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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF MEDICAID BUSINESS AND POLICY

Jeffrey A. Meyers
Acting Commissioner

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Kathleen A. Dunn
Associate Commissioner

January 19, 2016

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Office of Medicaid Business and Policy, to exercise a **sole source** contract renewal option with David A. Gruette, D.D.S., Purchase Order # 103073, Vendor # 169044, 72 Ridge Road, Center Barnstead, NH 03225, by increasing the Price Limitation by \$205,920 from \$187,200 to an amount not to exceed \$393,120 to provide dental consultant services, and extend the Completion Date from June 30, 2016 to June 30, 2018, effective July 1, 2016 or the date of Governor and Council approval, whichever is later. This agreement was originally approved by Governor and Council on March 26, 2014, Item #27. 50% Federal Funds, 50% General Funds.

Funds are available in the following account for SFY 2017, and are anticipated to be available in SFY 2018, upon the availability and continued appropriation of funds in the future operating budgets, with authority to adjust amounts within the price limitation and adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified, without approval from Governor and Executive Council.

05-95-47-470010-7937 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: OFC OF MEDICAID & BUS PLCY, OFFICE OF MEDICAID & BUSINESS POLICY, MEDICAID ADMINISTRATION

Fiscal Year	Class / Account	Class Title	Job Number	Current Modified Budget	Increased (Decreased) Amount	Revised Modified Budget
SFY 2015	102-500731	Contracts for Prog Svc	47000102	93,600	0	93,600
SFY 2016	102-500731	Contracts for Prog Svc	47000102	93,600	0	93,600
SFY 2017	102-500731	Contracts for Prog Svc	47000102	0	93,600	93,600
SFY 2018	102-500731	Contracts for Prog Svc	47000102	0	112,320	112,320
			Total	\$187,200	\$205,920	\$393,120

EXPLANATION

This request is **sole source**. The original contract was approved as a sole source Agreement because the Office of Medicaid and Business Policy had competitively procured these services for the

18 years prior, with Dr. Gruette the only respondent with each bidding cycle. Dr. Gruette has performed in an outstanding manner over the past 20 years. His expertise and knowledge of clinical dentistry, as well as New Hampshire Medicaid, federal requirements of Title XIX, Title V and Early Periodic Screening, Diagnosis, and Treatment (EPSDT), coding of dental procedures and the dental provider network represents a unique and valuable skill set that is critical for the function of the New Hampshire Medicaid Dental Program.

With the implementation of the Medicaid Management Information System on April 1, 2013, NH Medicaid Dental Benefit Administration continues to require highly specialized knowledge of dental coding, billing and data-capture systems, including expertise in requirements for edits, audits, exceptions and system integration with complex requirements of the Medicaid Dental Benefit. The role of the Dentist Consultant continues to encompass support and management of the dental provider network relative to the new system as well as the requirement to work directly with Xerox to develop systems that are consistent with effective operations of the Medicaid Management Information System in order to deliver dental services as required by Title XIX, and avoid overpayment as well as wrongful denial of payment. The highly specialized expertise required to maintain functionality of the Medicaid Management Information System relative to the dental benefit is critical to the Department's ability to provide uninterrupted dental access to children and adults enrolled in Medicaid. These duties are in addition to the key responsibilities of the contract for the Medicaid Dentist Consultant.

Funds in this agreement will support the above activities and responsibilities, in addition to the key responsibilities of the contract for the Medicaid Dentist Consultant, which include: completing prior authorizations for extractions and other treatment; completing claims adjudication; preparing cases and representing the Department at administrative hearings; working directly with dentists for children needing dental treatment when Client Services is unable to find a dentist; providing on-call back up for clinical emergencies when the Dental Director is unavailable; performing research and analysis for rule revision, policy and program development, and high level rate and utilization analysis to support cost containment.

The increased scale of services required of Dr. Gruette reflects the growth in the number of children enrolled in Medicaid who receive dental services. The services required in claims review and correction alone has grown proportionally as only 18,500 children received dental care in 2002, while over 60,000 received dental care in 2012. While the number of children receiving dental care has plateaued between 2012 and 2014, there is an increased complexity to the cases that need to be reviewed and Dr. Gruette has the greater clinical expertise required to accomplish this. Increased network support is also needed to accommodate for turnover within the provider network.

These services provide for essential dental consulting services, which will assist the Medicaid Program in operations of the New Hampshire Medicaid and Children's Health Insurance Program dental benefits programs. Efforts will continue to be directed toward recruiting and retaining a sufficient network of dentists to provide access to dental care for Medicaid eligible recipients assuring compliance with Titles XIX, V, Early Periodic Screening, Diagnosis, and Treatment (EPSDT), and other requirements for providing dental care, supporting operations of the Dental Prior Authorization Unit by assessing medical necessity of requests for prior authorization, pricing, correction, and review of dental claims, supporting Medicaid Client Services in assuring access to dental care, consulting with Xerox to assure continuity of services during transition from the current fiscal agent, and responding to provider calls regarding Medicaid's dental policies, practices, enrollment, and protocols.

The salary rate is \$75 per hour for these services for state fiscal year 2017 and \$90 for state fiscal year 2018. Dr. Gruette will work 24 hours per week, 52 weeks each year. The Office of Medicaid Business & Policy approved an increase to the reimbursement rate for state fiscal year 2018, reflecting an overall increase of \$18,720. The increase is due to an increase in the hourly rate in order to better align compensation rates with that of prevailing rates for dentists in the marketplace and in the private sector.

Should Governor and Executive Council not authorize this Request, dental access for children and adults in NH Medicaid will predictably be reduced significantly both in the near and long term.

This Agreement has the option to extend for two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council. The Department is exercising this option.

The Contractor successfully fulfilled and achieved the performance measures in the original contract. The Contractor will ensure that the following performance measures are annually achieved and monitored monthly to measure the effectiveness of the amendment agreement:

- Completes all deliverables related to program research and development on or before dates assigned by Office of Medicaid Business and Policy Dental Director;
- Maintains greater than 95% rate of support of consultant's determination of benefits at fair hearings;
- Responds in kind within 7 days to requests for information from providers, Department staff and Medicaid members;
- Completes reviews and corrections of 85% of claims within 45 days;
- Completes 85% of prior authorization requests within 45 days.

Area served: statewide.

Source of Funds are 50% Federal Funds from Title XIX Medicaid Funds and 50% General Funds.

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

Respectfully submitted,



Kathleen A. Dunn, MPH
Associate Commissioner
Medicaid Director

Approved by:



Jeffrey A. Meyers
Acting Commissioner



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

This 1st Amendment to the Dental Consultant contract (hereinafter referred to as "Amendment One") dated this 28th day of December, 2015, is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and David A. Gruette, DDS, (hereinafter referred to as "the Contractor"), an individual with a place of business at 72 Ridge Road, Center Barnstead, NH 03225.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on March 26, 2014, Item #27, 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 General Provisions, Paragraph 18, the State may modify the scope of work and the payment schedule of the contract by written agreement of the parties;

WHEREAS, the parties agree to extend the term of the agreement, and increase the price limitation 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 as follows:

1. Amend Form P-37, Block 1.7, to read June 30, 2018.
2. Amend Form P-37, Block 1.8, to read \$393,120.
3. Amend Form P-37, Block 1.9, to read Eric Borrin, Director of Contracts and Procurement.
4. Amend Form P-37, Block 1.10 to read 603-271-9558.
5. Delete Exhibit B in its entirety and replace with Exhibit B Amendment #1.
6. Delete Exhibit C in its entirety and replace with Exhibit C Amendment #1.
7. Delete Exhibit G in its entirety and replace with Exhibit G Amendment #1.
8. Delete Exhibit I in its entirety and replace with Exhibit I Amendment #1.

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

1/18/16
Date

Kathleen A. Dunn
Kathleen A. Dunn, MPH
Associate Commissioner

David A. Gruette, DDS

Jan 12, 2016
Date

David A. Gruette
Name: David A. Gruette, DDS
Title: Dental Consultant

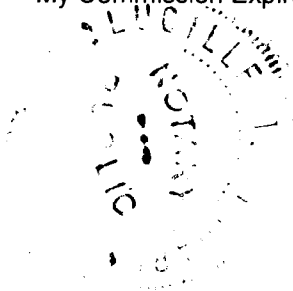
Acknowledgement:

State of NH, County of Merrimack on 01/12/2016, 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.

Lucille T. Lingard
Signature of Notary Public or ~~Justice of the Peace~~

Name and Title of Notary or Justice of the Peace

My Commission Expires





The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.
OFFICE OF THE ATTORNEY GENERAL

Date 2/12/16

Name: Megan A. Kelly
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: _____



Exhibit B Amendment #1

Method and Conditions Precedent to Payment

1) Funding Sources:

a. \$205,920 = 50% federal funds from title XIX Medicaid, CFDA #93.778, and 50% general funds.

2) The State shall pay the Contractor an amount not to exceed the Price Limitation, block 1.8, for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.

a. Payment for said services shall be made as follows:

The Contractor will submit an invoice in a form satisfactory to the State by the twentieth working day of each month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. 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. The final invoice shall be due to the State no later than forty (40) days after the contract Completion Date.

b. The invoice must be submitted to:

Dr. Sarah Finne, Medicaid Dental Director
Department of Health and Human Services
Office of Medicaid Business and Policy
129 Pleasant Street
Concord, NH 03301-3852
Email address: Sarah.Finne@dhhs.state.nh.us

3) The Contractor agrees to use and apply all payments made by the State for direct and indirect costs and expenses including, but not limited to, personnel costs and operating expenses related to the Services provided. The Contractor shall be paid only for the total number of hours actually worked as detailed below.

4) Budget:

SFY 2017	\$75/hour x 24 hours/week x 52 weeks = \$ 93,600
SFY 2018	\$90/hour x 24 hours/week x 52 weeks = \$ 112,320
	TOTAL: \$ 205,920

5) Payment will be made by the State agency subsequent to approval of the submitted invoice and if sufficient funds are available to cover the costs and expenses incurred upon compliance with reporting requirements and performance and utilization review. Contractors will keep detailed records of their activities related to DHHS-funded programs and services.

6) Contractors are accountable to meet the scope of services. Failure to meet the scope of services may jeopardize the funded contractor's current and/or future funding. Corrective action may include actions such as a contract amendment or termination of the contract. The contracted organization shall prepare progress reports, as required.

7) Notwithstanding paragraph 18 of the General Provisions P-37, an amendment limited to adjustments to amounts between and among account numbers, within the price limitation, and to adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified, may be made by written agreement of both parties and may be made without obtaining 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 EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP 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 EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP 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.



**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- Amendment #1

Contractor Initials DAG

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 – Amendment #1




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: David A. Gruette, DDS

1.12.16
Date


Name: David A. Gruette, DDS
Title: Dental Consultant



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 Amendment #1

- I. “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 Amendment #1

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

- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate.

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

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

- c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (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 Amendment #1

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 Amendment #1

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 Amendment #1

- 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

Kathleen A. Dunn
Signature of Authorized Representative

Kathleen A. Dunn, MPH
Name of Authorized Representative

Associate Commissioner
Title of Authorized Representative

1/18/16
Date

David A. Gruette, DDS
Name of the Contractor

[Signature]
Signature of Authorized Representative

David A. Gruette, DDS
Name of Authorized Representative

Dental Consultant
Title of Authorized Representative

JANUARY 12, 2016
Date

Auto Insurance Confirmation
| Privacy Promise |

Please use this as confirmation of auto insurance; however, this does not take the place of an insurance identification card.

Registered owner : DAVID A GRUETTE

Address: 72 RIDGE RD
CENTER BARNSTEAD NH 03225

Policy #: USAA 001279779 7103

Policy effective: November 23, 2015

Policy expiration: November 1, 2016

Vehicle: 2005 CHRYSLER PACIFICA

VIN : 2C4GF68405R276733

Bodily injury liability limit: \$300,000
each person /
\$500,000 each accident

Property damage liability limit: \$100,000 each accident

Comprehensive deductible: \$100

Collision deductible: \$500

Meets New Hampshire minimum statutory liability requirements
Liability limits meet those required by most leasing companies

This confirmation of coverage neither affirmatively nor negatively amends, extends or alters the coverage given by the policy issued by United Services Automobile Association.

Thank you for choosing us for your auto insurance needs. If you have questions, please call us at 210-531-USAA (8722), our mobile shortcut #8722 or 800-531-8722.

Thank you,
United Services Automobile Association

David A. Gruette, D.D.S.
Center Barnstead, NH 03225
603-271-9252 (W)

Professional Objective:

A career opportunity in dental health where my 39 years of experience will be of value

Areas of expertise:

- administrative leadership and guidance
- principles and practice of general dentistry
- consultant services
- personnel management and training
- data management and evaluation
- oral/written communication
- rapport with dental community
- organizational management
- attention to details
- sense of humor

Professional Experience:

Dental Consultant, Office of Health Planning and Medicaid (1997 to present)
Health and Human Services, State of NH

Sales Associate, Sears, Concord, NH (1995-97)

Using personal communication skills and understanding both management and customers, awarded the "Salesman of the Year", tutored other sales associates in sales techniques and customer relations

General Dentist, NH License #1382, (1976-95)

Established new private practice in rural community
Applied leadership skills in marketing, management, human resources, accountability and business principles that propelled the business to success in serving the community

Clinical Instructor Tufts University (1976-77)

Clinical Dentistry Instructor for satellite facility at NH State Prison
Training of senior dental students in community dentistry

Health Officer, Board of Health, Town of Northwood, NH (1979-83)

Interpreting and applying state and local code to community, in coordination with state officials

U.S. Navy –Dental Officer (1970-78)

- Leading Junior Officer

RSA 317-A :13, III License Renewal states All persons licensed to practice dentistry or dental hygiene in this state shall notify the board in writing within 10 days of any change of business or residential address which may occur during the period between biennial registrations.



State of New Hampshire

Board of Dental Examiners

DAVID A GRUETTE, DDS

Inactive Lic #: 01382

Issued: 07/15/1975

Expires: 04/30/2016

DAVID A GRUETTE, DDS
72 RIDGE RD
CENTER BARNSTEAD NH 03225

Stacy A. Pande *PSH*
President

SDM
PJA



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF MEDICAID BUSINESS AND POLICY

Nicholas A. Toumpas
Commissioner

Kathleen A. Dunn
Associate
Commissioner

129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-9422 1-800-852-3345 Ext. 9422
Fax: 603-271-8431 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

February 27, 2014

G&C Approved

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

Date 3-26-14
Item # 27

REQUESTED ACTION

Authorize the Department of Health and Human Services, Office of Medicaid Business and Policy, to enter into a **sole source** agreement with David A. Gruette, D.D.S, vendor code #169044, 72 Ridge Road, Center Barnstead, NH 03225, in an amount not to exceed \$187,200, to provide dental consultant services, to be effective July 1, 2014 or date of Governor and Council approval, whichever is later, through June 30, 2016.

Funds are available in the following account for SFY 2015, and are anticipated to be available in SFY 2016 upon the availability and continued appropriation of funds in the future operating budgets, 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.

05-95-47-470010-7937 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: OFC OF MEDICAID & BUS PLCY, OFFICE OF MEDICAID & BUSINESS POLICY, MEDICAID ADMINISTRATION

Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
SFY 2015	102-500731	Contracts for Prog Svc	47000102	93,600
SFY 2016	102-500731	Contracts for Prog Svc	47000102	93,600
			Total	\$187,200

EXPLANATION

Sole source is requested for this contract. The Office of Medicaid and Business Policy has competitively procured these services for the past 18 years, and Dr. Gruette has been the only respondent with each bidding cycle.

With the implementation of the new MMIS system on April 1, 2013, NH Medicaid Dental Benefit Administration now requires highly specialized knowledge of dental coding, billing and data-capture systems, including expertise in requirements for edits, audits, exceptions and system integration with complex requirements of the Medicaid Dental Benefit. The role of the Dentist Consultant now encompasses support and management of the dental provider network relative to the new system as

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
February 27, 2014
Page 2

well as the requirement to work directly with Xerox to develop systems that are consistent with effective operations of the MMIS in order to deliver dental services as required by Title XIX, and avoid overpayment as well as wrongful denial of payment. The highly specialized expertise required to maintain functionality of the MMIS relative to the dental benefit is critical to the Department's ability to provide uninterrupted dental access to children and adults enrolled in Medicaid. These duties are in addition to the key responsibilities of the contract for the Medicaid Dentist Consultant. Dr. Gruette has performed in an outstanding manner over the past 18 years. His expertise and knowledge of clinical dentistry, as well as New Hampshire Medicaid, federal requirements of Title XIX, Title V and EPSDT, coding of dental procedures and the dental provider network represents a unique and valuable skill set that is critical for the function of the New Hampshire Medicaid Dental Program.

Funds in this agreement will support the above activities and responsibilities, in addition to the key responsibilities of the contract for the Medicaid Dentist Consultant, which include: completing prior authorizations for extractions and other treatment; completing claims adjudication; preparing cases and representing the Department at administrative hearings; working directly with dentists for children needing dental treatment when Client Services is unable to find a dentist; providing on-call back up for clinical emergencies when the Dental Director is unavailable; performing research and analysis for rule revision, policy and program development, and high level rate and utilization analysis to support cost containment.

The increased scale of services required of Dr. Gruette reflects the growth in the number of children enrolled in Medicaid who receive dental services. The services required in claims review and correction alone has grown proportionally as only 18,500 children received dental care in 2002, while over 60,000 received dental care in 2012. In addition to growth in the quantity of cases to be reviewed and corrected, the capacity of active providers has more than tripled, creating increased demand for network support by Dr. Gruette.

These services provide for essential dental consulting services, which will assist the Medicaid Program in operations of the New Hampshire Medicaid and Children's Health Insurance Program dental benefits programs. Efforts will continue to be directed toward recruiting and retaining a sufficient network of dentists to provide access to dental care for Medicaid eligible recipients assuring compliance with Titles XIX, V, Early Periodic Screening, Diagnosis, and Treatment (EPSDT), and other requirements for providing dental care, supporting operations of the Dental Prior Authorization Unit by assessing medical necessity of requests for prior authorization, pricing, correction, and review of dental claims, supporting Medicaid Client Services in assuring access to dental care, consulting with Xerox to assure continuity of services during transition from the current fiscal agent, and responding to provider calls regarding Medicaid's dental policies, practices, enrollment, and protocols.

The salary rate is \$75 per hour for these services for state fiscal year 2015 and 2016. Dr. Gruette will work 24 hours per week, 52 weeks each year for a yearly amount of \$93,600. The total agreement price is \$187,200. This rate is based on historical schedules pursuant to the Division of Personnel guidelines and below prevailing rates for dentists in the marketplace. These rates are lower than rates of equivalent positions in the private sector, and do not exceed public sector salaries and fringe benefits. The \$75 per hour rate is equal to the current rate for Medicaid medical consultants who provide a narrower scope of services than those required of the dentist consultant.

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
February 27, 2014
Page 3

Should Governor and Executive Council not authorize this Request, dental access for children and adults in NH Medicaid will predictably be reduced significantly both in the near and long term.

This Agreement has the option to extend for two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.

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

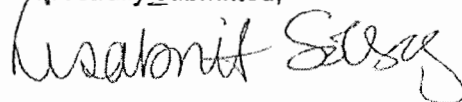
- Completes all deliverables related to program research and development on or before dates assigned by OMBP Dental Director;
- Maintains greater than 95% rate of support of consultant's determination of benefits at fair hearings;
- Responds in kind within 7 days to requests for information from providers, DHHS staff and Medicaid members;
- Completes reviews and corrections of 85% of claims within 45 days;
- Completes 85% of prior authorization requests within 45 days.

Area served: statewide.

Source of Funds are 50% Federal Funds from Title XIX Medicaid Funds and 50% General Funds.

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

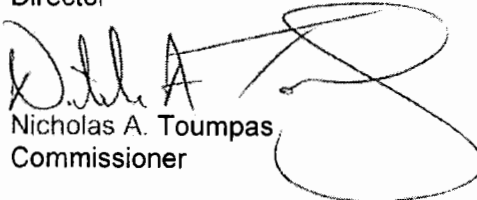
Respectfully submitted,



for

Kathleen A. Dunn, RN, MPH
Director

Approved by:



Nicholas A. Toumpas
Commissioner

Subject: Dental Consultant

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

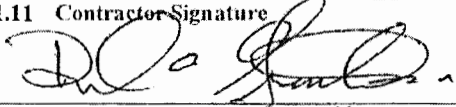
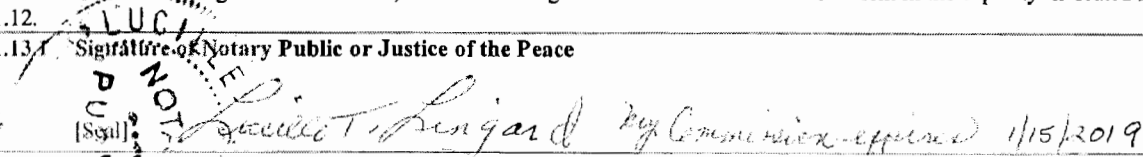
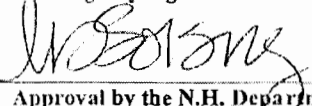
1.1 State Agency Name NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name David A. Gruette, D.D.S.		1.4 Contractor Address 72 Ridge Road Center Barnstead, NH 03225-3142	
1.5 Contractor Phone Number 603-776-2751	1.6 Account Number 05-95-47-470010-7937-102-500731	1.7 Completion Date 06/30/2016	1.8 Price Limitation 187,200
1.9 Contracting Officer for State Agency Kathleen A. Dunn, RN, MPH		1.10 State Agency Telephone Number 603-271-9422	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory David A. Gruette, D.D.S., Dental Consultant	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>2/27/2014</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] <u>Lucille T. Lingard</u> Notary Public, Commission Expires <u>1/15/2019</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Lucille T. Lingard</u>			
1.14 State Agency Signature  for.		1.15 Name and Title of State Agency Signatory Kathleen A. Dunn, RN, MPH, Director	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Sana Julloughian</u> Acting Director, On: <u>3/11/14</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u>Resman J. [Signature]</u> On: <u>3-7-14</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			



Exhibit A

SCOPE OF SERVICES

1. Project Description

Funds in this Agreement will be used to provide for essential dental consulting services to the Department of Health and Human Services (DHHS), Office of Medicaid Business and Policy (OMBP), which will assist the Medicaid Program in operations of the New Hampshire Medicaid Dental program. These services will provide access to dental care for Medicaid eligible recipients assuring compliance with Titles XIX, V, Early Periodic Screening, Diagnosis, and Treatment (EPSDT), and other requirements for providing dental care by supporting operations of the Dental Prior Authorization Unit by assessing medical necessity of requests for prior authorization, pricing, correction, and review of dental claims, supporting Medicaid Client Services in assuring access to dental care, consulting with Xerox to assure continuity of services, and responding to provider calls regarding Medicaid's dental policies, practices, enrollment, and protocols.

2. Required Activities

Required activities of the Contractor shall include, but not be limited to, the following:

- 2.1. The Contractor shall perform high-level professional duties in the development and implementation of the New Hampshire Medicaid Program for dental services, assist in the development, maintenance, and representation of the OMBP dental policy, and be familiar with the MMIS system to gather data for research and program planning by presenting this data in the Microsoft Excel format.
- 2.2. The Contractor shall exercise continuous initiative, judgment, and creativity in the planning and execution of the New Hampshire Medicaid Program's dental services based on the Contractor's professional training and expertise.
- 2.3. The Contractor shall represent the OMBP in contacts with members of the dental profession requiring discussion of problems in order to arrive at resolution. The Contractor shall promote the cooperation and support of the profession for the New Hampshire Medicaid Program in attending local, regional, and national meetings/conferences.
- 2.4. The Contractor shall perform daily operation duties of the New Hampshire Medicaid Program including:
 - 2.4.1. Review and correct requests for prior authorization of selected services according to program rules and policy.
 - 2.4.2. Prepare dental notices for denied services in accordance with requirements by the OMBP Legal and Policy Unit.
 - 2.4.3. Respond to inquiries from providers, contractors, and State agency personnel on matters relating to dental policy, practice and protocol.
 - 2.4.4. Review and correct dental claims for pricing and/or correction.
 - 2.4.5. Maintain communication with the State's fiscal agent to assure compliance with OMBP dental policy and provider relations.
- 2.5. The Contractor shall process suspended claims deposited into the state location from current fiscal agent

DAG



Exhibit A

- 2.6. The Contractor shall represent the OMBP at fair hearings as the Department's dental expert.
- 2.7. The Contractor shall conduct annual price and utilization review for all fee-for-service (FFS) dental services.
- 2.8. The Contractor shall perform periodic code review for compatibility with current American Dental Association (ADA) codes, per current Code on Dental Procedures and Nomenclature (CDT Code) Manual.
- 2.9. The Contractor shall manage special dental review projects as necessary.
- 2.10. The Contractor shall assist the OMBP Dental Director with research to support policy and program development;
 - 2.11. The Contractor shall assure access to dental care by assisting Dental Director in developing and implementing provider recruitment strategies as assigned;
 - 2.12. The Contractor shall assist the OMBP in the continued operation with Xerox, the fiscal agent for the Medicaid dental program.

3. Compliance Requirements

The Contractor shall:

- Be a graduate of an American Dental Association accredited dental school and a dentist licensed by the State of New Hampshire Board of Dental Examiners.
- Work under the administrative leadership and take direction from the OMBP Dental Director.
- Have strong interpersonal skills and be able to communicate with community dentists, OMBP departments and other State agencies concerning the Medicaid dental program and its operation, policy, practice and protocol.
- Be available three days a week (8 hours per day), 52 weeks per year, during state fiscal years 2015 and 2016.
- Participate in all meetings and program design sessions as assigned by OMBP Dental Director.
- Annually report codes for revisions in accordance with federal and state statutes and policies.
- Complete deliverables related to MMIS system review and reports of recommendations as required, by report.
- Annually review fees and utilization and completes research to support annual fee updates.

4. Performance Measures

The Contractor shall:

- Complete all deliverables related to program research and development on or before dates assigned by OMBP Dental Director;
- Maintain greater than 95% rate of support of consultant's determination of benefits at fair hearings;
- Respond in kind within 7 days to requests for information from providers, DHHS staff and Medicaid members;
- Complete reviews and corrections of 85% of claims within 45 days;
- Complete 85% of prior authorization requests within 45 days.



Exhibit B

Method and Conditions Precedent to Payment

- 1) Funding Sources:
 - a. \$187,200 = 50% federal funds from Title XIX Medicaid Funds, CFDA #93.778, and 50% general Funds;

- 2) The State shall pay the Contractor an amount not to exceed the Price Limitation, block 1.8 of the P-37 for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.
 - a. Payment for said services shall be made as follows:
 Reimbursements for services provided shall be made by the State on a monthly basis after receipt and review of monthly expenditure reports submitted by the Contractor to the State. These reports, which are based on a budget approved by the State, shall be in a form satisfactory to the State and shall be submitted no later than 20 working days after the close of the month. In addition to the monthly expenditure reports required, not later than sixty (60) days after the end of the budget period, the Contractor shall submit a final expenditure report in a form satisfactory to the State.

 - b. The invoice must be submitted to:
 Dr Snow, Medicaid Dental Director
 Department of Health and Human Services
 Office of Medicaid Business and Policy
 129 Pleasant Street
 Concord, NH 03301-3857
 Email address: msnow@dhhs.state.nh.us

- 3) The Contractor agrees to use and apply all payments made by the State for direct and indirect costs and expenses including, but not limited to, personnel costs and operating expenses related to the Services. Allowable costs and expenses shall be determined by the State in accordance with applicable State and Federal laws and regulations. The Contractor shall be paid only for the total number of hours actually worked at the identified hourly rate of \$75 per 8-hour work day in state fiscal year 2015 and 2016. The total of all payments made to the Contractor for costs and expenses incurred in the performance of the Services during the period of the contract shall not exceed one hundred eighty-seven thousand two hundred dollars (\$187,200).

- 4) Budget

SFY 2015	\$75/hour x 24 hours/week x 52 weeks	=	\$ 93,600
SFY 2016	\$75/hour x 24 hours/week x 52 weeks	=	\$ 93,600
	TOTAL:		\$187,200

- 5) Payment will be made by the State agency subsequent to approval of the submitted invoice and if sufficient funds are available in the Service category budget line items submitted by the Contractor to cover the costs and expenses incurred upon compliance with reporting requirements and performance and utilization review. Contractors will keep detailed records of their activities related to DHHS-funded programs and services.

- 6) Contractors are accountable to meet the scope of services. Failure to do so may jeopardize the funded contractor's current and/or future funding. Corrective action may include actions such as a contract amendment or termination of the contract. The contracted organization shall prepare progress reports, as required.

Exhibit B – Methods and Conditions Precedent to Payment_Contractor Initials

DAG



SPECIAL PROVISIONS

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

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

New Hampshire Department of Health and Human Services
Exhibit C



- 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.

New Hampshire Department of Health and Human Services
Exhibit C



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

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

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

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

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

15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

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

New Hampshire Department of Health and Human Services
Exhibit C



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

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

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

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

DEFINITIONS

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

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

DEPARTMENT: NH Department of Health and Human Services.

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

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

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

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

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

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



Exhibit C-1

REVISIONS TO GENERAL PROVISIONS

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:
 4. **CONDITIONAL NATURE OF AGREEMENT.**

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

2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language:
 - 10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.
 - 10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.
 - 10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.
 - 10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.
 - 10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

3. Extension:

This agreement has the option for a potential extension of up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.

New Hampshire Department of Health and Human Services



Exhibit C-1

4. Insurance

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

14.1.1 Automobile general insurance against claims of bodily injury in amounts of not less than \$300,000 per person and \$500,000 per accident, and property damage in amounts of \$100,000 each accident, and



CERTIFICATION REGARDING
THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

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

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

Contractor Name: David A. Gruette, D.D.S.

2.27.14
Date


Name: David A. Gruette, D.D.S.
Title: Dental Consultant



HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY 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 and those parts of the HITECH Act 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.

Definitions

1. "Breach" shall have the same meaning as the term "Breach" in Title XXX, Subtitle D, Sec. 13400.
2. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
3. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
4. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
5. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
6. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
7. "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.
8. "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.
9. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
10. "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.
11. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
12. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.
13. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
14. "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.
15. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreasonable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
16. 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.



Use and Disclosure of Protected Health Information

1. 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, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
2. Business Associate may use or disclose PHI:
 - 2.1. For the proper management and administration of the Business Associate;
 - 2.2. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - 2.3. For data aggregation purposes for the health care operations of Covered Entity.
3. 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 HITECH Act, Subtitle D, Part 1, Sec. 13402 of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
4. 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 Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.
5. 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.

Obligations and Activities of Business Associate

1. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402.
2. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in, the HITECH Act, Subtitle D, Part 1, Sec. 13401 and Sec. 13404.
3. 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.
4. 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)b and (3)k herein. 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 pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.
5. 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.



6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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 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.

Obligations of Covered Entity

1. 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.
2. 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.
3. 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.

Termination for Cause

In addition to standard provision #10 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.

New Hampshire Department of Health and Human Services
Exhibit I



Miscellaneous

1. 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, and the HITECH Act as 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.
2. 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.
3. 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.
4. 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 and the HITECH Act.
5. 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.
6. 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 k, the defense and indemnification provisions of section 3 d and standard contract provision #13, shall survive the termination of the Agreement.

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

Contractor Name: David A. Gruette, D.D.S.

2.27.14

Date

Name: David A. Gruette, D.D.S.
Title: Dental Consultant

State Agency Name: Department of Health and
Human Services

3.3.14

Date

for Name: Kathleen A. Dunn, RN, MPH
Title: Director