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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF COMMUNITY BASED CARE SERVICES

BUREAU OF ELDERLY & ADULT SERVICES

Nicholas A. Toumpas  
Commissioner

Nancy L. Rollins  
Associate  
Commissioner

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June 21, 2013

100% Federal

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

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Division of Community Based Care Services, Bureau of Elderly and Adult Services to enter into an Agreement with the University of New Hampshire, Durham, New Hampshire (Vendor #177867) to provide Technical Assistance Services to develop and implement the expansion of the Options Counseling Program under the Aging and Disability Resource Centers, in an amount not to exceed \$335,335 effective date of Governor and Council approval through June 30, 2014.

Funds to support this request are anticipated to be available in the following accounts in State Fiscal Year 2014 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.

05-95-48-481010-78720000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HHS: ELDERLY AND ADULT SERVICES, GRANTS TO LOCALS, ADM ON AGING GRANTS

Class/Account	Class Title	Fiscal Year	Amounts
072-500575	Grants Federal	2014	\$335,335

**EXPLANATION**

This Requested Action is to provide Technical Assistance Services that will assist the Bureau of Elderly and Adult Services in the expansion of the Options Counseling Program. Technical Assistance consists of the coordination, development, and implementation with the various aspects of the expansion such as approaches to provide options counseling to all populations, collecting and evaluating data for quality improvement and meeting federal counseling standards, and developing training models to train Department staff and contractors in the new standards set for Options Counseling.

The goal of this expansion is to strengthen the person-centered access approach to programs to help older adults, persons with disabilities of all ages, people with intellectual, physical, and developmental disabilities, veterans and family caregivers, to learn about and access the Long Term Services and Supports that best meet their needs to assist them to remain in their homes and communities, while keeping institutional services available when they are needed.

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The Options Counseling Program is being expanded in collaboration with the Department's Balancing Incentive Program also known as BIP. The intent of the collaboration is to establish a "No Wrong Door" model for agencies to be access points for individuals to improve information about community long-term care services and supports, streamline application and eligibility determination processes, and assist those applying for services for all populations. This collaboration is intended to build stronger partnerships between communities and health and long term care systems to reduce unnecessary readmissions and promote better health, better care and lower costs.

The contractor's performance will be measured by meeting the project objectives of improving information about long-term care services and supports, assistance for those applying for services, and strengthening the existing infrastructure for accessing services across the continuum of care. The Department will monitor the contractor's activities towards these objectives through the Detailed Project Plan that will be the first deliverable by this contractor.

This Agreement was competitively bid. A Request for proposals was released on the Department's website on March 5, 2013 through April 2, 2013. Although five letters of intent were submitted, the University of New Hampshire was the only bidder to submit a proposal. The proposal was evaluated and scored using a consensus model. Three Department staff evaluated the proposal's technical response on its project approach, qualifications, competence, experience, and staffing plan. Two Department staff evaluated the proposal's cost and financial sustainability. The proposal scored 85 out of a total 100 possible points. The team recommended this bidder for contract. The team included Wendi Aultman, Manager of the ServiceLink Program, Cathy Creapeaux, Manager of the Family Caregiver program, Margaret Bernard, Program Specialist with Special Medical Services, all with over 10 years experience in managing programs or options counseling services. Additionally, the finance team included Ann Driscoll, Auditor and Certified Public Accountant, and Victoria Silva, Auditor with over 20 years experience in finance.

This Agreement includes the option to renew two additional periods of one year each, subject to continued availability of funds, satisfactory performance of services, and approval by the Governor and Executive Council.

Should the Governor and Executive Council determine not to approve this request, more individuals in need of long-term care will be unable to obtain needed services and supports in their communities, resulting in increased utilization of higher cost institutional services. In addition, a certain number of people currently being cared for in institutional settings will have to remain in those settings, due to the continued shortage of available community services and supports that could fulfill their needs. Without access to Options Counseling, the rate of hospital readmissions is expected to increase.

Areas served: Statewide

Source of Funds for this amendment: 100% Federal funds from the Administration for Community Living.

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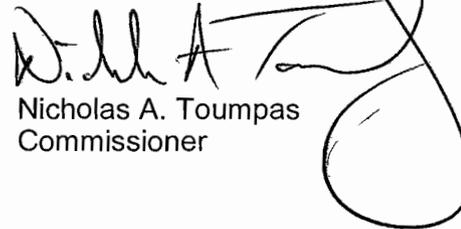
In the event that the Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Nancy L. Rollins  
Associate Commissioner

Approved by:



Nicholas A. Toumpas  
Commissioner

**COOPERATIVE PROJECT AGREEMENT**

between the

STATE OF NEW HAMPSHIRE, **Department of Health and Human Services**

and the

**University of New Hampshire** of the UNIVERSITY SYSTEM OF NEW HAMPSHIRE

- A. This Cooperative Project Agreement (hereinafter "Project Agreement") is entered into by the State of New Hampshire, **Department of Health and Human Services**, (hereinafter "State"), and the University System of New Hampshire, acting through **University of New Hampshire**, (hereinafter "Campus"), for the purpose of undertaking a project of mutual interest. This Cooperative Project shall be carried out under the terms and conditions of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, except as may be modified herein.
- B. This Project Agreement and all obligations of the parties hereunder shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve this Project Agreement ("Effective date") and shall end on **6/30/14**. If the provision of services by Campus precedes the Effective date, all services performed by Campus shall be performed at the sole risk of Campus and in the event that this Project Agreement does not become effective, State shall be under no obligation to pay Campus for costs incurred or services performed; however, if this Project Agreement becomes effective, all costs incurred prior to the Effective date that would otherwise be allowable shall be paid under the terms of this Project Agreement.
- C. The work to be performed under the terms of this Project Agreement is described in the proposal identified below and attached to this document as Exhibit A, the content of which is incorporated herein as a part of this Project Agreement.

Project Title: **Technical Assistance Services for the Enhanced ADRC Options Counseling Prgm**

- D. The Following Individuals are designated as Project Administrators. These Project Administrators shall be responsible for the business aspects of this Project Agreement and all invoices, payments, project amendments and related correspondence shall be directed to the individuals so designated.

**State Project Administrator**

Name: Laurie Heath  
 Address: NH DHHS  
 Bureau of Elderly and Adult Services  
 129 Pleasant St.  
 Concord, NH 03301  
 Phone: 603-271-9068

**Campus Project Administrator**

Name: Dianne Hall  
 Address: University of New Hampshire  
 Sponsored Programs Administration  
 51 College Rd. Rm 116  
 Durham, NH 03824  
 Phone: 603-862-1942

- E. The Following Individuals are designated as Project Directors. These Project Directors shall be responsible for the technical leadership and conduct of the project. All progress reports, completion reports and related correspondence shall be directed to the individuals so designated.

**State Project Director**

Name: Wendi Aultman  
 Address: NH DHHS  
 Bureau of Elderly and Adult Services  
 129 Pleasant St.  
 Concord, NH 03301  
 Phone: 603-271-9096

**Campus Project Director**

Name: Laurie Davie  
 Address: University of New Hampshire  
 NH IHPP  
 51 College Rd. Hewitt Hall Rm 202  
 Durham, NH 03824  
 Phone: 603-862-3682

F. Total State funds in the amount of \$335,335 have been allotted and are available for payment of allowable costs incurred under this Project Agreement. State will not reimburse Campus for costs exceeding the amount specified in this paragraph.

Check if applicable

Campus will cost-share \_\_\_\_\_ % of total costs during the term of this Project Agreement.

Federal funds paid to Campus under this Project Agreement are from Grant/Contract/Cooperative Agreement No. **90RO0028** from **Administration for Community Living, Center for Disability and Aging Policy** under CFDA# **93.517**. Federal regulations required to be passed through to Campus as part of this Project Agreement, and in accordance with the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, are attached to this document as Exhibit B, the content of which is incorporated herein as a part of this Project Agreement.

G. Check if applicable

Article(s) \_\_\_\_\_ of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002 is/are hereby amended to read:

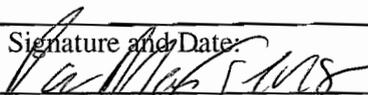
H.  State has chosen **not to take** possession of equipment purchased under this Project Agreement.  
 State has chosen **to take** possession of equipment purchased under this Project Agreement and will issue instructions for the disposition of such equipment within 90 days of the Project Agreement's end-date. Any expenses incurred by Campus in carrying out State's requested disposition will be fully reimbursed by State.

This Project Agreement and the Master Agreement constitute the entire agreement between State and Campus regarding this Cooperative Project, and supersede and replace any previously existing arrangements, oral or written; all changes herein must be made by written amendment and executed for the parties by their authorized officials.

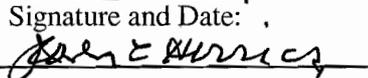
IN WITNESS WHEREOF, the University System of New Hampshire, acting through the **University of New Hampshire** and the State of New Hampshire, **Department of Health and Human Services** have executed this Project Agreement.

**By An Authorized Official of:  
University of New Hampshire**

Name: Karen M. Jensen  
Title: Manager, Sponsored Programs Administration

Signature and Date:  6/19/13

**By An Authorized Official of: the New  
Hampshire Office of the Attorney General**

Name: Jeanne P. Herick  
Title: Attorney  
Signature and Date:  6/25/13

**By An Authorized Official of:  
Department of Health and Human  
Services**

Name: Nancy L. Rollins  
Title: Associate Commissioner, Division of  
Community Based Care Services

Signature and Date:  6/24/13

**By An Authorized Official of: the New  
Hampshire Governor & Executive Council**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature and Date: \_\_\_\_\_

## EXHIBIT A

**A. Project Title:** Technical Assistance Services for the Enhanced Aging and Disability Resource Center Options Counseling Program

**B. Project Period:** Date of Governor and Executive Council Approval – June 30, 2014.

**C. Objectives:** The objective of the project is to provide Technical Assistance Services to the State by assisting in the coordination, development, implementation to expand the Enhanced Aging and Disability Resource Center (ADRC) Options Counseling Program.

The Campus will work collaboratively with the State and identified external stakeholders to fulfill the overall Enhanced ADRC Options Counseling objectives which are:

- to improve information about long-term care services and supports (including those available in local communities),
- assist those applying for these services, and
- strengthen the existing infrastructure across the continuum of care.

The expected outcome of the project is to strengthen and expand person-centered access approach to programs to help older adults, persons with disabilities of all ages, people with intellectual, physical, and developmental disabilities, veterans and family caregivers learn about and access the Long Term Services and Supports (LTSS) that best meet their needs.

**D. Scope of Work:**

1. Coordinating and Supporting the Deliverables of the Enhanced ADRC Options Counseling Program
  - 1.1. Coordinating and supporting the design of deliverables to strengthen the capacity of the ADRC Options Counseling Program such as developing and implementing a plan to provide all person requesting LTSS access to receive option counseling and assistance regardless of payment source, identifying and assessing existing approaches, gaps, and areas for further development, and developing a plan to extend and enhance ADRC Options Counseling model to all populations served by State;
  - 1.2. Coordinating all aspects for Options Counseling training initiatives, including subcontracting with qualified trainers and handling logistics of training sessions to ensure that all ADRC Options Counselors are trained and certified on the training and certification program the Administrator for Community Living (ACL) and the State agree upon to pilot test during the project period, and the development of an Options Counseling training plan. Through University of New Hampshire's Office of Sponsored Research, the Campus will subcontract with qualified trainers to assist with the delivery of options counseling training. See Section D. Scope of Work, subsection 2 below for additional requirements;
  - 1.3. Assisting the State to identify, organize, collect, and report on data for Continuous Quality Improvement (CQI) and the proposed National Evaluation Framework for Options Counseling. This will include but not be limited to collection of performance data and outcomes over the project period such as quality of life and well-being of individuals, families, and utilization of funds for long-term support services and health care services, as well as the development of protocols for data collection. Other data collection requirements are subject to final decisions by the ACL. The Campus will use a subcontractor to analyze current data and future data needs, and design protocols for data collection.

The Campus will use the University of New Hampshire's Survey Center to collect data required for this project. See Section D. Scope of Work, subsection 3 below for additional requirements;

- 1.4. Supporting the State in establishing collaborative relationships with stakeholders throughout the State of New Hampshire to adopt a No Wrong Door Approach, (NWD) and fully engage stakeholders in educating them on the Enhanced ADRC Options Counseling initiatives and work plans; development of a stakeholder education plan. The NWD approach operationally involves a wide array of agencies and organizations in the ADRC Options Counseling Program so it can effectively reach and serve a broad range of populations. These population groups include older adults, people with physical disabilities of all ages, people with intellectual and developmental disabilities, and individuals interested in planning and/or paying for their LTSS needs.
  - 1.5. Convening, participating in, and providing technical assistance and logistical support for meetings of ADRC Options Counseling workgroups as well as other workgroups related to the project;
  - 1.6. Assisting the State to ensure coordination and integration of the Enhanced ADRC Options Counseling and other Federal Initiatives with the overall plan for redesigning long-term care;
  - 1.7. Assisting the State working with Centers for Medicare and Medicaid (CMS) and other federal agencies to identify opportunities for program sustainability, and to leverage other programs whose goals are aligned with Enhanced ADRC Options Counseling; and
  - 1.8. Assisting in the development and submission of Enhanced ADRC Options Counseling Program updates, supportive documentation and reports to DHHS and ACL as required.
  - 1.9. Assisting the State and its current and future contractors that provide services within the ADRC model in the collection of data and outcomes over the project period for the Veteran-Directed Home and Community Based Care Program.
2. Coordination of Specific Training, Certification, and Formal Partnership Initiatives

The Campus shall support the coordination of training, certification and formal partnerships by:

- 2.1. Providing logistical support for the project workgroups working with ACL, CMS and Veteran Health Administration (VHA) to finalize a national training curriculum;
  - 2.2. Providing logistical support for the project workgroups working with ACL in developing a training and national certification process for Options Counseling;
  - 2.3. Assuring internal and external stakeholder participation in the development, implementation, and evaluation of the Options Counseling Training and Certification Plan;
  - 2.4. Assuring access and utilization of the National Learning Collaborative for Options Counseling;
  - 2.5. Developing and implementing statewide outreach plans to educate providers and consumers of Options Counseling; and
  - 2.6. Assisting the State and its current and future contractors that provide services within the ADRC model in the development of resources and protocols to provide person centered transition support, in building formal linkages between and among major pathways that people travel while transitioning from one service setting to another; e.g. transitioning from a nursing home back to a community setting.
3. Evaluation, Performance Standards, Continuous Quality Improvement and Reporting

- 3.1. The Campus will assist the State with the monitoring, evaluating and reporting for the State's Enhanced ADRC Options Counselor Project. Activities include but are not limited to the coordination of the assessment of the continuous quality improvement plan for the ADRC system.
- 3.2 The Campus will assist the State in strengthening the existing evaluation framework for the ADRC Options Counseling program and CQI protocols as well as enhance and expand these protocols as they apply to OC.
- 3.3 The Campus will assist the State in coordinating the development and implementation of the National Framework for defining, measuring, tracking, and reporting progress and achieving the outcomes and performance standards established by ACL.
- 3.4 The Campus will use subcontractors to meet some or all of the the requirements in Sections 3.1, 3.2, and 3.3. The Campus will subcontract for the following activities:
  - a. provide technical assistance and consultation in revising and finalizing the National Evaluation Framework;
  - b. map and describe the expanded access points, new target populations and enhanced functions performed by options counselors and how these are aligned with other initiatives in New Hampshire;
  - c. identify the system and client level activities that New Hampshire proposes to implement enhanced options counseling; and
  - d develop an updated evaluation plan and CQI protocols.

4. Detailed Project Plan:

- 4.1. Within 30 days from the date of Governor and Executive Council approval of the Cooperative Project Agreement, the Campus shall develop with and submit to DHHS a preliminary Detailed Project Plan which shall include a Training Series Project Plan. The final work plan shall be approved by DHHS no later than sixty (60) days from the date of Governor and Executive Council approval of the Cooperative Project Agreement.
  - 4.2. At a minimum, the Detailed Project and Training Series Project Plans shall identify objectives, deliverables, activities, proposed approach, assigned staff, performance measure, and reasonable timelines and dates for completion of the deliverables.
  - 4.4. Performance Monitoring: DHHS will monitor the completion of the deliverables in the project plan using the performance measures defined in the Detailed Project and Training Series Project Plans.
  - 4.5. Revision or Modifications: During the course of this contract period it may be necessary to revise or modify the deliverables and the Detailed Project and Training Series Project Plans referred to above to meet the primary objectives defined by the federal grantor. DHHS staff will work with the Campus to develop a solution that takes into consideration resources and timelines for completion. The above-mentioned work plan to be developed will be adjusted accordingly, but in no case will timelines extend beyond the Enhanced ADRC Options Counseling award period and or contract period.
5. Meetings and Communications with DHHS: The vendor will be required to participate in meetings (at a minimum on a monthly basis or more frequently, as required by DHHS) to discuss planning, progress, challenges, opportunities, and options regarding Enhanced ADRC Options Counseling related tasks and activities. Meetings will be conducted in-person at DHHS. In certain circumstances, phone meetings and video conferencing may be substituted for in-person meetings if approved by the Enhanced ADRC Options Counseling Project Manager. The vendor may be required to accompany

the project director in attending two (2) annual out of state grantee learning collaborative meetings held by the Administration for Community Living.

6. Staffing:

6.1 Campus shall maintain a level of staffing necessary to perform and carry out all of the functions, requirements, roles, and duties described in the scope of work in a timely fashion. This shall include a staffing model as follows:

Staffing: FTE	Fiscal Year 2014
Project Director	.45
Project Coordinator	.40
Training Coordinator	.60
Training and Marketing Coordinator	.57

6.2. Campus shall ensure that staff has the appropriate training, education and experience. Staff are required to have Master's Degree in Social Work, Public Administration, Human Services or related human service field. Staff with a Bachelor's Degree with a minimum of three (3) years experience providing project coordination and direction in the Aging and Disability field and demonstrated experience and knowledge with the target population: older adults, persons with disabilities of all ages, people with intellectual, physical, and developmental disabilities, veterans and family caregivers including Medicaid/non-Medicaid recipients.

6.3 Campus shall notify DHHS in the event of any staffing changes or use of subcontractors.

**E. Deliverables Schedule:** Project Deliverables will be according to the Project and Training Plans in Section D. Scope of Work.

Submit to the State Project Director, financial and program reports and other data two weeks prior to the required due dates identified by ACL or upon request. Reports submitted to State shall be final and prepared following federal guidelines and formats. Submit to the State Project Director the performance measurement and evaluation reports as detailed in the Project and Training Plans in Section D. Scope of Work.

No more than monthly and no less than quarterly, Financial Reports shall be submitted as directed by DHHS to support the financial activities of this project and as required by the grant.

**F. Budget and Invoicing Instructions:**

1. State Account Number:

Funds supporting this Agreement are in Account Number 05-95-48-481010-78720000-072-500575.

2. Invoicing Instructions

Campus will submit invoices to State on regular Campus invoice forms no more frequently than monthly and no less frequently than quarterly. Invoices will be based on actual project expenses incurred during the invoicing period, and shall show current and cumulative expenses by major cost categories. State will pay Campus within 30 days of receipt of each invoice. Campus will submit its final invoice not later than 75 days after the Project Period end date

3. Funding Level: Funding for this Agreement is based upon and subject to availability of the Grant Award to support this project. If the funding for this Agreement is not available at the proposed levels, the Agreement will be adjusted accordingly.

4. Budget and Narrative

State Funding

Budget Items	Fiscal Year 2014	Total
1. Salaries and Wages	\$110,943	\$110,943
2. Employee Fringe Benefits	\$51,366	\$51,366
3. Travel	\$10,392	\$10,392
4. Supplies and Services	\$118,896	\$118,896
5. Equipment	\$0	\$0
6. Facilities & Administrative Costs	\$43,738	\$43,738
Total Project Costs	\$335,335	\$335,335

1. Salary and Wages :

Project Director (.45 FTE for SFY 14) –develop and oversee all technical assistance contract deliverables in the final work plan and lead the coordination with other DHHS and stakeholder initiative. \$30,902

Project Coordinator (.40 FTE for SFY 14) – coordinate and support deliverables related to strengthening the capacity of the ADRC Options Counseling program. \$26,372

Training Coordinator (.60 FTE for SFY 14) –provide technical assistance to DHHS for all options counseling training deliverables. \$27,161

Training and Marketing Coordinator (.57 FTE for SFY 14) –coordinate all aspects of Options Counseling training initiatives including evaluation and will provide technical assistance for adoption of the No Wrong Door model. \$26,508

2. Employee Benefits: The fringe benefits rate for FY14 at the University of New Hampshire is 46.3% for full benefits and 7.9% for partial benefits. This amount is based on the Campus' Federal Rate Agreement with the US Department of Health and Human Services. \$51,366

3. Consultants: This application will identify and utilize independent contractors to assist with the delivery of options counseling training, once defined by ACL, for providers across the long term care delivery system and other technical assistance tasks with the approval of DHHS. \$48,089

4. Equipment – N/A

5. Supplies: This application is to support the cost of supplies directly related to the implementation of the proposal including a computer, easels, self-stick easel pads, markers, and related training materials. \$2,200

6. Travel: \$3,192 in SFY 14 to support mileage reimbursement for in-state travel for project meetings, convening stakeholders for planning and feedback, training activities, biweekly Project Team meetings, and meetings with DHHS related to reporting on project activities. - Travel is reimbursed at the IRS approved rate. This application also includes a request for \$7,200 in SFY 14 to support out-of-state travel for two project staff to Washington, DC for bi-annual meetings and other project related conferences. \$10,392

7. Occupancy – N/A

8. Current Expenses \$14,862

- Telephone and video-conference fees – \$2,600 for SFY 14 to support the video-conference and telephone expenses associated with this project supporting statewide communication.

- Printing/copying/postage - \$2,462 for SFY 14 to support the costs of printing/copying project and training materials in various formats and postage expenses related to this project.

- Meeting/training location costs \$5,500 in SFY 14 to support the space rental fee for required meetings and training related to the project.

- Conference costs - \$4,300 in SFY 14 to support the cost of minimal meeting refreshments such as coffee, tea, water and snacks at the varied stakeholder meetings and staff training.

9. Software – N/A

10. Marketing/Communications – N/A

11. Staff Education and Training – N/A
  12. Subcontract Agreements: This application includes a subcontract with University of Southern Maine to assist with identifying, organizing, collecting, and reporting on data for Continuous Quality Improvement and proposed National Evaluation Framework. \$40,745
  13. Other : This application includes an Agreement with the UNH Survey Center to assist with implementation of the national evaluation framework in NH. \$13,000
- F&A @ 15% \$43,739

5. Notwithstanding Article 5 of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire, an amendment limited to the terms of Budget in #4 above, to adjust the amounts within the price limitation and between state fiscal years can be made by written agreement of both parties and may be made without obtaining approval of Governor and Executive Council.

G. Other:

1. Renewal: The State reserves the right to renew this contract for two additional periods of one year each, subject to continued availability of funds, satisfactory performance of services, and approval by the Governor and Executive Council.
2. The Department may renegotiate the terms and conditions of the contract in the event applicable local, state, or federal law, regulations or policy are altered from those existing at the time of the contract in order to be in continuous compliance therewith.

3. Gratuities or Kickbacks:

The Campus agrees that it is a breach of this Project Agreement to accept or make a payment, gratuity or offer of employment on behalf of the Campus, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibits A of this Cooperative Project Agreement. The State may terminate this Project Agreement 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 Campus or Sub-Contractor.

4. Credits:

4.1 All documents, notices, press releases, research reports, and other materials prepared for public distribution during or resulting from the performance of the services of the Project Agreement shall include the following statement:

The preparation of this (report, document, etc.) was financed under a Project Agreement with the State of New Hampshire, Department of Health and Human Services, Division of Community Based Care Services, Bureau of Elderly and Adult Services, with funds (identify the percentage and dollar amount of Federal funds for the program or project) provided by grant 90RO0028 from the Administration for Community Living, U.S. Department of Health and Human Services.

The project was supported in part by grant number 90RO0028, from the U.S. Administration for Community Living, U.S. Department of Health and Human Services.

- 4.2 If the materials prepared for public distribution as defined above expresses research conclusions, then the following language shall be included:

Grantees undertaking projects under government sponsorship are encouraged to express their findings and conclusions freely. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.

5. 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 under this contract, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Except for the foregoing copyright ownership provision, the University shall retain ownership for any and all of its original materials created independent of this contract, regardless of whether they are used in delivery of the University's responsibilities under this contract. DHHS shall grant to the University a non-exclusive, perpetual, royalty-free license to reproduce, modify and use all such materials for its own non-commercial purposes. The University shall defend, indemnify and hold harmless the State from any liabilities resulting from the University's modifications and use of all such materials.

6. Ownership of Data and Property:

All data and any property including but not limited to, training records, and training materials (electronic and hardcopy) and reports, created for the purposes of services provided through this CPA shall be owned by DHHS. DHHS shall grant to the University a non-exclusive, perpetual, royalty-free license to reproduce, modify and use all such data and materials for its own non-commercial purposes. The University shall defend, indemnify and hold harmless the State from any liabilities resulting from the University's modifications and use of all such data and property.

**EXHIBIT B**

This Project Agreement is funded under a Grant/Contract/Cooperative Agreement to State from the Federal sponsor specified in Project Agreement article F. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant/Contract/Cooperative Agreement are hereby adopted in full force and effect to the relationship between State and Campus, except that wherever such requirements, regulations, provisions and terms and conditions differ for INSTITUTIONS OF HIGHER EDUCATION, the appropriate requirements should be substituted (e.g., OMB Circulars A-21 and A-110, rather than OMB Circulars A-87 and A-102). References to Contractor or Recipient in the Federal language will be taken to mean Campus; references to the Government or Federal Awarding Agency will be taken to mean Government/Federal Awarding Agency or State or both, as appropriate.

Special Federal provisions are listed here:  None or

NH Department of Health and Human Services

STANDARD EXHIBIT I  
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.

BUSINESS ASSOCIATE AGREEMENT

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in Title XXX, Subtitle D. Sec. 13400.
- 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.
- i. "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).
- 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 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.
- 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, 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.
- 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) 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, 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.
- 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 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.
- 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 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. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.

- h. 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.
- i. 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.
- j. 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.
- k. 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.

**(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 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.

(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, 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.
- 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 and the HITECH Act.
- 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 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.

NH Department of Health and Human Services

University of New Hampshire

The State Agency Name

Name of the Contractor

*Nancy L. Rollins*  
Signature of Authorized Representative

*Karen M. Jensen*  
Signature of Authorized Representative

*Nancy L. Rollins*  
Name of Authorized Representative

Karen M. Jensen  
Name of Authorized Representative

*Associate Commissioner*  
Title of Authorized Representative

Manager, SPA  
Title of Authorized Representative

*6/24/13*  
Date

*6/20/13*  
Date