases resulting from juvenile court disposition
  - Confinement in a secure correctional facility for delinquent offenders
  - Transfers to adult/criminal court resulting from judicial findings in juvenile court
- 2.1 Disproportionate Minority Contact (DMC) –refers to the disproportionate number of minority youth who come into contact with the juvenile justice system.
- 2.2 DMC Team – a cross-section representation of individuals with decision-making authority, as it pertains to youth delinquency, involved with at least one of the nine contact points of the juvenile justice system. Representatives include, but are not limited to, school administrators, child placement agencies, law enforcement personnel, and judicial branch personnel. Currently, there are three (3) established local DMC teams in New Hampshire: Rochester, Manchester and Nashua.



2.4 Federal DMC Reduction Cycle – the five (5) action steps used by State DMC team to reduce DMC, as defined by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, which are:

- Identification;
- Assessment/Diagnosis;
- Intervention;
- Evaluation; and
- Monitoring.

### 3. Services To Be Provided

The Contractor hereby covenants and agrees that during the term of this Agreement, it will provide services to Coordinate the State's efforts to address disproportionate minority youth involvement in and with the juvenile justice system, and ensure compliance with the Juvenile Justice and Delinquency Prevention Act, Section 223(a)(22) in accordance with the descriptions cited below, which include, but are not limited to:

3.1 Retain membership on the State Advisory Group (SAG) to represent DMC concerns on the Programs, Community Relations and State Planning and Research committees.

- Serve on the listed committees to maintain committee awareness of local and State DMC team issues.
- Plan, facilitate and record monthly State DMC team meetings. The State DMC team is a subcommittee of the SAG.
- Serve as the State DMC team liaison to the SAG and local DMC teams.

3.2 Provide weekly reports to the Division for Children, Youth and Families (DCYF) that identify: 1) the number/percentage of change in State and local contact points reporting a reduction in disproportionate number of minority youth arrested, petitioned, diverted and/or referred to court; 2) any increase in factors contributing to DMC reflected in data collected; and 3) any change in the amount of data collected by contact point on minority youth at the local or State level.

- Statistical data on the nine (9) decision/contact points of the juvenile justice system shall be analyzed and provided to the Contractor by DCYF. The data will clearly identify cities/towns experiencing DMC.

3.3 Form a minimum of two (2) new local DMC teams, in addition to the existing three (3) local DMC teams established in Manchester, Rochester, and Nashua. For each new local DMC team formed, the Contractor shall:

- Work with the State DMC team to determine city/town/county options for establishing new, local DMC teams regardless of whether statistical information described in Section 3.2 indicates the existence of DMC.
- Initiate contact, by telephone, to the police chief of the local community identified to establish a local DMC team to explain the State's findings regarding factors that may contribute to DMC and solicit to form a local DMC team:
- Initiate telephone contact with local individuals/agencies identified by the police chief as being community stakeholders interested in serving on a local DMC team.



- Initiate the first four (4) local DMC team meetings to assist the local DMC team in identifying a meeting chair and secretary.
  - Report membership of new local DMC teams to the State DMC team by way of membership list that will include member name, agency/affiliation and contact information.
  - A team will be considered formed when members meet quarterly, based on an agenda, and meetings are recorded by the keeping of minutes. These minutes will specify member attendance, DMC issues discussed, factors that contribute to DMC, and best practices used to address DMC.
  - Provide weekly reports to the Division for Children, Youth and Families (DCYF) indicating planning activities conducted with community stakeholders and State personnel that focus on forming DMC teams at the local level.
- 3.4 Provide updates to Manchester, Nashua and Manchester local DMC teams regarding State DMC team activities.
- Attend a total minimum of nine (9) local DMC team meetings in Nashua, Rochester and/or Manchester.
  - Distribute minutes from State DMC team activities.
  - Provide weekly reports to the Division for Children, Youth and Families (DCYF) on the number of local DMC team meetings attended with a copy of the meeting minutes.
- 3.5 Increase local DMC team knowledge on cultural diversity, sensitivity and minority over representation.
- Provide training based on the State of Connecticut's curriculum found in 'Effective Interaction With Youth' to local DMC teams to increase cultural sensitivity and diversity awareness.
  - Assist the Division for Children, Youth and Families (DCYF) and the State DMC team with the development of pre- and post-tests on trainings conducted.
  - Administer pre- and post-training tests to local DMC teams.
  - Analyze pre- and post-tests results to measure change in community knowledge of cultural sensitivity and diversity awareness.
  - Present a minimum of two (2) seminars on the latest research regarding minority over representation in the juvenile justice system.
  - Provide weekly reports to the DCYF on findings of increase to community knowledge on cultural diversity, sensitivity and minority over representation. The report shall include: - 1) a list community-based trainings provided to local community stakeholders that address cultural diversity, sensitivity and minority over representation in contact with the juvenile justice system; and 2) the measured results from any tests administered.
- 3.6 Conduct State DMC team activities, similar to trainings and seminars described in Section 3.5 above, on DMC and the DMC reduction cycle as identified in Section 2.1 and Section 2.4.
- Create meeting agenda and record minutes for State DMC team meetings



Exhibit A

- Attend monthly State DMC team meetings.
  - Distribute minutes and present recommendations that resulted from local DMC team meetings.
  - Facilitate a minimum of nine (9) State DMC team meetings.
- 3.7 Develop a work method to track and report changes in DMC for Rochester, Manchester and Nashua and any new location established under the duties specified in Section 3.3.
- Determine services and/or funds available to assist in the reduction of DMC to the targeted area.
  - Identify the areas experiencing a change in DMC based on statistical data collected as indicated in Section 3.1.
  - Report DMC trends and fluctuations, by target area, that may require adjustments to current DMC reduction strategies.
  - Create a work method using existing resources to monitor local and State changes in DMC.
  - Provide weekly reports to State DMC team of changes in DMC at the local level.
- 3.8 Write the DMC section of requests for proposals as directed by the Division for Children, Youth & Families staff.
- 3.9 Prepare the DMC section of the Title II/Formula grants, 3-year plan, and subsequent updates in collaboration with the State DMC team and the State Advisory Group.
- 3.10 Work directly with Department staff as directed.
- 3.11 Provide weekly expenditure reports that include detailing actual expenditures for approved contract related activities.
- Submit Department approved forms in accordance with published Department guidelines for in-state travel, out-of-state travel and allowable conference related expenses. See Exhibit B, Section 3.1.

**4. Program Metrics**

In addition to the weekly reporting requirements listed in Section 3, the Contractor shall meet the following annual goals.

Program Metrics	Annual Goal
Number of Activities Conducted for Local DMC Teams as described in 3.5	10
Number of Trainings to State DMC Team as described in Section 3.6	2
Local DMC Team Activities Conducted, as described in Section 3.2	20
State DMC Team Activities Conducted, as described in Section in 3.1 & 3.6	16
Number of State DMC Team meetings attended	12
Number of State DMC Meetings Facilitated by DMC Coordinator	9
Number of New DMC Local Teams Formed as specified in Section 3.3	2



## Exhibit B

### Method and Conditions Precedent to Payment

1. Subject to the Contractor's compliance with the terms and conditions of this agreement, and for services provided and expenses incurred, the Department shall reimburse the Contractor up to a maximum total payment of fifty thousand dollars (\$50,000).
2. The Contractor will work up to 29 hours per week, not exceeding 1450 hours per contract year at the rate of \$27.58 per hour, for a maximum payment of forty thousand dollars (\$40,000) for services provided.
3. Cost reimbursement requests for expenses incurred shall not exceed ten thousand dollars (\$10,000).
  - 3.1 Payment for expenses shall be on a cost reimbursement basis only for actual expenditures. Allowable expenses are:
    - 3.1.1 In-state travel in accordance with published Department Guidelines.
    - 3.1.2 Out-of-state travel in accordance with published Department Guidelines, including but not limited to:
      - 3.1.2.1 Prior approval, including submission and approval of Form A-24, Request for Authorization for Out-Of-State Travel.
4. Payment for said services shall be made as follows:
  - 4.1 The Contractor will provide weekly reports specified in Exhibit A, Scope of Services, Section 3, with an invoice for reimbursement of authorized expenses incurred during the current week, for a total of fifty (50) invoices per year. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice for Contractor services provided pursuant to this Agreement.
  - 4.2 Invoices and reports identified above must be submitted to:

Attn: Pam Sullivan  
Department of Health & Human Services  
Division for Children, Youth & Families  
1056 N. River Rd  
Manchester, NH 030104
5. Payments may be withheld pending receipt of required reports as defined in Exhibit A, Section 3.
6. A final payment request shall be submitted no later than sixty (60) days after the Contract ends. Failure to submit the invoice by this date could result in nonpayment.
7. 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.
8. When the contract price limitation is reached, the program shall continue to operate at full capacity at no charge to the State of New Hampshire for the duration of the contract period.

NH Department of Health and Human Services

STANDARD EXHIBIT C

SPECIAL PROVISIONS

1. **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:

2. **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.

3. **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.

4. **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.

5. **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.

6. **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.

7. **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.

8. **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 Contractor's 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:

8.1 Renegotiate the rates for payment hereunder, in which event new rates shall be established;

8.2 Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

Contractor Initials: ACS  
Date: 9/5/2013

8.3 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:

**9. 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:

**9.1 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.

**9.2 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.

**9.3 Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

**10. Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the Contractor 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.

**10.1 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.

**10.2 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.

**11. 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.

12. Reports: Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.

12.1 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.

12.2 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.

13. 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.

14. 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:

14.1 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.

15. 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.

16. 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.

17. 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.

Contractor Initials: act  
Date: 9/5/2013

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

- Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 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
- Monitor the subcontractor's performance on an ongoing basis
- Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- DHHS shall review and approve all subcontracts.

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

**SPECIAL PROVISIONS – 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.

**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.

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

NH Department of Health and Human Services

STANDARD EXHIBIT C-1

ADDITIONAL SPECIAL PROVISIONS

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language;

10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.

10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.

10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.

act  
9/5/2013

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.

act  
9/5/2013