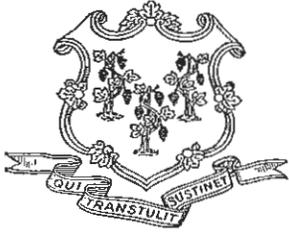


STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES



CONTRACT AMENDMENT

Contractor: ASCEND MANAGEMENT INNOVATIONS, LLC
Contractor Address: 840 Crescent Centre Drive, Suite 400 Franklin, TN 37067
Contract Number: 999ASC-ACU-01 / 09DSS6502YJ
Amendment Number: A2
Amount as Amended: \$14,536,927.00
Contract Term as Amended: 11/01/09 - 06/30/2017

The contract between **Ascend Management Innovations, LLC** (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and signed by the Commissioner on 12/30/09, is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by **\$5,866,338.00** from \$8,670,589.00 to \$14,536,927.00. Breakdown in cost is Department of Social Services - \$3,997,986.00 and Department of Mental Health and Addition Services - \$ 1,868,352.00
2. The budget for 07/01/2014 - 06/30/2017 shall be set forth on pages 14 and 15 of this amendment and includes a \$10,000 overage in the event that the work projected exceeds the projected volume.
3. The term of the contract is extended for an additional three years and the end date of the contract is changed from 06/30/2014 to 06/30/2017.
4. All references in the contract to an end date of 06/30/2014 shall be amended to reflect 06/30/2017.
5. Amendment 1, 6. b. Section II, Description of Services, on page 2 of Amendment 1, shall be deleted in its entirety and replaced with:
The Contractor shall provide system maintenance, hosting services, tracking and reporting for the CT Home Care Program for Elders, the CT Home Care Program for Adults with Disabilities and the 1915i state plan services option.
6. Amendment 1, 6. e. Section II, Description of Services, on page 2 of Amendment 1, shall be appended with the following language:
 - viii. System development in Phase 6 shall include DSS district office access to the web based system as well as full access for Assisted Living Service Agencies for the purposed of both document exchange and reporting.

7. Amendment 1, Part II Terms and Conditions are deleted in their entirety and replaced with the most current Part II Terms and Conditions, Rev August 2012.
8. The following provisions shall be appended to Part I Section II, Description of Services, A.1 LEVEL 1 Screening on page 15 of the original contract:
 - j. Utilize the DMHAS/DSS consultation protocol when reviewing the LOC needs for a person with a Level II condition related to their mental illness when the addition of information or history from DMHAS would be beneficial in determining the appropriateness of NF LOC.
9. The following provision shall be appended to Part I Section II, Description of Services A. 3.Categorical Level II Determinations a.Temporary Time-Limited Categorical Admissions on page 22 of the original contract:
 - vii. Sixty-Day convalescent admission when the admission to a nursing facility occurs directly from a hospital after receiving acute inpatient care for a medical condition and nursing facility services are required for the hospitalized condition. An LOC screen must be completed as part of this process.
10. Part I Section II, Description of Services A. 4(a) NF Level of Care (LOC) Determinations on page 23 of the original contract shall be amended as follows:
 The Contractor shall provide statewide LOC determinations for Medicaid recipients and individuals residing in a NF or requesting admission to a CI NF. The Contractor shall make all LOC decisions in accordance with the medical necessity definition in C.G.S.17b-259b and conduct LOC screenings in the following situations:
 - a. Prior to initiation of or a referral for a Level II Evaluation on each NF applicant suspected of MI or MR, regardless of payer.
 - b. On each individual identified as MI or MR requiring a RR as a result of a significant change.
 - c. On all individuals age 65 and older who are Medicaid active, eligible, pending prior to admission to a NF.
 - d. On individuals applying for Medicaid while residing in a NF.
 - e. Prior to admission to a NF on individuals dually eligible for Medicare and Medicaid.
 - f. On individuals who have expired or have been discharged from a NF and the individual's Medicaid eligibility was not known or determined at the time of death or discharge.

LOC evaluations are not required for the following individuals:

Self-pay individuals who are not identified as having MI or MR and individuals transferring from one NF to another.

11. Part I Section II, Description of Services A 4. NF Level of Care (LOC) Determinations e. on page 24 of the original contract-shall be deleted in its entirety and replaced with:
 The Contractor shall notify the client in writing of his or her appeal rights.
 The Contractor shall participate in appeal hearings and prepare the Fair Hearing Summary.
 Two weeks prior to the hearing, the Contractor shall check with the NF to determine whether there have been any changes in the client's condition.

12. Part I Section II, Description of Services A 12. Participation in Appeal Hearings a. on page 38 of the original contract shall be deleted in its entirety and replaced with:
Any appeals for assessments resulting in denial or termination of services shall be represented by the contractor's designated staff who will have thorough knowledge of all of the documentation that contributed to the decision that resulted in the appeal.

13. The following provision shall be appended to Part I Section II, Description of Services A. 15.

Quality Improvement Organization (QIO)

The Department agrees to recruit the physician panel required for Ascend to seek designation from CMS as a QIO-like entity by The Centers for Medicare and Medicaid Services. This will allow the Department to claim enhanced federal financial participation on utilization review services provided under this contract. The contractor agrees to credential the panel and pay an annual retainer of \$250 to each of the 14 panel members. The costs for the QIO functions are included in the administrative line item of the contractor's budget.

14. Section III, Business Cost Section, B. Payment Schedule shall be supplemented with the following schedules. To the extent that there is a discrepancy between the schedules below and the schedules in Amendment 1 and in the original contract, the budgets below shall govern.

Fixed price and associated cost breakdown for contract operations			
Cost Item			
	7/1/14-6/30/15	7/1/15-6/30/16	7/1/16-6/30/17
(1) Administrative General Expenses	\$165,855.00	\$165,855.00	\$165,855.00
(2) LOC Determinations	\$246,537.00	\$246,537.00	\$246,537.00
(3) NF on-site Assessments	\$14,998.00	\$14,998.00	\$14,998.00
(4) Level I Screens	\$745,200.00	\$745,200.00	\$745,200.00
(5) Level II Evaluations (PAS & Document Based Resident Reviews (RR))	\$566,643.00	\$566,643.00	\$566,643.00
(6) Appeals Participation	\$2,213.00	\$2,213.00	\$2,213.00
Total Cost (Fixed Price)	\$1,741,446.00	\$1,741,446.00	\$1,741,446.00
Annual Overage	\$10,000.00	\$10,000.00	\$10,000.00
<u>Total PASRR&LOC</u>	<u>\$1,751,446.00</u>	<u>\$1,751,446.00</u>	<u>\$1,751,446.00</u>
Waiver System	204,000.00	\$204,000.00	\$204,000.00
<u>Total Contract</u>	<u>\$1,955,446.00</u>	<u>\$1,955,446.00</u>	<u>\$1,955,446.00</u>

Per unit price for services exceeding volumes by 5% or more			
Cost Item			
	7/1/14-6/30/15	7/1/15-6/30/16	7/1/16-6/30/17
(1) LOC Determinations	\$13.95	\$13.95	\$13.95
(2) NF On-site Reviews	\$280.86	\$280.86	\$280.86
(3) Level I Screens	\$13.95	\$13.95	\$13.95
(4) Level II Evaluations	\$280.86	\$280.86	\$280.86
(5) Document Based Resident Reviews	\$162.00	\$162.00	\$162.00
(6) Appeals Participation	\$93.00	\$93.00	\$93.00

15. Section Three, Business Cost Section, C. Annual Volume shall be supplemented with the following table for State Fiscal Years 2015-2017:

<u>Review Type</u>	<u>Projected Volume</u>	<u>Projected Volume Plus 5%</u>
LOC Determinations	22,800	23,940
NF On-Site Reviews	65	68
Level I Screens	67,700	71,085
Level II Evaluations (Preadmission and Resident Review)	2,050	2,153
Document Based Resident Reviews	350	368
Appeals Participation	50	53

16. **This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly amended herein, shall remain in full force and effect.**

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PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

- A. Definitions.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:
1. **“Bid”** shall mean a bid submitted in response to a solicitation.
 2. **“Breach”** shall mean a party’s failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
 3. **“Cancellation”** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
 4. **“Claims”** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.
 5. **“Confidential Information”** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as “confidential” or “restricted.” Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
 6. **“Confidential Information Breach”** shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the Contractor, the Department or State.
 7. **“Contract”** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
 8. **“Contractor Parties”** shall mean a Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this Contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
 9. **“Data”** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools,

surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.

10. **“Day”** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
11. **“Expiration”** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract’s term being completed.
12. **“Force Majeure”** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
13. **“Records”** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
14. **“Services”** shall mean the performance of Services as stated in Part I of this Contract.
15. **“State”** shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
16. **“Termination”** shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

B. Contractor Obligations.

1. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: “This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors.” Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
2. **Federal Funds.**
 - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.

- (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
 - i. Contractor acknowledges that it has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in cancellation or termination of this Contract.
 - ii. This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (c) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (d) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform Services in connection with such program. The Agency may cancel or terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

3. Annual Financial Audit; Audit and Inspection of Plants and Places of Business; and Records.

- a. **Financial Audit Requirements.** For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The Contractor shall provide for an annual financial audit acceptable to the Department for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor will comply with federal and state single audit standards as applicable.
- b. **Audits and Inspections.**
 - i. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
 - ii. All audits and inspections described in sections b through h of this section shall be at the State's expense.

- iii. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
 - iv. The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice
 - v. The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.
 - c. **Records.**
 - i. The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
 - ii. The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
4. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
5. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any termination of the Contract or the Expiration of its term.
6. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:
 - a. Real estate sales or leases;
 - b. leases for equipment, vehicles or household furnishings;
 - c. Mortgages, loans and working capital loans; and
 - d. Contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.
7. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section D.4:

- a. The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
 - i. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
 - ii. within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; and
 - iv. Have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
 - b. Any change in the above status shall be immediately reported to the Agency.
8. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.
9. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.
10. **Sovereign Immunity.** The parties acknowledge and agree that nothing in the Solicitation or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
11. **Indemnification; Insurance.**
- Indemnification
- a. The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or contractor parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with claims, Acts or the contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopied compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance.

- b. The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.
- c. The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any contractor parties. The State shall give the Contractor reasonable notice of any such claims.
- d. The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the claims.
- e. The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide (1) a certificate of insurance, (2) the declaration page and (3) the additional insured endorsement to the policy to the Client Agency prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor shall not begin Performance until the delivery of these 3 documents to the Client Agency. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.
- f. This section shall survive the termination of the contract and shall not be limited by reason of any insurance coverage.

Insurance

- a. The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.
- b. This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

12. Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.

- a. The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- b. Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its

appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.

- c. The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

13. Litigation.

- a. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- b. The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

14. Compliance with Law and Policy, Facility Standards and Licensing. Contractor shall comply with all:

- a. pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- b. applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

15. Representations and Warranties. Contractor shall:

- a. perform fully under the Contract;
- b. pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
- c. adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.

16. Protection of Confidential Information

- a. Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or

control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.

- b. Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
 - i. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
 - ii. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - iii. A process for reviewing policies and security measures at least annually;
 - iv. Creating secure access controls to Confidential Information, including but not limited to passwords; and
 - v. Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.

- c. The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.

- d. The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.

- e. Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.

C. Changes to the Contract, Termination, Cancellation and Expiration.

1. Contract Amendment.

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the OAG.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:

- (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
 - (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

2. Contractor Changes and Assignment.

- (a) The Contractor shall notify the Agency in writing:
- (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
 - (2) no later than ten (10) days from the effective date of any change in:
 - (A) its certificate of incorporation or other organizational document;
 - (B) more than a controlling interest in the ownership of the Contractor; or
 - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) **Assignment.** The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
- (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
 - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
 - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation

of this Contract by the Agency for a Breach shall be without prejudice to the Agency's or the State's rights or possible claims against the Contractor.

3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract cancellation date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party may cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
 - (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
 - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
 - (3) permanently discontinue part of the Services to be provided under the Contract;
 - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
 - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
 - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
 - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.
- (f) **Non-enforcement Not to Constitute Waiver of Breach.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All

remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.

4. Ending the Contractual Relationship; Termination.

- a. This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party or cancelled.
- b. If this Contract is terminated for any reason, cancelled or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- c. **Termination.**
 - i. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.
 - ii. The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.
 - iii. Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
 - iv. Notwithstanding any provisions in this Contract, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
 - v. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the notice from the Agency, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
 - vi. Upon receipt of a written notice of Termination from the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or

appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.

- vii. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination or cancellation for operation or transition of program(s) under this Contract shall not be subject to recoupment.
- viii. The Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Agency in accordance with Part I in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as the Agency may request.
- ix. For breach or violation of any of the provisions in the section concerning Representations and Warranties, the Agency may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- x. Upon Termination of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
- xi. Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by the Agency.

d. Transition after Termination or Expiration of Contract.

- i. If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- ii. If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the

written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

D. Statutory and Regulatory Compliance.

1. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel or terminate this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
2. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this Contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
3. **Non-discrimination.**
 - a. For purposes of this Section, the following terms are defined as follows:
 - (1) "Commission" means the Commission on Human Rights and Opportunities;
 - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
 - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
 - (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
 - (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
 - (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
 - (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
 - (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
 - (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and

- (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- b.
- i. The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;
 - ii. the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;
 - iii. the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - iv. the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
 - v. the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other

reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
 - (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
 - (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
 - (g)
 - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
 - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
 - (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
 - (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
 - (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
4. **Executive Orders.** This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices,

Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to the applicable parts of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Department shall provide a copy of these orders to the Contractor. .

5. **Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice reproduced below:

http://www.ct.gov/seec/lib/seec/forms/contractor_reporting/seec_form_11_notice_only.pdf

CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION
Rev. 1/11
Page 1 of 2



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."



DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

"Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

6. Health Insurance Portability and Accountability Act of 1996.

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (“Agency”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) “Breach” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(1)).
 - (2) “Business Associate” shall mean the Contractor.
 - (3) “Covered Entity” shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
 - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
 - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. § 17921(5)).
 - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.

- (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH Act. (42 U.S.C. §17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
 - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
 - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
 - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
 - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
 - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.

- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to 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 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PII directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(c), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
 - (A) restrict disclosures of PHI;
 - (B) provide an accounting of disclosures of the individual's PII; or
 - (C) provide a copy of the individual's PHI in an electronic health record,
 - (D) the Business Associate agrees to notify the covered entity, in writing, within five (5) business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
 - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
 - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
 - (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. § 17932(b)) and this Section of the Contract.

- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. § 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.
- (D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site or a postal address. For breaches involving ten or more individuals whose contact information is insufficient or out of date to allow written notification under 45 C.F.R. § 164.404(d)(1)(i), the Business Associate shall notify the Covered Entity of such persons and maintain a toll-free telephone number for ninety (90) days after said notification is sent to the Covered Entity. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
- (E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
 - (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.
 - (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
 - (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PII that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (m) Miscellaneous Sections.
 - (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
 - (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
 - (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
 - (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
 - (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the

Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.

- (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.
7. **Disclosure of Records.** This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.
8. **Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
9. **Summary of State Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
<http://www.ct.gov/ethics/cvp/view.asp?a=2313&q=432632#part4>

SIGNATURES AND APPROVALS

999ASC-ACU-01 / 09DSS6502YJ A2

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

Documentation necessary to demonstrate the authorization to sign must be attached.

CONTRACTOR - ASCEND MANAGEMENT INNOVATIONS, LLC

[Redacted Signature]

Teri Hepley, CEO

3/10/14

Date

DEPARTMENT OF SOCIAL SERVICES

[Redacted Signature]

Roderick L. Bremby, Commissioner

3/19/14

Date

OFFICE OF THE ATTORNEY GENERAL

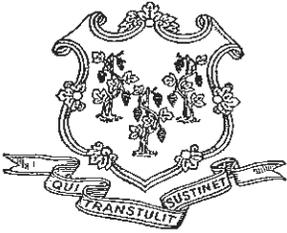
[Redacted Signature]

Associate Attorney General Joseph Rubin

3/28/14

Date





STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES

CONTRACT AMENDMENT

Contractor: ASCEND MANAGEMENT INNOVATIONS, LLC
Contractor Address: 227 FRENCH LANDING, NASHVILLE, TN 37228
Contract Number: 999ASC-ACU-01 / 09DSS6502YJ
Amendment Number: A1
Amount as Amended: \$8,670,589.00
Contract Term as Amended: 11/01/09 - 06/30/2014

The contract between **Ascend Management Innovations, LLC** (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and signed by the Commissioner on 12/30/09, is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by **\$4,288,862** from \$4,381,727 to \$8,670,589.00.
2. The budget of the original contract is supplemented by the budgets on pages 3 and 4 of this amendment and includes a \$10,000 overage in the event that the work projected exceeds the projected volume.
3. The term of the contract is extended for an additional two years and the end date of the contract is changed from 07/31/2012 to 06/30/2014.
4. All references in the contract to an end date of 07/31/2012 shall be amended to reflect 06/30/2014.
5. Section II, Description of Services, 2. Level II PASRR Evaluations, v. shall be supplemented after the words "to need specialized services." with the addition of the following language:

Develop a process in collaboration with the Department of Mental Health and Addiction Services to identify and evaluate nursing home residents who do not meet the above criteria but who would benefit from a document based resident review to determine if needs could be met in a less restrictive setting. Document based reviews shall be at a rate of \$162.00

6. Section II, Description of Services, shall be supplemented at the end of #14 with a new #15 containing the following language:
 - a. The Contractor shall design a web-based application system and provide Level of Care determinations to the Connecticut Department of Social Services Alternate Care Units Home and Community Based Services programs.
 - b. The Contractor shall provide system maintenance, hosting services, tracking and reporting for the CT Home Care Program for Elders, the CT Home Care Program for Adults with Disabilities and the new HIV Waiver.
 - c. The Contractor shall evaluate the current Home Care Program systems and develop a centralized and streamlined process to maximize program compliance, reporting and maintaining a historical database for the department. The overall cost of developing the system will be spread over the term of the contract.
 - d. The Contractor shall develop a web-based application which will be designed based upon observation of the current system and the Department's future needs as they arise and reporting requirements. Characteristics of the web-based system will include:
 - i. Fully HIPAA-compliant, multi-user access and submission system
 - ii. A comprehensive centralized database containing all review information and historical data
 - iii. Availability 24-hours per day, 7 days per week, for individuals to submit a referral
 - e. The design of the website will occur in the following phases:
 - i. Phase I: Resource development and layout. During this phase the contractor will meet with agency designee(s) to identify components and discuss presentation and general layout. From that, the Contractor will develop a "mock up" draft web layout to present to the state.
 - ii. Phase II: Programming. During the programming process, the Contractor will build a testing set that will document all possible review scenarios, and the Contractor shall use this guide to perform rigorous in-house testing. These testing scenarios ensure that the system produces appropriate review outcomes for every review scenario.
 - iii. Phase III: State official testing. This provides an opportunity for state employees to use the guide and test the database application from a restricted access test site.
 - iv. Phase IV: Pilot user acceptance testing. This will include a 2-week test with one or two individuals selected by the Department. This allows the opportunity for actual field testing and multi-layered data validity checks prior to statewide implementation.

- v. Phase V: The Contractor shall perform system training and develop a training manual for Department staff and contractors of the Department.
 - vi. Phase VI: System implementation and maintenance of the system shall be provided by the Contractor while under contract with the state. Implementation will be complete by April 1, 2012.
 - vii. Contractor will be provided historic data on CT Home Care program clients currently active on the program and incorporate that data into their database.
- f. In conjunction with the web-based system, the Contractor shall provide two nurse reviewers to perform Level of Care determinations for the referrals that come through the web-based system. The budget for the nurse reviewers is below.
- i. **\$17,000 per month fee:** to include all system development, system management, hosting fees, maintenance fees, reporting and providing Level of Care determinations for up to 8400 reviews. Payments will be issued monthly beginning in July 2011.
 - ii. **\$13.95 fee for service rate:** In the event that the anticipated volume of Level of Care Determinations exceeds the anticipated volume by 5% or more (8,820), this rate shall be paid for each Level of Care Determination required thereafter.
 - iii. Total annual cost for this service is **\$204,000** per year for 3 years and shall be billed in accordance with the budget on the Excel spreadsheet attached to this amendment. This amount is included in the maximum contract value.
7. Section III, Business Cost Section, B. Payment Schedule shall be supplemented with the following schedules. To the extent that there is a discrepancy between the schedules below and the ones in the original contract, the budgets below shall govern.

Fixed price and associated cost breakdown for contract operations			
Cost Item			
	7/1/11-6/30/12	7/1/12-9/30/13	7/1/13-6/30/14
(1) Administrative and general expenses	\$165,855.00	\$165,855.00	\$165,855.00
(2) LOC Determinations	\$246,537.00	\$246,537.00	\$246,537.00
(3) NF on-site assessments	\$14,998.00	\$14,998.00	\$14,998.00
(4) Level I Screens	\$745,200.00	\$24,997.00	\$24,997.00
(5) Level II Evaluations (PAS & Document based resident reviews RR)	\$566,643.00	\$566,643.00	\$566,643.00

(6) Appeals participation	\$2,213.00	\$2,213.00	\$2,213.00
Total Cost (Fixed Price)	\$1,741,446.00	\$1,741,446.00	\$1,741,446.00
Overage	\$10,000.00	\$10,000.00	\$10,000.00
Total PASRR & LOC	\$1,751,446.00	\$1,751,446.00	\$1,751,446.00
Waiver System	\$204,000.00	\$204,000.00	\$204,000.00
Total Contract	\$1,955,446.00	\$1,955,446.00	\$1,955,446.00

Per unit price for services exceeding volumes by 5% or more				
Cost Item				
	7/1/10-6/30/11	7/1/11-6/30/12	7/1/12-9/30/13	7/1/13-6/30/14
(1) LOC Determinations	\$13.95	\$13.95	\$13.95	\$13.95
(2) NF onsite reviews	\$280.86	\$280.86	\$280.86	\$280.86
(3) Level I Screens	\$13.95	\$13.95	\$13.95	\$13.95
(4) Level II Evaluations	\$280.86	\$280.86	\$280.86	\$280.86
(5) Document based resident reviews	\$162.00	\$162.00	\$162.00	\$162.00
(6) Appeals Participation	\$93.00	\$93.00	\$93.00	\$93.00

8. Section Three, Business Cost Section, C. Annual Volume shall be supplemented with the following table for State Fiscal Years 2012-2014:

<u>Review Type</u>	<u>Projected Volume</u>	<u>Projected Volume Plus 5%</u>
LOC Determinations	<u>19,850</u>	<u>20,843</u>
NF On-Site Reviews	<u>60</u>	<u>63</u>
Level I Screens	<u>60,000</u>	<u>63,000</u>
Level II Evaluations (Preadmission and resident Review)	<u>2100</u>	<u>2,205</u>
Document Based Resident Reviews	<u>250</u>	<u>263</u>
Appeals Participation	<u>60</u>	<u>63</u>

PERSONAL SERVICE AGREEMENT
STATE OF CONNECTICUT

CS-802A (REV. 3/98) (Book No. 6938 176-01)

Print or type

OFFICE OF THE STATE COMPTROLLER
CENTRAL ACCOUNTS PAYABLE DIVISION

IF THE CONTRACTOR HAS ANY OTHER CONTRACTS WITH THE STATE OF CONNECTICUT, THE CONTRACTOR SHALL STATE THE DATE AND AMOUNT OF EACH CONTRACT IN THE ATTACHED SCHEDULE OF CONTRACTS.

REG. NO. 181 MENDMENT 0 **ISSG**

CONTRACTOR	(1) CONTRACTOR NAME Ascend Management Innovations, LLC		(14) ARE YOU PRESENTLY A STATE EMPLOYEE? YES D NO X	
	(2) CONTRACTOR ADDRESS 227 French Landing Drive Suite 250 Nashville, TN 37228		1208680273	
STATE AGENCY	(3) STATE AGENCY NAME Department of Social Services, 25 Sigourney Street, Hartford, CT 06106		FOSS6000	
CONTRACT PERIOD	(4) CONTRACT PERIOD FROM 11/01/2009	(5) CONTRACT PERIOD TO 07/31/2012	(6) CONTRACT TYPE MASTER AGREEMENT D CONTRACT AWARD 181 NO NEITHER X	
CANCELLATION CLAUSE	(7) THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECTIVE UNTIL THE ENTIRE TERM OF THIS CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE CONTRACTOR OR BY THE STATE OF CONNECTICUT BY GIVING THE OTHER PARTY NOTICE OF CANCELLATION IN WRITING TO THE OTHER PARTY AT LEAST 30 DAYS BEFORE THE CANCELLATION DATE.			(8) NOTICE PERIOD

(9) COMPLETE DESCRIPTION OF SERVICE

(10) CONTRACTOR AGREES TO (Include special provisions - Attach additional sheets if necessary.)

The Contractor shall implement and administer a Web-Based Preadmission Screening and Resident Review (PASRR) process for all applicants to a Medicaid certified nursing facility.

The Contractor shall perform these services in accordance with the terms of this agreement as further described on pages 1 through 66.

(11) COST AND SCHEDULE OF PAYMENT

(12) UPON REVIEW AND APPROVAL OF THIS AGREEMENT BY THE COMMISSIONER OF THE DEPARTMENT OF SOCIAL SERVICES AND THE OFFICE OF THE ATTORNEY GENERAL, THE CONTRACTOR SHALL RECEIVE PAYMENTS IN ACCORDANCE WITH THE CONTRACT PAYMENT PROVISIONS AND PAYMENT SCHEDULE REFERENCED IN SECTION III ON PAGES 41-43 OF THIS AGREEMENT.

(13) FUND NO.	(14) FUND NAME	(15) FUND SHORT NAME	(16) FUND OBJECT	(17) FUND ELEMENT NO.	(18) FUND ELEMENT NAME
				FOSS6000	p208680273
(19) CONTRACT PERIOD FROM	(20) CONTRACT PERIOD TO				
	11/01/09 to 7/31/2012				

Line No.	Bill/Fund Reference	Fund	Dept.	Department	Program	SID	Account	Project/Grant	Char 1	Char 2	Amount
	2010										\$4,381,727.00

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer-employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all state and local income taxes, federal income taxes and Federal Social Security contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS

STATUTORY AUTHORITY §§ 4-8, 17b-3

(15) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	DATE
	12/17/09
(16) AGENCY (AUTHORIZED OFFICIAL)	DATE
	12/30/09
(17) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV.	DATE
	1/7/10

Definitions

The following acronyms, abbreviations, and definitions apply to this Contract:

1. ACU -Alternate Care Unit
2. Ad hoc reports – An unplanned report of concern or dealing with a specific subject, purpose, or end.
3. Behavioral Health- The way in which a person, organism, or group responds to a specific set of conditions the general condition of the body or mind, especially in terms of the presence or absence of illnesses, injuries, or impairments.
4. Clinical review/ reviewer- To examine something to make sure that it is adequate, accurate, or correct, i.e. MEDICINE based on medical treatment or observation: based on or involving medical treatment, practice, observation, or diagnosis. Clinical reviewers of PASRR Evaluation /Level II Evaluation, specific to the RFP may be Registered Nurses with a minimum of three years experience in behavioral health and/or geriatrics. Licensed Clinical Social Workers may also be utilized to perform the reviews specific to the RFP and are required to have background in both medical and psychiatric social work settings totaling at least three years of experience.
5. DDS - Department of Developmental Services (formerly the Department of Mental Retardation)
6. Department!DSS - Department of Social Services
7. DMHAS - Department of Mental Health and Addiction Services
8. Geriatrics – The branch of internal medicine that focuses on health care of elderly. It aims to promote health and to prevent and treat diseases and disabilities in older adults.
9. Hardware/software clinical solution - A comprehensive package of both technical and clinical services to meet PASRR requirements and Level of Care Medical Necessity requirements.
10. IMD- Institution for Mental Disease
11. Level I Screen - Process to identify evidence of mental illness or mental retardation/related condition.

12. Level II Evaluation/ MI - Evaluation to determine need for specialized services for individuals identified or evidenced as mentally ill.
13. Level II Evaluation/ MR - Evaluation to determine need for specialized services for individuals identified or evidenced as having mental retardation or a related condition.
14. Licensed Clinical Social Workers - A licensed clinical social worker is a Masters prepared clinician that holds a current license to practice social work in the state of CT.
15. LOC- Level of Care is defined as the medical necessity determination of need for nursing facility Level of Care.
16. LTC- Long Term Care
17. MI - Mental Illness
18. MMIS - Medicaid Management Information System
19. MR- Mental Retardation or related condition
20. NF- Nursing Facility
21. QA- Quality Assurance
22. QI -Qualify Improvement
23. PAS- Pre-Admission Screening of applicant information
24. PASRR- Pre-Admission Screening Resident Review
25. RR - Resident Review
26. SMI -Serious Mental Illness
27. STP- Short Term Placement
28. Subcontractor- Party contracting with the Contractor to perform services for the Department of Social Services."Specific: to this RFP, subcontractor may be an organization or an individual that will provide direct services as described in the RFP.
29. Subcontract- Any written agreement between the Contractor and another party to fulfill any contract requirements.
30. Symptomatology- The medical science of symptoms of diseases.

PART ONE: Description of Services and Payment Provisions

SECTION I. Overview and Project Management

A. OVERVIEW

1. Web-based Pre-Admission Screening Resident Review System & Level of Care Determination

Ascend Management Innovations LLC (hereinafter referred to as "Contractor") shall administer and implement a Web-based Pre-Admission Screening and Resident Review System (PASRR) for individuals seeking admission to a Medicaid Certified Nursing Facility and perform medical necessity determinations of nursing facility (NF) Level of Care (LOC) for residents of, or individuals seeking admission to, a NF for whom Medicaid payment is being sought. The Contractor shall perform all services related to PASRR to identify evidence of Mental Illness (MI) or Mental Retardation (MR) or conditions related to mental retardation (information triggers) in individuals seeking admission to or residing in Medicaid-Certified Nursing Facilities.

Throughout the term of this contract, the Contractor shall perform the following Web-based Pre-Admission Screening Resident Review System and Level of Care Determinations and program integrity functions:

- a. Implementation of WEBSTARS™-CT (Web-based Secure Technology for Applicant and Resident Screening)- On-line Data Management System -Web-based Secure Technology for Applicant and Resident Screening
- b. Level I Pre-Admission Screen - Process to identify evidence of mental illness or mental retardation/related condition.
- c. Face-to face Level II Evaluations/ MI - Evaluations to determine need for specialized services for individuals identified or evidenced as mentally ill.
- d. Level of Care Determinations- Medical necessity determination of need for nursing facility Level of Care for individuals age 65 and older who are Medicaid active, eligible, or pending;

2. Contract Period

This contract shall be in effect from November 1, 2009 through July 31, 2012. The Department may, at its own discretion, provide the option for two one-year extensions.

3. Legal Requirement

Supporting Regulations/Authority- Pre-admission Screening and Resident Review comes under the authority of Federal regulation specified at Title 42 CFR 483, (Federal requirement mandating processes to identify evidence of Mental Illness or Mental Retardation or related condition)

4. Financial Liability

The Contractor shall be financially liable for any penalties imposed by Centers for Medicare and Medicaid Services (CMS) on the Department for any of its PASRR & LOC functions performed under the terms and conditions of this contract, which was not adequately performed and adversely affects the Department's compliance under Title 42 CFR 483 of the Code of Federal Regulations, -Pre-Admission Screening Resident Review or other applicable Federal regulations or state laws.

5. Contract Liaison

Both parties agree to have specifically named liaisons at all times. These representatives of the parties shall be the first contacts regarding any questions and problems that arise during implementation and operation of this contract.

6. Notices

Wherever under this contract a party is required to give notice to the other, such notice shall be deemed given upon delivery, if delivered by hand (in which case a signed receipt shall be obtained), or three days after posting if sent by registered or certified mail, return receipt requested. Notices shall be addressed as follows:

In case of notice to the Contractor:

Teri Stokes
President & COO
Ascend Management Innovations LLC
227 French Landing Drive; Suite 250
Nashville, TN 37228

In case of notice to the Department regarding this contract:

Dorothy DiLernia Contract
Administration Department of
Social Services
25 Sigourney Street
Hartford, CT 06106

In case of notice(s) to the Department regarding the scope of services:

Kathy Bruni Alternate Care
Unit Department of Social
Services
25 Sigourney Street
Hartford, CT 06106

Said notices shall become effective on the date of receipt or the date specified in the notice, whichever comes later. Either party may change its address for notification purposes by mailing a notice stating the change and setting forth the new address, which shall be effective on the tenth day following receipt.

B. PROJECT MANAGEMENT

1. Key Personnel

The Contractor shall designate the following Key Personnel as the project management team who shall be responsible for the implementation and coordination of all PASRR & LOC program operations:

- TERI STOKES PROGRAM DIRECTOR/ADVISOR
- CONNIE TANNER PROJECT MANAGER
- PAM RABY LEADER IMPLEMENTATION TEAM
- ROB LEPLEY IT IMPLEMENTATION

The Contractor's Project Manager shall be responsible for oversight of the day-to-day PASRR & LOC program operations and supervision of project staff including administrative and quality improvement staff to ensure the performance of duties and obligations under the contract. The Project Manager shall perform quality monitoring and provide written and verbal feedback and ongoing training to project staff, monitor reporting schedules,

act as liaison with state contract staff, and maintain all project procedures. The Project Manager shall report to the Chief Operations Officer (COO).

The above named Key Personnel shall perform as the project management team throughout the duration of the contract. No changes, substitutions, additions, or deletions shall be made unless approved in advance by the Department. In the event of resignation, incapacity, or death the Department shall approve the substitution of key personnel. Substitutions shall be made within thirty days of the resignation, incapacity, or death of a key person.

2. Project Staffing

The following list includes project staff positions and the percentage of time each position is assigned to the contract to perform the duties as outlined.

Contractor Staff	Title	Project Role	Hours per Week
TBH	RN	Project Manager	40 hours per week (100% dedicated)
2 FTEs	Quality Coordinator	Quality Coordinator	40 hours per week (100% dedicated)
1 FTE	Project Support Specialist	Project Support Specialist	40 hours per week (100% dedicated)
4 FTEs	Clinical Reviewers	Clinical Reviewers	40 hours per week (100% dedicated)
1 FTE	Programmer	Programmer	40 hours per week (100% dedicated)
Onsite Assessment Staff	Onsite Assessment Staff	Onsite Assessment Staff	Conducting Reviews ongoing
Deana Cardone	Programmer & Web Designer	Programmer & Web Designer	50% for 90 days;
Mickey Cates	Programmer/Analyst	IS Programmer & Data Analyst	50% for 90 days;
Carl Moore	Network Technician & Administrator	Network Technician & Administrator	4 hours per week (10 dedicated)
Pam Raby	CMSW, Executive VP, CCO & Chief of Implementations	Leads Implementation and Training	90% for 90 days; 4 hours/wk thereafter (10)
Teri Stokes	President, COO, Operations Director	Account Manager	70% for 90 days; 4 hours/wk thereafter (10)

Nancy Shanley	MS. Director of Advocacy and Special Projects, Implementation Manager	Training Manager	75%,for 90 days; 4 hours/wk thereafter (10)
Jennifer Burns	Development	Development	90%,for 90 days; 4 hours/wk thereafter (10)
Rob Lepley	VP Information Systems	VP, IT	4 hours per week (10 dedicated)
Gina Rouses	VP of Development	Recruitment & Credentialing	4 hours per week (10 dedicated)
Jessica Hornsby	Recruitment Coordinator	Recruitment & Credentialing	4 hours per week (10 dedicated)
Michelle Stokes	HR,Recruitment & Credentialing Coordinator	Recruitment & Credentialing	4 hours per week (10 dedicated)
Susan Rieck	Medical Director	Psychiatrist	30%for 90 days; As needed for consultation
Drs. Jack and Halt	Doctors	Consultant	As needed for consultation/review
Gary Solomon	Director of Neuro-psychology	Consultant	As needed for consultation/review

Throughout the contract term, the Department of Social Services reserves the right to approve or disapprove the Contractor's and any subcontractor's staff assigned to the contract, to approve or disapprove any proposed changes in staff, or to require the removal or reassignment of any contractor employee found unacceptable by the Department. Any employee of the Contractor, who in the opinion of the Department is uncooperative, inept, incompetent, or otherwise unacceptable, shall be removed from the contract. In the event that an employee is removed pursuant to the Department's written request, the Contractor shall have thirty days to fill the vacancy with an acceptable employee. Replacement of any personnel including those who have terminated employment shall be with personnel of equal capability and qualifications as approved by the Department. The Contractor shall, upon request, provide the Department with a resume for any member of its staff or of a subcontractor's staff assigned or proposed to be assigned to any aspect of the performance of the contract.

3. Staff Training and Evaluation of Performance

The Contractor shall develop, and implement a comprehensive internal operations manual, approved by the Department, that incorporates all contract requirements relevant state rules and code, and important project information. The Operations manual shall be maintained throughout the term of the contract and updated as necessary as contract changes occur. The Contractor's project leadership, quality reviewers, and project support staff shall be thoroughly trained on operational requirements to ensure adherence to all aspects of the Contract and the State expectations. The Contractor shall conduct initial classroom training on project topics that include but are not limited to: federal and state guidelines, ethics, confidentiality, person-first considerations, and cultural competency. Staff competency shall be determined by pre-and post-testing, and instruction on problem solving methodologies. The Contractor shall conduct full quality oversight of the performance of all staff and directly solicit stakeholder input where appropriate. Staff shall be closely and continually monitored through a 360° quality model and receive written and verbal performance feedback and training throughout the duration of employment with the Contractor.

4. Subcontractors

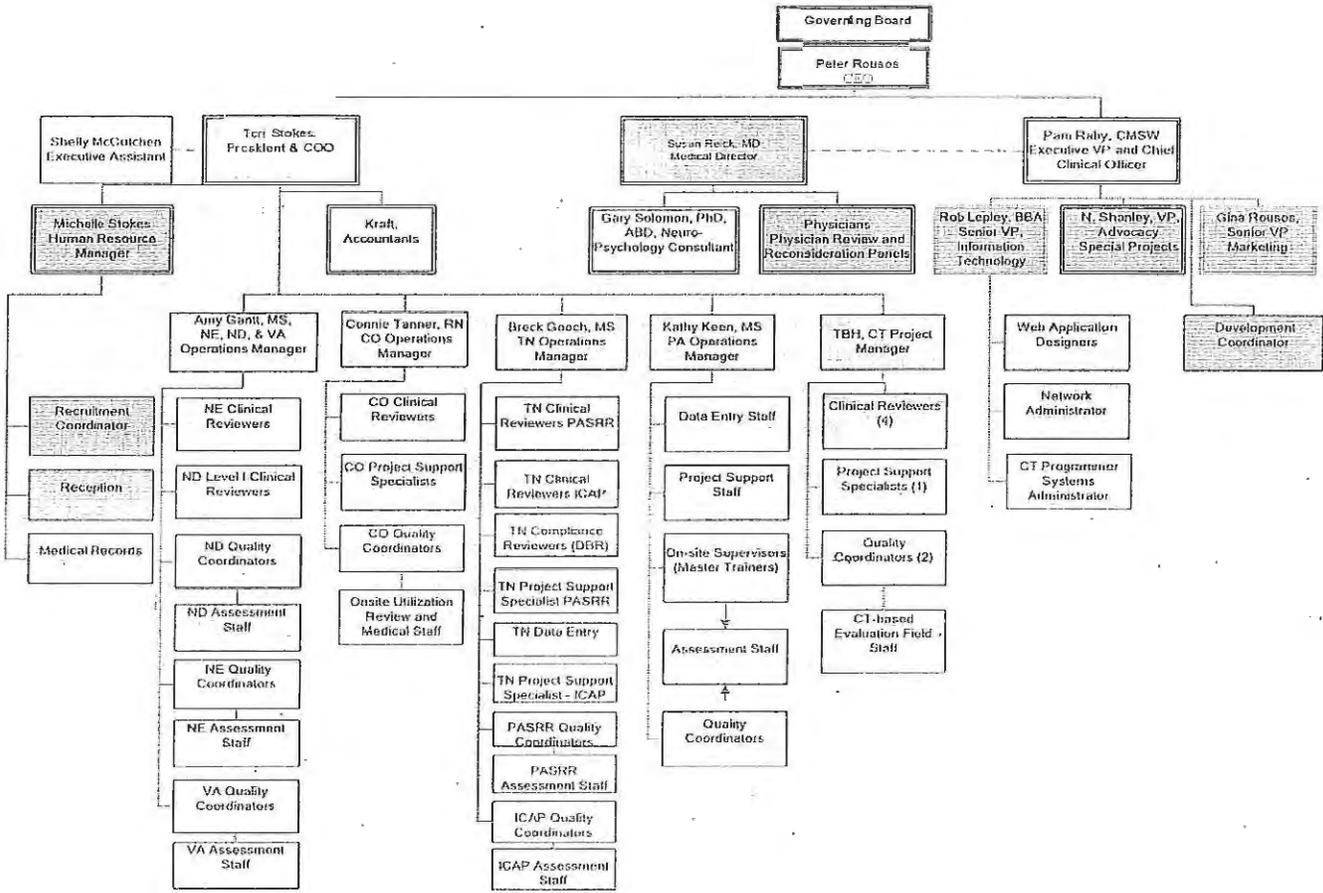
The Contractor shall subcontract with independent clinicians to conduct all assessment work. Subcontractors shall be CT-based and licensed LCSW, Licensed Professional Counselors and RN clinicians with a minimum of 3 years experience in geriatrics and/or behavioral health.

Subcontractors shall be bound to the terms and conditions of this contract awarded to the Contractor, including any limitation on the use or disclosure of protected health information and the safeguarding or protected health information. The Contractor shall comply with the following contractual conditions in addition to those Terms and Conditions approved by the Attorney General:

- a. The Contractor shall be held directly accountable and liable for all of the contractual provisions resulting from this contract whether the Contractor chooses to subcontract its responsibilities to a third party or not.
- b. No subcontract shall negate the legal responsibilities of the Contractor as articulated in this contract including those responsibilities that require the Contractor to assure that all activities carried out by the subcontractor conform to the provisions of this Contract.
- c. All subcontracts shall incorporate the following conditions:
 - (1) All subcontracts shall be written,

- (2) All subcontracts shall include any general requirements of Contractor's contract with the Department that are appropriate to the services provided by the subcontractor,
 - (3) All subcontracts shall provide for the right of the Department or other governmental entity to enter the subcontractor's premises to inspect, monitor or otherwise evaluate the work being performed as a delegated duty by the Contractor.
 - (4) All subcontracts shall comply with 42 CFR Section 434.6 (b) and (c).
 - (5) All subcontracts that include the payment of claims shall require one of the following: performance bond, letter of credit, statement of financial reserves or payment withhold requirements. The performance bond, letter of credit, statement of financial reserves or payment withhold requirements shall be in a form mutually agreed upon by the Contractor and the subcontractor. The amount of the performance bond shall be sufficient to ensure the completion of the subcontractor's work under the subcontract in the event the contract between the Contractor and the subcontractor is terminated. The Contractor shall submit reports to the Department upon the Department's request related to any payments made from the performance bonds or any payment withholds.
 - (6) All subcontracts shall include provisions for a well-organized transition in the event of termination of the subcontract for any reason. Such provisions shall ensure that there is an adequate transition period to maintain PASRR & LOC functions.
 - (7) The Contractor and its subcontractors shall cooperate in the performance of financial, quality or other audits conducted by the Department or its agent(s).
 - (8) The Contractor shall provide upon the Department's request a copy of any subcontract.
- d. The Contractor shall retain accountability and responsibility for all assessment work conducted by its independent clinicians.

5. Organizational Chart



6. Collaboration with DDS and DMHAS

The Contractor shall coordinate specific PASSR project activities with The Department of Developmental Services (DDS) and the Department of Mental Health and Addiction Services (DMHAS). The Contractor shall:

- a. Establish a coordinated process with the Department of Developmental Services (DDS) on a State and regional level– To utilize DDS Nurse Consultants for the purpose of conducting Level III evaluations and determinations for persons identified with MR during the Screening process.
- b. Perform determination functions as delegated through a Memorandum of Understanding between the Department of Social Services and the Department of Mental Health and Addiction Services (DMHAS). In addition, the Contractor shall provide specific project reports as requested by DMHAS to ensure that DMHAS meets all of its regulatory requirements under Code of Federal Regulations.

C. DEPARTMENT RESPONSIBILITIES

1. The Department of Social Services Shall:

- a. Appoint a Program Manager to monitor program progress with final authority to approve/disapprove program deliverables; coordinate all needed contacts between the Contractor and Department staff and review, evaluate, and approve all deliverables before the Contractor is released from further responsibility,
- b. Retain final authority for making policy decisions affecting completion of the PASRR & LOC function,
- c. Monitor the Contractor's performance and request updates, as appropriate,
- d. Respond to written requests for policy interpretations,
- e. Provide technical assistance to the Contractor, as needed,
- f. Allow access to the Department's automated databases, as available and permitted,
- g. Allow access to management reports and case files, as appropriate,
- h. Hold regularly scheduled program meetings with the Contractor,

- i. Provide a process for and facilitate open discussions with staff and personnel to gather information regarding recommendations for improvement, and
- j. Provide data as required by the Contractor to perform PASRR & LOC functions.

SECTION II. DESCRIPTION OF SERVICES

A. **Web-based Pre-Admission Screening Resident Review System & Level of Care Determination**

The Contractor shall administer the PASRR process for all persons applying to a Medicaid participating NF as well as all medical necessity LOC determinations for individuals age 65 and older who are Medicaid active, eligible, or pending who are seeking Medicaid payment for NF care. The Contractor will maintain the PASRR/LOC determinations in a Web-based Computer System, implement and administer a Web-based Pre-Admission Screening Resident Review process in accordance with 42CFR483 (Federal requirement mandating processes to identify evidence of Mental Illness or Mental Retardation or related condition) for all individuals seeking admission to or currently residing in a nursing facility, and conduct nursing facility Level of Care Determinations for individuals age 65 and older who are Medicaid active, eligible, or pending.

1. **LEVEL 1 Screening**

The Contractor shall conduct Level I Screens to identify whether an individual has evidence of MI or MR or related condition.

- a. The Contractor shall conduct a Level I Screen prior to admission for all applicants seeking admission to Medicaid -Certified NF regardless of payment source. The Contractor shall accept individual applicant referrals from nursing facilities, hospitals, psychiatric hospitals, health programs or facilities, social service agencies, and other relevant institutions (hereinafter Providers) assisting with Long Term Placement.
- b. The Contractor shall accept individual applicant referral information by fax, telephone, or electronic submission utilizing WEBSTARS™-CT to provide a single point of entry for on-line uniform screening. WEBSTARS™-CT shall electronically review provider entered screening data and 'approve' negative and (certain) low-triggered screens that identify potential Level II conditions for NF admission immediately upon data receipt, generating an immediate, real time copy of the completed Level I screen along with a written notification explaining the outcome to provide to the admitting NF. The Contractor shall report negative outcomes to the Department's Alternate Care Unit or possible referral of individuals for Home and Community Based Services under the CHCPE as an alternative to NF placement.

- c. The Contractor's clinicians shall review triggered Level I screens that identify potential Level II conditions in order of submission. The Contractor's Clinicians shall solicit supplemental medical records, and conduct interviews with the provider referral source and, as appropriate, family/legal guardians, to determine the individual's stability, medical history, and optimum psychopharmacologic combinations. The Contractor shall complete categorical determinations as part of the review process and, when applicable, an interpretive categorical report shall be completed per federal guidelines. Screens that are determined to be 'negative' shall identify the outcome to the submitting provider online, from which the provider may print a copy of the approved Level I and determination notice.
- d. If the individual is determined to have a Level III condition, a referral notice shall be immediately generated through WEBSTARS™ and made available to the referring provider online. Categorical reports shall also be generated directly from WEBSTARS™-11 as soon as the report is complete and shall be faxed directly to the referring provider within seconds of its completion, in order to avoid any delays in transfer or discharge.
- e. The Contractor shall work with the state to create a PASRR interface with claims payment using authorization dates and outcomes to determine approval of provider reimbursement. The Contractor shall complete a Level of Care (LOC) Screen for all persons who are Medicaid active, pending, or eligible seeking admission to a NF for whom a Level I Screen is being completed, and whenever a Level I Screen identifies evidence of a triggered PASRR condition. For those individuals meeting state guidelines for NF LOC, the Contractor shall determine whether a categorical decision or face-to-face evaluation should be conducted. If the individual does not meet NF LOC, an onsite review shall occur only if the decision of NF eligibility cannot be made vis-a-vis a document based review, alone. All decisions which appear to be adverse will be reviewed and final determinations made by the Contractor's physician reviewers. Denials shall be issued to the individual using appropriate federal and state language regarding due process. The Contractor shall use state-specific criteria in determining NF LOC and do so using data collection protocols with embedded auto-grading heuristics to promote expediency of outcomes.
- f. The Contractor shall implement quality control methods for screening end-dates. No more than sixty (60) days may expire between the completion of a Level I Screen and placement of an individual into a NF. If an individual's placement is delayed beyond sixty (60) days, a Level I Screen must be repeated before NF placement can occur.

- g. The Contractor shall take the following key steps preceding the Level III referral:
- i. clinical determination that the individual is known or suspected to meet Level II criteria;
 - ii. clinical determination that the individual meets NF LOC criteria;
 - iii. issuance of written notification to the individual or legal representative that an evaluation is warranted;
 - iv. Clinician referral, and;
 - v. Clinician contact with the provider, family, individual to coordinate a time of the evaluation that is convenient to all respondents and to determine the presence of any special communication needs.
- h. The Contractor shall contact the DMHAS NF diversion staff or the DMHAS' Program Manager to initiate a referral for services provided by DMHAS for those individuals identified as having evidence of MI who do not meet the Department's specific LOC Determination criteria for NF placement.
- i. The Contractor shall not be required to complete Level I Screens on the following individuals:

Individuals transferring from NF to NF, and
Individuals re-admitted to a NF after a hospital stay.

2. **Level II PASRR Evaluations**

The Contractor shall conduct Level II PASRR Evaluations and LOC determinations for all Level I Screens on individuals identified as or suspected of a serious mental illness. The Contractor shall:

- a. Make Level II recommendations and determinations on an individualized basis.
- b. Complete all Level II/MI Evaluations in accordance with minimum data requirements established in 42 CFR § 483.132 and 483.134(b) and in a format agreed to by the Department.
- c. Complete all Level II/ MI Evaluations within a maximum of five-business days during the first year of the contract.
- d. Complete Level II Evaluations to a maximum of four days by year two of the contract.

- e. Identify, through the Level I Screen, individuals identified -or suspected as having MR and refer all Level II/ MR Evaluations to the appropriate Nurse Consultant for DDS according to the region specified within five business hours of processing the Level I Screen.
- f. Complete a Level II Evaluation for persons identified as having MI prior to an individual's admission to a NF.
- g. Complete a Resident Review (RR) Level II/MI as mandated by P.L. 104-315 on individuals residing in a NF when there is a change in status and that change signifies the need for a first time or updated Level II Evaluation. A change in status shall include but not be limited to the following conditions:
 - i. A significant physical improvement of an individual that may indicate a less restrictive placement is appropriate or the individual is more likely to respond to special treatment,
 - ii. An increase in symptomatology or behavioral problems or a new MI diagnosis is made on a mental illness,
 - iii. A mental illness or evidence of mental illness that emerges or is discovered after admission, and
 - iv. An update to a Level II that initially resulted in the delivery of inpatient psychiatric services and further evaluation is needed to confirm appropriateness of NF placement.
- h. Address status change evaluations with urgency due to concerns about the individual's safety or the safety of other residents. The Contractor shall:
 - i. Instruct providers to promptly reporting significant changes to the Contractor's nurse review staff, with information on the individual's condition,
 - ii. If required, dispatch an evaluator as soon as the screen is complete. Issue a notification for first time referrals informing the individual or legal representative of the evaluation requirements,
 - iii. Upon completion, immediately forward the evaluation to the Contractor's quality and physician teams for review, and
 - iv. Make available quality review staff to interact with providers to offer support, symptom and behavior education, and any needed assistance with service linkage.

- i. Require that all final Level II determinations are summarized via a comprehensive summary of findings report which complies with all elements in 42 CFR § 483.128(i). The summary report may not be anonymous. A typed copy of the evaluation report must be forwarded to all applicable parties specified in 42 CFR § 483.128 (l). A written summary report and notification letters explaining the report must be issued within 48 hours of the determination for PAS and within five business days for all RR. The Contractor shall communicate the findings to the applicant or resident or guardian in an understandable manner and language. The Contractor is responsible for informing the applicant/resident or guardian of the appeal process. All Level II determinations that result in a denial of NF LOC or identify a need for specialized services must be made by a psychiatrist. These adverse results must also be provided to the facility or agency or referral source assisting the applicant or resident, within four business hours of the decision by telephone, or fax, or e-mail, or electronic submission.

- j. Require that all applicable State of Connecticut criteria are applied for out-of-state individuals transferring or applying to a State NF and that pertinent evaluative data is reviewed and summarized. The Contractor shall:

Review all admissions from other States including transfers from other states. The Contractor shall complete the Level I and LOC screen to determine whether the individual meets target criteria and, if so, whether the individual meets Connecticut's NF LOC standards. Depending upon the timeliness and quality of the home state assessment information, the Contractor shall accept raw evaluation data, which the Contractor's clinicians shall review to develop determination decisions. The Contractor shall gather extensive information through record reviews and interviews with the referral source, family, and/or legal representative, as appropriate, to determine the individual's stability, service history, optimum psychopharmacologic combinations. The Contractor shall develop procedures to address states requiring a follow-up evaluation after placement occurs, if concerns exist about the individual's 'fit' within the NF setting:

- k. Coordinate the PASRR process and the NF LOC Determination to the maximum extent possible. A LOC determination is required on all individuals who will need a Level III Evaluation completed.
- l. Ensure interdisciplinary coordination among evaluators throughout a Level II Evaluation process.

- m. Develop and implement a tracking system and process for ongoing identification and monitoring of the location of NF residents identified as MI. The Contractor shall:

Develop an online tracking web-page for providers which, in addition to housing educational information and the sign-on for screen submissions, shall include an option for entering Level II resident location information directly online (e.g., transfers, discharges, expired residents). This will be used in conjunction with the tracking component on WEBSTARS™-CT to provide the tracking compliance tool required under §483.130(p). The Contractor shall use a variety of supplemental tracking options as well, including: 1) forwarding quarterly reports to providers asking that they confirm the continued presence of Level II residents we know to be in their facility and add any changes/additions, and/or; 2) interface with claims payment to abstract provider information for Level II candidates.

- n. Implement a Post Admission Review (PAR) process which uses a combination data set management and periodic encounters with NF staff to target clients who: were approved admission through the Level II evaluation but whose history was marked by episodic decompensation; have been determined to require specialized services either short term or at the prior review; present with a history of aggressive behavior; and are selected by WEBSTARS™-CT through a randomized statistical formula. The Contractor's nurse clinician shall contact the NF to inquire about the individual's adjustment to the facility, response to treatment and any markers suggestive of change over time.
- o. Conduct a face-to-face evaluation as part of the RR Level II Evaluation. The Contractor shall conduct on-site evaluations with the least amount of disruption to the NF and residents.
- p. Conduct on-site evaluation during the nursing facility's normal daytime business hours unless the Contractor and the NF agree to other arrangements. The Contractor shall provide Nursing Facilities with advance notice for scheduling of evaluations. The Contractor shall provide flexibility to avoid conflict with NF schedules.
- q. Implement a Department approved Quality Assurance (QA) Plan to ensure the quality and completeness of submitted data, along with a Quality Improvement (QI) plan for monitoring and enhancing data integrity. The Contractor shall maintain a workflow plan, along with procedures, methodology and timelines for data transmittal. The Contractor shall:

Monitor compliance and quality of work and the work of the Contractor's evaluators through the Contractor's 360° Quality Management Plan

(QMP), an oversight strategy aimed at ensuring standards for accuracy, quality, and timeliness are met. Quality findings and any discrepancies shall be analyzed and trended to reflect point estimates and patterns for findings to allow early identification of any likely problems with the assessment process.

- r. Interpret and explain the evaluation process and determinations to a resident, family or resident's representative when requested.
- s. Assure the Department is in compliance with PASRR Federal regulations.
- t. Ensure content and documentation of the Level II Evaluation meet federal regulations and are in a format agreed upon by the Department.
- u. Develop collaborative systems with regional Department personnel who process applications for Medicaid payment to Nursing Facilities.
- v. Make data on Level II Evaluations available to DMHAS. The Contractor shall:

Design reporting around the types of service and support needs the Department would choose to track, and those will be entered ongoing as assessments are completed. The Contractor shall design *WEBSTARS™-CT*, so that reports can be accessed with internet access by authorized DMHAS personnel. The Contractor shall design reports that identify and flag candidates who demonstrate the potential to benefit from DMHAS services and/or are potential candidates for waiver services. The Contractor shall establish a queue process where DMHAS staff may access reports and data on individuals determined not to need NF LOC and/or to need specialized services.

- w. Report all Level II Evaluations completed on persons with MI where it has been determined that they do not meet eligibility criteria for NF LOC to the DMHAS PASRR Manager, or regional diversion nurse.
- x. Report to the DMHAS PASRR Manager for necessary interventions persons identified as needing specialized services for MI and are denied admission to a NF.

Work Plan for Evaluation Tasks

Activity: Referral	Timeframe: Day 0 (day prior to first full day from receipt)
<ol style="list-style-type: none"> 1. Referral electronically, fax, mail or phone. All screens are attached to the electronic record. Clinicians conduct additional interviews to identify known or suspected candidates. Notice is sent to individual/legal representative for initial Level II referrals and may be accessed referral source on line . 2. Referral to field assessor (or DDS) apprising of special communication needs. 3. Assessor contacts referral source to: schedule at a time convenient which minimizes disruption; determine special communication needs; identify whether legal representative, if applicable, or family, if approved by the individual/ representative shall participate as required by § 128(c). 	
Activity: Evaluation	Timeframe: Days 1-5
<ol style="list-style-type: none"> 1. Introduction to Provider upon clinician arrival and offers proof of identification, a letter of introduction from state officials, and an Ascend identification badge. 2. Process Explanation and Release of information, which includes both a written and verbal explanation of the evaluation and request for signed Release of Information. The written explanation is written in large font and layman language. 3. Clinical Evaluation and Interview, which includes obtaining all evaluation information required under federal guidelines (§483.126, §483.128, and §483.134). Pre-existing data, if available, are used if relevant, accurate, & current. 4. Medical Record Review to obtain diagnostic information, treatment data, symptomatology, behavioral indices and other relevant data. 5. Supplemental Interviews with family and/or legal representatives, as available or permitted, the individual and care giver to supplement evaluative data. 6. Data Upload to Ascend electronically or by toll-free facsimile or through upload and attachment directly to WEBSTARS™-CT. 	
Activity: Quality Processing	Timeframe: Day 3
<ol style="list-style-type: none"> 1. Quality Improvement and Clinical Data Evaluation that includes a systemized process for ensuring data is complete, thorough, and consistent with baseline reports provided in referral information. Inconsistencies result in provider contact to evaluate inter-rater discordance & ensure findings correspond to current status. 	
Activity: Psychiatrist, DSS Review	Timeframe: Days 3-5
<ol style="list-style-type: none"> 1. Determination completed directly from/on WEBSTARS™-CT by quality review staff. Any assistance needed in collecting additional information or clarification is obtained by Ascend's CT Quality Department. 2. Departmental Web-Access to all information directly from WEBSTARS™-CT. 	
Activity: Determination, Notification, Reports	Timeframe (by or before day 5)

1. *Generate evaluation reports for appropriate individuals from WEBSTARS™-CT with notification, explanation, and appeal rights within 48 hours. Contact within 4 hours to referral source of denial and specialized service decisions. Provision of additional interpretation or assistance to family, individual, and/or providers.*
2. *Reports, Data Analytics, Status, and Quality Information: obtained by State Officers directly from WEBSTARS™-CT at any frequency, with sorting capability based on any desired variables.*

3. Categorical Level II Determinations

a. Temporary Time-Limited Categorical Admissions

The Contractor shall approve temporary time-limited NF admissions for MI or MR applicants meeting specific categorical criteria. The following time-limited admissions shall be permitted following a Level I and LOC Screening;

- i. Convalescent Care Admissions are temporary stays federally allowed without a Level II Evaluation, provided all of the following conditions are met:
 - Admission to a NF occurs directly from a hospital after receiving acute inpatient care for a medical condition,
 - NF services are required for the hospitalized condition,
 - Attending Physician has certified that NF care is unlikely to exceed thirty (30) calendar days, and

The Contractor shall communicate with the Department's Medicaid eligibility staff when a NF has not complied with regulations under this provision so that the Department can determine if Medicaid payment should be withheld for stays beyond 30 days that were not reported to the Contractor.

The NF must perform updated Level I/LOC Screenings for convalescent care stays that exceed thirty (30) calendar days. The Contractor shall determine whether the individual continues to require NF care and whether Level II Evaluation may be necessary. The Contractor shall report all stays extending beyond the approved thirty (30) days to the DMHAS PASRR Manager and/or regional diversion nurses as they occur.

- ii. Admission for a respite stay of thirty (30) days or less.
- iii. In the event of a terminal illness with a life expectancy of six (6) months or less and requires NF LOC.

- iv. A severe illness that overshadows psychiatric symptoms and makes a person unable to participate in psychiatric treatment.
- v. Provisional Admission in cases of delirium when an individual's cognitive status can not be evaluated until delirium clears.
- vi. Provisional Emergency *when an applicant to a NF* has evidence of MI or MR and requires temporary NF admission in an emergency protective services situation. NF care shall be approved for no more than seven (7) calendar days. This standard applies if all of the following criterion apply:
 - Based on the MI or MR the individual's physical or environmental status, or both, there is a sudden and unexpected need for immediate NF placement;
 - The above need requires temporary placement until alternative services or placement can be secured,
 - No other placement options are available, and
 - The placement is initiated by an appropriate State agency such as Protective Services for Elders.

The NF must complete a PAS (Level I and LOC) with the Contractor within one working day of the Emergency Admission. The NF must convey reasons for the Emergency Admission to the Contractor and identify the individual who initiated the placement and the State agency that they represent.

The MI or MR individual may remain in NF for up to seven calendar days. If at any time it appears that the MI or MR individual's stay may exceed seven (7) days, the NF must update the Level I and LOC Screenings with Contractor. The Contractor shall reassess the LOC and determine the need for a Level II. If the individual is determined not to meet NF criteria, the individual must be discharged by the seventh calendar day from admission. The Contractor shall report information to Department/DSS' claims processing to allow retroactive Medicaid payments to the date of admission for appropriate Emergency Admissions.

b. Tracking Time-Limited Categorical Admissions

The Contractor shall implement procedures for tracking time-limited categorical admissions: The Contractor shall:

1. issue a written notification to the discharging and admitting NF containing the end-date associated with authorized stay and an

explanation for the exemption or categorical decision. The notification shall be accompanied by a copy of the approved Level I screen.

- ii. Prior to the conclusion of the 30 day period, The Contractor's nurse reviewers shall contact the provider to determine whether the individual's stay is expected to exceed the 30-day threshold, and if so,
- iii. Conduct a resident review screening shall be conducted prior to the 40th calendar day from admission. During the follow up contact, and as soon as intent of extended stay is obtained, the Contractor's Clinical Reviewers shall contact the Clinical Level III evaluators to initiate the Level II process.
- iv. Communicate to Department, DDS and DMHAS Officials about NF compliance with 30-Day Stays through WEBSTARS™-CT, as well as real time access to reports containing the disposition and screening status of individuals approved for short-term stay.

4. **NF Level of Care (LOC) Determinations-**

- a. The Contractor shall provide statewide LOC determinations for Medicaid recipients and individuals residing in a NF or requesting admission to a CT NF. The Contractor shall conduct LOC screenings in the following situations:
 - i. Prior to initiation of or a referral for a Level II Evaluation on each NF applicant suspected of MI or MR, regardless of payer,
 - ii. On each individual identified as MI or MR requiring a RR as a result of a significant change,
 - iii. On all individuals age 65 and older who are Medicaid active, eligible, pending prior to admission to a NF,
 - iv. On individuals applying for Medicaid while residing in a NF,
 - v. Prior to admission to a NF on individuals dually eligible for Medicare and Medicaid, and
 - vi. On individuals who have expired or have been discharged from a NF and the individual's Medicaid eligibility was not known or determined at the time of death or discharge.

LOC evaluations are not required for the following individuals:

- Self pay individuals who are not identified as having MI or MR, and
 - Individuals transferring from one NF to another.
- b. The Contractor shall process LOC determinations utilizing URSA-LTC™ (*Uniform Review, Screening and Assessment*) software., URSA-LTC™ shall be fully integrated with WEBSTARS™ to provide a single entry point for on-line uniform LTC screening. All screens may be submitted online or via phone, fax, mail, or email.
 - c. The Contractor shall, when an individual's LOC status cannot be determined via document-based review, conduct an onsite evaluation by a nurse within 3 business days, who will apply the LOC criteria in person through onsite assessment, interviews, and record review. The Contractor's physicians shall make all adverse determinations by the 5th business day, documenting the basis for determination. Document-based and on-site LOC determinations shall be continuously reviewed by the Contractor's CT quality clinicians.
 - d. The Contractor's physicians shall make all final determinations in situations of adverse findings (potential denials), and the basis for any adverse determination shall be documented in the notice of findings issued to the individual/ representative.
 - e. The Contractor's physicians shall participate in appeal hearings and prepare the Fair Hearing Summary. The Contractor shall notify the client in writing of their appeal rights.
 - f. The Contractor shall collaborate with the Department to coordinate LOC determinations with the Department's medical eligibility staff for payment for LTC. This shall include reporting of noncompliance with the PASRR requirements that results in denial of Medicaid payments.

5. Additional Requirements

The Contractor shall develop and maintain an internal tracking process of all PASRR Levels I and II processes as well as all LOC determinations from initiation to completion to assure accurate reporting to the Department.

- a. The Contractor shall collect information standard to any effective data management system. The Contractor shall track all phases of project performance, from the initial referral and through the notification processes. This provides a quality management tool for monitoring efficiency, quality data processes, timeliness, and effective communication. The Contractor shall create report formats for financial management, tracking, outcome trending, and project monitoring.

- b. The Contractor shall perform Level II and LOC reviews throughout the State. The Contractor shall conduct onsite and desk reviews statewide. The Contractor shall maintain a statewide network of trained clinicians to conduct onsite medical and Level II evaluations.
- c. The Contractor shall install and maintain toll free telephone numbers and toll free fax machines to be used by individuals to ask questions regarding PASRR requirements and for informational purposes by providers, persons who have been screened, their legal guardians, representatives, and families. The Contractor shall maintain sufficient incoming lines to prevent busy signals, The Toll free number must be included on all correspondence with individuals and providers.
- d. The Contractor shall respond to all telephone / e-mail inquiries regarding screenings upon receipt.
- e. The Contractor's web-submission options and facsimile machines shall be available for data submission 24-hours per day and 7-days per week.
- f. The contractor shall coordinate activities where possible to provide efficiency and timeliness.

6. Quality Assurance-

The Contractor shall develop and conduct a statistically valid random quality control check to measure performance and ensure compliance with all contract and data integrity procedures including data provided by the provider community as well as decisions made by medical review staff.

a. Data Integrity Procedures

The Contractor shall design quality indices for each task and measure fidelity to task quality throughout the term of the contract. The Contractor shall implement a Quality Management Plan to monitor Contract compliance and quality of work and the work of evaluators.

b. Provider Measures

The Contractors OM staff shall monitor provider compliance in key areas related to provider adherence to state regulations, including but not limited to:

- i. Timeliness of data submission, (compliance with evaluation referrals) occurring through processes within WEBSTARS™ and URSA™ to determine when payment occurs and establish authorization dates for the Claims Processing Division,

- ii. Integrity of Data (congruence of reports with patient status) which is measured through comparisons of collateral data to reported information,
- iii. Quality of Care Issues including provider service delivery, care planning, and other quality of care issues) identified through areas such as intensity of care which is inconsistent with need, focus of care which is inconsistent with need, and/or medical or psychiatric decompensation, and
- iv. Compliance with Reporting including data collection associated with reporting mandated status changes.

The Contractor shall report the results of quality monitoring activities to the Department to assure full compliance within contract parameters

c. Medical Review Staff Performance

The Contractor's QM staff shall monitor compliance and quality of work provided by its Medical Review staff.

The Contractor shall provide training and ongoing evaluation of fidelity to project requirements (including **clinical integrity, regulatory fidelity, clinical quality, and timeliness**). The Contractor shall collect data and assess contract standards for screening and summaries, including **Overall Presentation, Required Data Elements** (diagnostic and information consistency), **Quality** (Clarity, transparency of decisions, and recommendations consistent with findings), **Timeliness** in performing, and completing reviews and summaries, **Review Reliability and Validity** (comparing review/summary information with other records to assess the accuracy of ratings relative to available data), and **Satisfaction** of providers with the Contractor staff professionalism and responsiveness.

The Contractor shall conduct education and staff development and training processes onsite and through webinars both initially and ongoing for both field and office staff. All contract staff and assessors shall receive regular feedback and ongoing mentoring from Quality Review staff.

d. Quality Management Plan

The Contractor shall implement a Quality Management Plan (QMP) to monitor and report on all project activities and staff performance. The Contractor shall employ quality management clinicians dedicated to performing all QMP monitoring and reporting functions. Quality clinicians shall work under supervision of the Department's Contract Manager, who will report the outcome of quality activities to the Department.

The Contractor's QMP shall consist of the following activities:

i. Transition and Project Startup Activities : Throughout the initial start up phase the Contractor shall monitor and evaluate key contract performance areas and operating procedures and integrate modifications identified as beneficial to the project. The Contractor shall provide the Department with written project progress reports regarding the Contractors performance during project implementation.

ii. Ongoing Evaluation Activities: The Contractor shall implement quality monitors for each key task and staff including assessors, operations staff and providers to review contract performance as well as provider compliance with PASRR/LOC guidelines.

QM clinicians shall enter all data regarding monitors of Level I, LOC, Level II, provider, and physician/psychiatrist quality directly on WEBSTARS™-CT. These activities shall be provided in report form meeting state criteria at any desired frequency to the Department, including electronic reports accessible on demand directly through WEBSTARS™-CT. Assessor ratings are gathered for all assessments and recorded electronically, with clear and concise feedback given regarding performance. This occurs for every evaluation until the evaluator has demonstrated solid competencies. After clear competencies are demonstrated, feedback is given as indicated by quality review.

The Contractor shall monitor Nurse and Physician reviewers using structured protocols that evaluate compliance with state, federal, and clinical standards: and those outcomes are recorded and maintained electronically.

The Contractor shall monitor Providers with structured data collection tools, gathering critical data about compliance associated with timeliness, data integrity, status change reports, etc.

The Contractor shall compile Outcome data of QI activities to report on individual and contractor performance and to identify trends, potential training areas, areas for improvement, and potential process changes that may need to be implemented. Procedural changes shall not be implemented without the Department's approval. Once implemented the Contractor shall monitor the effectiveness of the procedural changes and report Outcomes to the Department on a monthly basis.

e. Investigation of Complaints

The Contractor shall conduct a formal complaint investigation of problems reported by the Department, health care community, families, or other entities.

The Contractor shall complete of a comprehensive complaint investigation and submit a written report of all activities, findings, and a corrective action plan to the Department and any other appropriate entities within forty-eight (48) hours of the identified problem.

The Contractor's corrective action plan shall include shall include a 30 day follow up to reevaluate contractor and / or provider performance

7. Technology Requirements

The Contractor's data base system shall comply with the following requirements:

- a. Provide a continuous Quality Management tool for both the Department and Contractor for monitoring efficiency, quality data processes, timeliness, and for promoting more efficient project communication and workflow.
- b. Interface with Providers
For each of the project deliverables, the Contractor shall provide numerous customized web based applications that can be accessed real time by providers statewide 24 per day 7 days per week.
- c. Have the potential to interface with the State's MMIS and data warehouse using standards-based interfaces, including X12 EDI and or ebXML formats to enable electronic management of provider screening compliance. Data sites shall require user registration, user verification, assignment of log-in passwords and provisions for an initial user profile containing basic identifiers, contact, and affiliation information before data entry access can occur.
- d. Web-Based Entry and Access: The Contractor's web based screening application shall support submission of screening data electronically by referring agencies and providers for on-line tracking of the status of any request for service. The Contractor shall provide customized applications for PASRR, LTC Level of Care and Utilization Review activities, all of which enable web-based submission of screening data by providers. Providers that submit screens online may access/track the status/disposition of the screen. Providers may also generate an electronic notice of screening outcome and notification letters directly from the site.

The Contractor shall provide full program expertise, staffing, web technologies and management capacities necessary to develop and maintain the web-based screening application, as well as to maintain records of each request for service and the determination.

- e. **Web-Based Screening Tools and Relational Database Functionality:**
The Contractor shall provide a web-based screening tool for on-line entry of LTC and PASRR requirements and shall store the screening and determination data in a relational database. Screening databases must be available twenty-four (24) hours per day and seven (7) days per week. Screening databases shall provide the ability for referral entities to determine the status of pending screening requests. Approvals generated directly from the WEBSTARS™-CT.

The Contractor's applications shall support standard relational database functionality, including: data locking, referential integrity, security, and built-in XML support for data exchange/transfer. The database architecture for screening information shall support industry accepted import/export standards (e.g., Open Database Connectivity). Within secure state websites, the Contractor shall limit access to state authorized staff and use established protocols to ensure the security and confidentiality of information posted to the site. Screening databases must be available twenty-four (24) hours per day and seven (7) days per week. Screening databases shall provide the ability to refer entities to determine the status of pending screening requests.

The Contractor shall transfer all to the Department in a format compatible with Microsoft Access upon contract termination or within thirty (30) calendar days of requests by the Department.

- f. **Electronic Accessibility:** The Contractor shall provide accessibility of all screening data to the Department via HIPAA secure web-based format, and report options shall be programmed to enable generating of reports directly from WEBSTARS™-CT. The Contractor shall provide the capacity to track the status of any and all referrals directly from the system. All reports can be programmed to be "on demand" and will be available to the Department directly from the website with up-to-the-minute compilation and analysis of project data elements. The Contractor shall provide to the Department unlimited access to all evaluation and eValuation quality review information in order to obtain daily, *real time* disposition and status information by individual or in aggregate.

The Contractor shall offer and maintain full compliance with all of the

functionality, data specifications, and HIPAA requirements associated with this project and are capable and prepared to meet all system requirements.

8. **Web-based System Requirements-** The Contractor shall implement WEBSTAR'S™ a secure Web-based computer system to process efficient and accurate applicant and resident Level 1 screens.

- a. Web-based Level I System: Shall electronically score provider-entered Level I information using algorithmic decision support to issue either automatic admission approvals and Level II referrals or to flag any screens requiring further clinician review before a Level I outcome is rendered. Psychopharmacologies outside the typical diagnostic range trigger further review for the possibility of un-reported serious mental illness.

WEBSTARS™ shall identify and automatically issue Level I admission approvals for individuals with no or insignificant PASRR Level II triggers. When a Level I screen leads to a decision to refer an individual for a Level II evaluation, WEBSTARS™ shall generate notification letters for the screener and the individual/family that explains the Level I outcome and the need for a Level II. WEBSTARS™ shall permit screens to be performed (and decisions issued) 24-hours per day, 7 days per week, 365 days per year.

WEBSTARS™ shall divert screens which trigger a potential Level II condition to expert clinical reviewers who shall interact with the submitting provider to investigate whether a Level II referral is warranted. Whenever trigger conditions (or item inconsistencies) are reported via the Level I submission, the database shall inform the referral source that the Contractor's psychiatric nurse reviewer shall initiate contact with them to further discuss presenting information and determine whether a Level II is warranted.

The provider that submitted the screen may obtain information online about the status of the screen until all aspects of the screen are complete. WEBSTARS™ data interface platforms shall integrate Level I outcome information directly with Medicaid payor entities. These mechanisms shall allow the Department the ability to time stamp Level I approvals for admission so that the Department can ensure, enforce, and document for CMS auditors, that Level I screens are conducted prior to NF admission.

The Contractor shall conduct thorough document and interview based retrospective quality analyses of randomly selected approved Level I screens to determine if: 1) the screener was thorough and without bias or error when entering screening information, and; 2) whether the algorithm correctly determined the appropriate outcome.

- b. Information Triggers for a Level II condition. When Level I information *triggers* the possibility of a Level II condition the Contractor's clinical review staff shall interview the referring source to clarify the individual's presenting status and premorbid history. The Contractor's clinical review staff shall initiate further discussions with the referral source to:
- i. confirm symptoms and behaviors, determine their extent/severity, and identify suspicions of MI/MR/RC which warrant further evaluation;
 - ii. obtain historical information, where available;
 - iii. confirm contacts for family if additional information is needed;
 - iv. determine whether categorical decisions or exemptions apply;
 - v. explain subsequent steps if further evaluation is determined appropriate; and
 - vi. confirm whether the individual has special communication/accommodation needs that should be considered for the evaluation.
- c. Turnaround: A decision regarding 'negative' screening outcomes (where no-or insignificant-triggers are present and they do not warrant further clinical review) shall be rendered in under 30 seconds from submission.

The Contractor shall average 2-4 hours from the queue that further clinical review is needed until the time that a final determination about the need for Level II is rendered.

- d. QA/QI Processes: Utilizing WEBSTARS™ to statistically select a randomized group of negative Level I screens the Contractor shall conduct either further review and/or post-admission review to ensure the integrity of information reported at preadmission is consistent/congruent with records and (in the case of post-admission verification) admitting provider reports. Where concerns are present, the Contractor shall expand interviews to family or other sources to clarify the status and history of the individual. The Contractor's quality team shall directly access supervisory information and initiate contacts with the staff member's supervisor to report problems associated with data integrity. Facility-specific and/or individual privileges for web-submission can then be suspended, requiring a particular facility or staff member to submit all reviews directly to clinical reviewers for data verification for 100% of subsequent reviews or until quality benchmarks are attained.
- e. Tracking: The Contractor's WEBSTARS™ shall have the capability of

tracking and verifying individual confidential data and validate incorrect or conflicting data in relation to previous assessments. Quality findings and discrepancies from initial submission(s) shall be noted, analyzed, and made available for routine trending reports to identify any problems with a particular provider or staff working within a provider agency.

The Contractor shall identify compliance, quality, and data integrity issues for both assessment staff and for providers on an ongoing basis. The Contractor's quality team, consisting of project dedicated quality coordinators and the project manager, shall measure each of these areas through a standard protocol maintained on the WEBSTARS™ database, so that the State may access and trend provider performance by region, by provider, and across the State.

- f. Data Transition: The Contractor shall be required to import Department confidential MI/MR data via a variety of means including ASCII delimited format.
- g. User Training: The Contractor shall train WEBSTARS-1™ users via web-based training models, tutorials, conference lines, and web-conference training about the registration process. The web-tutorial and embedded instructions shall remain on the provider landing page for the life of the contract, so that new users have ready access to training materials and to Contractor staff. The Contractor shall incorporate training elements within onsite training.
- h. Training Timeframe: The Contractor shall, in addition to the on-site training, schedule several web-conference training dates beginning in January. Providers will be notified via surface and email and provided registration and sign-on codes for web-conference participation. The tutorial will be implemented, as well, and providers who cannot participate in the web-training shall be provided information on obtaining individualized training about the process and registration.
- g. Screening Tools- The Contractor shall provide Screening Tools that at a minimum, contain the following information:
 - a. Screening Tool for NF LOC
 - Patient deniographics,
 - Admissions and/or discharge dates,
 - Responsible person or party,
 - Referred by, name and agency,
 - Telephone number of referring agency,
 - Medicare number if applicable,

- Social security number,
- Medicaid ID number if applicable,
- Activities of Daily Living (ADL) and Instrumental ADL needs,
- List of current diagnoses and past medical history,
- List of current medications, dosage and frequency,
- Certification by a MD, an Advanced Practice Registered Nurse (APRN) or Physicians Assistant that the patient meets the LOC criteria explained in Section 19-13-D(8)(t)(d)(1) of the Public Health Code, and
- Screening dates and disposition.

b. PASRR Screening Tools for LevelII and LevelIII

- Patient demographics and description,
- Discharging and receiving facility information,
- Screening dates and disposition,
- Diagnoses,
- Diagnostic history/current physical exam, (within one (1)year),
- Psychiatric symptomatologies,
- Psychopharmacologic treatments, along with decision rules about formulary ranges for psychiatric versus differential diagnoses,
- Current mental status evaluation, and
- All Federal Standards for Screening.

The PASRR Level II Evaluation Report must include at a minimum all summary requirements defined in 42 CFR § 483.128(i).

The Contractor's LOC, Level I, and PASRR I-level II assessment tools shall meet federal guidelines for assessment requirements in §483.134, determination and evaluation criteria under §483.130 and .132, and individualized reports required in §483.128. The Contractor shall work closely with the Department, DDS and DMHAS to identify and implement responsibilities for placement decisions provided in §483.132 and §483.126,.

Assessment Tools shall be mutually agreed upon by the Contractor and the Department.

c. Web Capabilities

The Contractor shall support through WEBSTARS™-CT, a customized, web-based PASRR Level I/II database which is fully integrated with a URSA-LTC™ an on-line LOC web-submission process, enabling CT to offer a single entry point for on-line uniform LTC screening and LOC administrative and

evaluation data management process, with real time Department access to all review information. The Contractor shall through WEBSTARS™-CT ensure continuous capacity to generate useful performance and statistical data to achieve continuous quality improvement goals.

The Contractor shall fully customize the process to ensure that each stage of the assessment and evaluation referral and receipt process is maintained electronically. All final decisions shall be automated so that outcome notices may be expedited to discharging providers directly from WEBSTARS™-CT the moment the final determination is complete.

The Contractor shall develop and host a provider webpage specifically to post PASRR announcements or information, including but not limited to educational materials and tutorials. Providers may use the secure site to enter tracking information about Level II candidates who transfer or are discharged. The Contractor shall fully customize WEBSTARS™-CT and *URSA-LTC™/CT* to meet data collection and reporting needs. The Contractor shall design interface tools to enable integration of data from the data system with state claims processing or other state data management protocols.

The Contractor shall be responsible for all project web-based software applications, including all services, related hardware, bandwidth for access, back-up capabilities, firewalls, database software licenses, report generator software and operating system software. The Contractor shall maintain the customized screening tool software/Web application process/workflow software plus any database software, report generators and other utilities incorporated into either the application software or the business process/workflow procedures automation software.

10. Tracking Protocols

a. Tracking Database

The Contractor shall develop, maintain, and update tracking databases as necessary to provide an automated database containing a record for each Screening request that includes:

- Full name of the person for whom the service request is being made,
- Date of birth,
- Current Screening and outcome,
- Social Security number,
- Medicaid number,
- Name, address, and telephone number of individual's legal representative, if applicable,
- Name of referring agency and contact person,

- Date entered facility, program or service,
- Screening dates and determinations,
- Services and LOC determined through Screening,
- Date Screening request was received, and
- Date Screening request was processed.

Providers shall have the capacity to view tracking information for PASRR candidates according to Federal Tracking Standards.

b. Tracking:

The Contractor shall manage a tracking process which is a combination of data set management and periodic encounters with the nursing facility to verify continued residence of clients and provide information about status change reporting. The Contractor shall maintain screen/evaluation and change in residence entries in the WEBSTARS™ database. WEBSTARS™ shall generate tracking reports identifying persons approved for a time-limited stay prior to the conclusion of authorized end-dates. The Contractor's reviewers shall contact the admitting nursing facility staff to determine whether the resident's stay is expected to extend beyond the authorization period and to expedite further screening/evaluation.

The Contractor through maintenance of this data, shall provide to the Department accessibility to data about the location of the residents screened and evaluated, as well as about the types of needs regionally, by diagnosis, across provider types, etc.

c. Provider Status Updates:

The Contractor shall accommodate the providers with the ability to track the status for screening requests on-line for a time-limited period to obtain assessment disposition and to generate electronic notices of screening reports and outcomes. Providers shall have the ability to 'save' and resume screening submission for a time-limited period, in the event that they need to obtain additional information from the individual or family to complete the screen.

11. **Reporting Requirements** - The Contractor shall comply with the following reporting requirements:

- a. Annual report of telephone review statistics. Minimum requirements shall include region of the State, number approved, denied, referred for level II, referred for on-site medical, short-term approvals for all telephonic review types, sorted by type with volume and percentage totals for each review type,

- b. Annual report of on-site review statistics. Minimum requirements shall include number of Level II Evaluations, MI status changes, and on-site medical reviews sorted by outcome and service determination with volume totals for each type and category,
- c. Annual report of on-site turnaround calculated from referral date to completion date with total number of reviews and average turnaround time,
- d. Annual detail report of persons in need of specialized services. Minimum requirements shall include name, social security number, date of birth, age, sex, review date, and location sorted by determination and type,
- e. Monthly and annual detail report of NF LOC and Level I reviews. Minimal requirements shall include name, date of birth, social security number, payment status, determination, determination date, end date, referred for on-site review type and admit type sorted in alphabetical order and by Department/DSS service region with a grand total,
- f. Monthly and annual detail report of Level II reviews. Minimum requirements shall include name, date of birth, social security number, completion date, evaluation type, and determination sorted in alphabetical order with a grand total,
- g. Semi-annual and annual quality assurance report. Minimum requirements shall include:
 - i. Quality Improvement (01) administrative statistical section showing: time period, total charts processed, number of charts reviewed by Quality Assurance (QA) staff, along with the percentage of charts reviewed by QA sorted by the monitors of accuracy, timeliness, completeness, data entry and chart organization. For each monitor the cumulative number of acceptable records must be reflected along with the total number and percentage of compliant records; the cumulative unacceptable with total number and percentage of noncompliant shall also be included.
 - ii. 01 Level II administrative statistical section must include: time period, total charts processed, number of charts reviewed by QA staff, percentage of charts reviewed by QA sorted by the following monitors: accuracy, log, system, coversheet, administrative QA of on-site evaluations and summary data entry, file organization, completeness of data entry requirements, and adherence to all State specifics. For each monitor the following must be included:

- Cumulative acceptable with total number and percentage compliant
 - Cumulative unacceptable with total number, and
 - Percentage noncompliant.
- iii. QI telephonic statistical section must include: time period, total charts processed, number of charts reviewed by QA, percentage of charts reviewed by QA sorted by the following monitors: data completion, instruction conformance, and decision support system. For each monitor the following must be included:
- Cumulative acceptable with total number and percentage compliant,
 - Percentage compliant, cumulative unacceptable with total number noncompliant, and
 - Percentage noncompliant.
- iv. QI Level II clinical section must include: time period, cumulative evaluations sorted by the following monitors: evaluation validity, evaluation reliability, evaluation completeness, timeliness and summary of recommendations. For each monitor the following must be included:
- Sample number and percentage reviewed,
 - Cumulative number and percentage acceptable, and
 - Cumulative number and percentage unacceptable.
- v. Facility QI section must include number of facilities provided training during applicable timeframe. Breakdown of the training provided, cumulative time range spent in minutes for provider training, number of post-admission Screens with reported reasons, breakdown of facility data-related problems, and potential data integrity concerns.
- vi. QI narrative section must contain a corrective action narrative report, which includes: Level I administrative, Level II administrative, Level I clinical, halted reviews, Level II clinical and summary of findings and an activity narrative report that includes: State specifics (facility training, facility QA, etc.), procedural changes, appeals, complaints and major tasks completed.
- h. Weekly report for Claims Processing within Department/DSS on LOC for NF by name, current placement, social security number, Medicaid number, referral facility, admitting facility, determination type, date of review, and from and through dates for service.

- i. The Contractor shall alert Department/DSS electronically of each NF LOC denial. Minimum requirements shall include name, date of birth, Medicaid number, Department/DSS service region, provider name and address, Physician signature, and outcome summary.
- j. Statistical reports - the Contractor shall have the capacity to generate annual and ad hoc report requests reflecting volumes of reviews, volumes of outcomes, percentages of outcomes of each review type, and average length of stay, including:
 - Special reports requested by Department/DSS.
 - Monthly reports to the DMHAS Manager of PASRR to identify persons with MI who have entered long term care facilities and their specific location. The report should identify if placement is anticipated to be long or short term.
 - Ad hoc reports as requested by DMHAS PASRR Manager.

12. Participation in Appeal Hearings

The Contractor shall participate by conference call in appeal hearings as requested or required by the Department and prepare written fair hearing summaries in a timeframe specified by the Department/DSS.

- a. Any appeals for assessments resulting in denial or termination of services shall be represented by the Contractor's Licensed Physician and other appropriate staff who have participated in the decision that resulted in the appeal.

13. Transition Plan

The Contractor shall provide, for the Department's review and approval, a plan for transitioning all PASRR and LOC documentation in its possession, key program components, and other key items as they relate to this project at contract expiration or if the contract is terminated for any reason. The transition plan shall indicate the Contractor's ability to collaborate with any subsequent Contractor during the transition process. The Contractor shall:

- a. Document each responsibility held in the process. The Contractor shall develop comprehensive procedure and training manuals for project staff, field assessors, and providers.
- b. Provide a formalized and comprehensive transition package to the Department and the new vendor which addresses each aspect of the project and the Contractor's role in its management.

14. Provider Training

The Contractor shall provide PASRR and LOC education and training activities to nursing facilities, hospitals, psychiatric hospitals, health programs or facilities, social service agencies, and other relevant institutions.

- a. On-site Training Capacity/Timeframes: The Contractor shall provide an extensive program of training in both web-based and onsite provider training and education, with modules that include: clinical training about fidelity to Evidence Based Practices for hard to treat populations; federal requirements for PASRR, utilization review, and long-term-care programs; person centered planning and assessment; and administration of specialized assessment services.

The Contractor shall begin scheduling training in a minimum of one site, with training to begin in mid-January. The Contractor shall issue notices to relevant providers (hospitals, nursing facilities, etc.) to announce training dates and sites and to direct providers to their web-page for further information, procedures, and announcements. Training shall be announced through mailed memoranda, email contacts, and web-announcements to maximize provider awareness. The Contractor shall select a key location to maximize provider access. Prior to each training, the Contractor shall circulate comprehensive policy and procedure manuals and PowerPoint training packages which the Contractor shall design under Department approval to explain screening processes. Copies of procedures, screening protocols, and training materials shall be circulated at each training site. The Contractor shall also post web-tutorials and training materials. The Contractor's onsite and web-trainings for providers shall include: description of project requirements and objectives for review activities; protocol submission options, including instruction on electronic data submission; step-by-step instruction on protocol completion; terms and definitions and their interpretation; review requirements; onsite review processes for denials and PASRR evaluations; identification of and response requirements for *Significant Change in Status*; tracking; processing requirements; Quality Management approach; and submission expectations.

- b. Manuals, Updates, and Communications: The Contractor shall develop procedures for all provider groups. The Contractor shall develop a state-specific web-page for the provider community that includes memoranda, announcements, procedures, updates, and other communications linked through www.pasrf.com. The contractor shall work closely with the Department to develop these materials and shall obtain final review and approval from Department staff prior to posting any information. The Contractor shall mail communications as instructed by the Department.
- c. Annual Training Plan: The Contractor shall perform on-site training

annually in a minimum of three major regions of the state unless the Contractor has identified and can demonstrate a lack of necessity for training in a particular region. The Department/DSS reserves the right to make the final determination on training performance. The Contractor shall provide ongoing training via WEBSTARS™ relative to needs demonstrated by individual providers and agencies through web-training options.

d. Plan for Ongoing Training: In addition to hosting the onsite training sessions, the Contractor shall maintain a website for use by the Department and providers that includes:

- Tutorials about screenings and evaluations
- Web-trainings about the basis for the process
- **Manuals**
- Relevant updates about the process
- Hot topics, including information on the national front
- Upcoming educational opportunities
- Information regarding policy and/or review changes
- Clinical practice resources, such as federal *Toolkit* resources, evidence based and promising practices in treatment
- Other areas of topical relevance, such as responding to trends suggesting problems in particular areas.

The Contractor's quality team shall provide ongoing individualized training via the Contractor's review staff, field evaluators, and quality management staff. Training shall include but not be limited to procedures and protocols, individualized assistance in determining evaluation needs of specific residents, and training new hires. The Contractor's dedicated PASRR project and quality staff team shall remain continuously accessible as a resource for providers, responding to questions, providing technical assistance, and offering training/education as needed.

SECTION III. BUSINESS COST SECTION

A. Payment Provisions

For the performance of the services and tasks described herein, based upon review and approval by the Department, the Contractor shall receive an amount up to a maximum of \$4,381,727.00 over the contract period and in accordance to the cost schedule and annual volumes identified below.

Payments shall be made monthly, and are contingent upon the Contractor's timely compliance with the contract requirements, including but not limited to, the Contractor's submission and Department/DSS' acceptance of all required reports and payment requests.

The Contractor shall submit invoices to the attention of the Department's Director of Alternate Care Unit (or designee) for service on a monthly basis.

The Department shall remit all payments within thirty (30) days after receipt and approval of the Contractor's invoice.

B Payment Schedule

Fixed price beginning 1/1/2010			
Cost Item	2/1/10- 7/31/10	8/1/10-7/31/11	8/1/11-7/31/12
(1) Administrative and general expenses	\$82,927.45	\$165,854.90	\$172,489.09
(2) LOC Determinations	\$43,454.25	\$86,908.50	\$90,384.84
(3) NF on-site assessments	\$87,487.89	\$174,975.78	\$181,974.81
(4) Level I Screens	\$266,933.25	\$533,866.50	\$555,221.16
(5) Level II Evaluations (PAS & RR)	\$272,462.29	\$544,924.57	\$566,721.55
(6) Appeals participation	\$604.50	\$1,241.55	\$1,291.21
Total Cost	\$753,869.63	\$1,507,771.80	\$1,568,082.67

Per unit price for services exceeding volumes by 5% or more			
Cost Item	2/1/10-7/31/10	8/1/10-7/31/11	8/1/11-7/31/12
(1) LOC Determinations	\$13.95	\$13.95	\$14.51
(2) NF onsite reviews	\$280.86	\$280.86	\$292.09
(3) Level I Screens	\$13.95	\$13.95	\$14.51
(4) Level III Evaluations	\$280.86	\$280.86	\$292.09
(5) Appeals Participation	\$93.00	\$93.00	\$96.72
Maximum Cost	\$50,000	\$100,000	\$100,000

Implementation costs to be reimbursed for contract start up 11/1/09-1/31/10	
Cost Item	Per Unit Price
(1) Administrative and general expenses	\$150,354.88
(2) Policies, procedures and protocol development	\$10,462.50
(3) Equipment and hardware installation and setup	\$47,722.50
(4) Staff credentialing and training	\$40,914.45
(5) Statewide provider training	\$52,548.75
Total Cost	\$302,003.08

C. Annual Volume

Review Type	Volume	Projection Basis	Total Projection by review type
(1) LOC Determinations	7,000	<i>Level of care determinations required</i>	7,000
(2) NF onsite reviews	700	10% of 7,000 LOC reviews	700
(3) Level I Screens	43,000	<i>Level I screens processed</i>	43,000
(4) Level II Evaluations	1000	<i>Level II screens for MI</i>	2,180
	680	<i>40% of short term placements staying beyond allowable number of days</i>	
	200	<i>Changes in condition requiring a face to face evaluation</i>	
	100	<i>In depth clinical reviews for 25% of dementia diagnosis to determine accurate diagnosis</i>	
	200	<i>Level II evaluations for persons identified as having both MI and MR.</i>	
(5) Appeals Participation	15	<i>Appeals participations</i>	15

PART TWO: MANDATORY TERMS AND CONDITIONS

The Contractor agrees to comply with the following mandatory terms and conditions.

A. CLIENT-RELATED SAFEGUARDS

1. **Inspection of Work Performed.** The Department or its authorized representative shall at all times have the right to enter into the Contractor's premises, or such other places where duties under the contract are being performed, to inspect, to monitor or to evaluate the work being performed. The Contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. The Contractor shall disclose information on clients, applicants and their families as requested unless otherwise prohibited by federal or state law. Written evaluations pursuant to this section shall be made available to the Contractor.
2. **Safeguarding Client Information.** The Department and the Contractor agree to safeguard the use, publication and disclosure of information on all applicants for and all clients who receive service under this contract with all applicable federal and state law concerning confidentiality.
3. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to client abuse and neglect, including but not limited to requirements as specified in Conn. Gen. Stat. §§ 17a-101 through 103, 19a-216, 46b-120 (related to children); Conn. Gen. Stat. § 46a-11b (relative to persons with mental retardation); and Conn. Gen. Stat. § 17b-407 (relative to elderly persons).

B. CONTRACTOR OBLIGATIONS

1. Credits and Rights in Data.

- (a) Unless expressly waived in writing by the Department, all documents, reports, and other publications for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the state and the Department and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify the Department, unless the Department or its agents co-authored said publication and said release is done with the prior written approval of the Commissioner of the Department. Any publication shall contain the following statement: "This publication does not express the views of the Department or the State of Connecticut. The views and opinions expressed are those of the authors." The Contractor or any of its agents shall not copyright data and information obtained under the terms and conditions of this contract, unless expressly authorized in writing by the Department. The Department shall have the right to publish, duplicate, use and disclose all such data in any manner, and may authorize others to do so. The Department may copyright any data without prior notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Department of such data.

- (b) "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including but not limited to all reports, surveys, plans, charts, recordings (video and/or sound), pictures, curricula, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.
2. **Organizational Information, Conflict of Interest, IRS Form 990.** Annually during the term of the contract, the Contractor shall submit to the Department the following:
- (a) a copy of its most recent IRS Form 990 submitted to the federal Internal Revenue Service, and
- (b) its most recent Annual Report as filed with the Office of the Secretary of the State or such other information that the Department deems appropriate with respect to the organization and affiliation of the Contractor and related entities.
3. **Federal Funds.** The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Department shall specify all such requirements in Part I of this contract.
4. **Audit Requirements.** The Contractor shall provide for an annual financial audit acceptable to the Department for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The Contractor shall comply with federal and state single audit standards as applicable.
5. **Prohibited Interest.** The Contractor warrants that no state appropriated funds have been paid or will be paid by or on behalf of the Contractor to contract with or retain any company or person, other than bona fide employees working solely for the Contractor, to influence or attempt to influence an officer or employee of any state agency in connection with the awarding, extension, continuation, renewal, amendment, or modification of this agreement, or to pay or agree to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.
6. **Offer of Gratuities.** By its agreement to the terms of this contract, the Contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from this contract. The Department may terminate this contract if it is determined that gratuities of any kind were either offered or received by any of the aforementioned officials or employees from the Contractor or its agents or employees.
7. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this clause, to the Department on an annual basis in the appropriate fiscal report as specified in Part I of this contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor, its employees, Board members or members of the Contractor's governing body, and a related party include, but are not limited to:

- (a) real estate sales or leases;
- (b) leases for equipment, vehicles or household furnishings;
- (c) mortgages, loans and working capital loans; and
- (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor.

8. Lobbying. The Contractor agrees to abide by state and federal lobbying laws, and further specifically agrees not to include in any claim for reimbursement any expenditures associated with activities to influence, directly or indirectly, legislation pending before Congress, or the Connecticut General Assembly or any administrative or regulatory body unless otherwise required by this contract.

9. Suspension or Debarment.

- (a) Signature on Contract certifies the Contractor or any person (including subcontractors) involved in the administration of Federal or State funds:
 - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental department or agency (Federal, State or local);
 - (2) within a three year period preceding this Contract, has not been convicted or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or Contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - (3) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the above offenses;
 - (4) has not within a three year period preceding this agreement had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Department.

10. Liaison. Each party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Department in the performance and administration of this contract.

11. Subcontracts. For purposes of this clause subcontractors shall be defined as providers of direct human services. Vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program. The subcontractor's identity, services to be rendered and costs shall be detailed in Part I of this contract. Notwithstanding the execution of this contract prior to a specific subcontractor being identified or specific costs being set, no subcontractor may be used or

expense under this contract incurred prior to identification of the subcontractor or inclusion of a detailed budget statement as to subcontractor expense, unless expressly provided in Part I of this contract. No subcontractor shall acquire any direct right of payment from the Department by virtue of the provisions of this clause or any other clause of this contract. The use of subcontractors, as defined in this clause, shall not relieve the Contractor of any responsibility or liability under this contract. The Contractor shall make available copies of all subcontracts to the Department upon request.

12. Independent Capacity of Contractor. The Contractor, its officers, employees, subcontractors, or any other agent of the Contractor in the performance of this contract will act in an independent capacity and not as officers or employees of the State of Connecticut or of the Department.

13. Indemnification.

- (a) The Contractor shall indemnify, defend and hold harmless the State of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
 - (1) claims arising directly or indirectly, in connection with the contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and
 - (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this contract. The contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the contract.
- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the contract, and during the time that any provisions survive the term of the contract, sufficient general liability insurance to satisfy its obligations under this contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.

- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the termination, cancellation or expiration of the Contract, and shall not be limited by reason of any insurance coverage.

14. Choice of Law and Choice of Forum, Settlement of Disputes, Office of the Claims Commission.

- (a) The Contractor agrees to be bound by the laws of the State of Connecticut and the federal government where applicable, and agrees that this contract shall be construed and interpreted in accordance with Connecticut law and Federal law where applicable.
- (b) Any dispute concerning the interpretation or application of this contract shall be decided by the Commissioner of the Department or his/her designee whose decision shall be final subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the commissioner pursuant to this provision, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Department shall proceed diligently with the performance of the contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings except as authorized by that Chapter in any State or Federal Court in addition to or in lieu of said Chapter 53 proceedings.

15. Compliance with Law and Policy. Contractor shall comply with all pertinent provisions of local, state and federal laws and regulations as well as Departmental policies and procedures applicable to Contractor's programs as specified in this contract. The Department shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Department has responsibility to promulgate or enforce.

16. Facility Standards and Licensing Compliance. The Contractor will comply with all applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

17. Reports. The Contractor shall provide the Department with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor agrees to provide the Department with such reports as the Department requests.

18. Delinquent Reports. The Contractor shall submit required reports by the designated due dates as identified in this agreement. After notice to the Contractor and an

opportunity for a meeting with a Department representative, the Department reserves the right to withhold payments for services performed under this Contract if the Department has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this agreement or previous agreements for similar or equivalent services the Contractor has entered into with the Department.

19. **Record Keeping and Access.** The Contractor shall maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this contract. These records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the state or, where applicable, federal agencies. The Contractor shall retain all such records concerning this contract for a period of three (3) years after the completion and submission to the state of the Contractor's annual financial audit.
20. **Workforce Analysis.** The Contractor shall provide a workforce analysis affirmative action report related to employment practices and procedures.
21. **Litigation.**
 - (a) The Contractor shall provide written notice to the Department of any litigation that relates to the services directly or indirectly financed under this contract or that has the potential to impair the ability of the Contractor to fulfill the terms and conditions of this contract, including but not limited to financial, legal or any other situation which may prevent the Contractor from meeting its obligations under the contract.
 - (b) The Contractor shall provide written notice to the Department of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other provisions of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

C. ALTERATIONS, CANCELLATION AND TERMINATION

1. Contract Revisions and Amendments.

- (a) The Contractor shall submit to the Department in writing any proposed revision to the contract and the Department shall notify the Contractor of receipt of the proposed revision.
- (b) Contract amendments must be in writing and shall not be effective until executed by both parties to the contract, and, where applicable, approved by the Attorney General.
- (c) No amendments may be made to a lapsed contract.

2. Change Order Process

The Department may, at any time, with written notice to the contractor, make changes within the general scope of the contract. Such changes may include activities required by new or amended Federal or State laws or regulations or quality related projects that are identified following the execution of the contract. The Department may reimburse the contractor for any activities required by new or amended State or Federal laws or regulations not mentioned in the Scope of Work or for any other changes outside the Scope of Work defined in the contract, which the Department deems necessary.

The written Change Order issued by the Department shall specify whether the change is to be made on a certain date or placed into effect only after approval of the contractor's fee or cost submission as described in the following paragraph. No changes in scope are to be conducted except by the express written approval of the Department's Contract Administrator.

As soon as possible after receipt of a written Change Order request, but in no event more than five business days thereafter, the contractor shall provide the Department with a written statement that the change has a cost neutral effect on the Department, or that there is a cost impact, in which case the statement shall include a description of the cost involved in implementing the change.

Significant Change Order work may require authorization from the State of Connecticut Office of Policy and Management in order to amend the contract to allocate additional funds to this project.

3. Contract Reduction.

- (a) The Department reserves the right to reduce the Contracted amount of compensation at any time in the event that:
 - (1) the Governor or the Connecticut General Assembly rescinds, reallocates, or in any way reduces the total amount budgeted for the operation of the Department during the fiscal year for which such funds are withheld; or
 - (2) federal funding reductions result in reallocation of funds within the Department.
- (b) The Contractor and the Department agree to negotiate on the implementation of the reduction within thirty (30) days of receipt of formal notification of intent to reduce the contracted amount of compensation from the Department. If agreement on the implementation of the reduction is not reached within 30 calendar days of such formal notification and a contract amendment has not been executed, the Department may terminate the contract sixty (60) days from receipt of such formal notification. The Department will formally notify the Contractor of the termination date.

4. Default by the Contractor.

- (a) If the Contractor defaults as to, or otherwise fails to comply with, any of the conditions of this contract the Department may:
 - (1) withhold payments until the default is resolved to the satisfaction of the Department;
 - (2) temporarily or permanently discontinue services under the contract;
 - (3) require that unexpended funds be returned to the Department;
 - (4) assign appropriate state personnel to execute the contract until such time as the contractual defaults have been corrected to the satisfaction of the Department;
 - (5) require that contract funding be used to enter into a subcontract arrangement with a person or persons designated by the Department in order to bring the program into contractual compliance;
 - (6) terminate this contract;
 - (7) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the state or the program(s) provided under this contract or both;
 - (8) any combination of the above actions.
- (b) In addition to the rights and remedies granted to the Department by this contract, the Department shall have all other rights and remedies granted to it by law in the event of breach of or default by the Contractor under the terms of this contract.
- (c) Prior to invoking any of the remedies for default specified in this paragraph except when the Department deems the health or welfare of service recipients is endangered as specified in of this contract or has not met requirements as specified in this contract, the Department shall notify the Contractor in writing of the specific facts and circumstances constituting default or failure to comply with the conditions of this contract and proposed remedies. Within five (5) business days of receipt of this notice, the Contractor shall correct any contractual defaults specified in the notice and submit written documentation of correction to the satisfaction of the Department or request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to respond to the Department's notice of default and to present a plan of correction with applicable time frames. Within five (5) business days of such meeting, the commissioner of the Department shall notify the Contractor in writing of his/her response to the information provided including acceptance of the plan of correction and, if the commissioner finds continued contractual default for which a satisfactory plan of corrective action has not been presented, the specific remedy for default the Department intends to invoke. This action of the Commissioner shall be considered final.

- (d) If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the agreed upon plan of correction, the Department may proceed with default remedies.

5. Non-enforcement Not to Constitute Waiver. The failure of either party to insist upon strict performance of any terms or conditions of this agreement shall not be deemed a waiver of the term or condition or any remedy that each party has with respect to that term or condition nor shall it preclude a subsequent default by reason of the failure to perform.

6. Cancellation and Recoupment.

- (a) This agreement shall remain in full force and effect for the entire term of the contract period, above, unless either party provides written notice thirty (30) days or more from the date of termination, except that no cancellation by the Contractor may be effective for failure to provide services for the agreed price or rate and cancellation by the Department shall not be effective against services already rendered, so long as the services were rendered in compliance with the contract during the term of the contract.
- (b) In the event the health or welfare of the service recipients is endangered, the Department may cancel the contract and take any immediate action without notice it deems appropriate to protect the health and welfare of service recipients. The Department shall notify the Contractor of the specific reasons for taking such action in writing within five (5) business days of cancellation. Within five (5) business days of receipt of this notice, the Contractor may request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to present information on why the Department's actions should be reversed or modified. Within five (5) business days of such meeting, the Commissioner of the Department shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Department. This action of the Commissioner shall be considered final.
- (c) The Department reserves the right to cancel the contract without prior notice when the funding for the contract is no longer available.
- (d) The Department reserves the right to recoup any deposits, prior payment, advance payment or down payment made if the contract is terminated by either party. Allowable costs incurred to date of termination for operation or transition of program(s) under this contract shall not be subject to recoupment. The Contractor agrees to return to the Department any funds not expended in accordance with the terms and conditions of the contract and, if the Contractor fails to do so upon demand, the Department may recoup said funds from any future payments owing under this contract or any other contract between the State and the Contractor.

7. Equipment. In the event this Contract is terminated or not renewed, the Department reserves the right to recoup any equipment; deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract. For purposes of this provision, equipment means tangible personal property with a normal useful life of at least one year and a value of at least \$5,000. Equipment shall be considered purchased from Contractor funds and not from

Department funds if the equipment is purchased for a program that has other sources of income equal to or greater than the equipment purchase price.

8. Termination. All notices of termination as defined in the subsections below shall be signed by the Contract Administrator and/or designee, shall specify a date of termination and shall be delivered to the Contractor no less than 90 days prior to the specified date of termination.

a. Termination for Convenience:

- i. The Department may terminate performance of work under the Contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.
- ii. In the event that the Department elects to terminate the Contract pursuant to this provision, the Contract Administrator and/or designee shall notify the Contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

b. Termination for Financial Instability:

- i. In the event that the Contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under this contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, the Department may, at its option, immediately terminate this contract.
- ii. In the event the Department elects to terminate this contract under this provision, it shall do so by the Contract Administrator and/or designee sending notice of termination to the Contractor by certified mail, return receipt requested, specifying the date of termination.
- iii. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the Contractor shall immediately so advise the Department. The Contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve Contractor of its duties under this contract.

c. Procedure for Termination:

A.

B. In addition to the requirements set forth above; upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- i. *Stop work under the contract on the date and to the extent specified in the Notice of Termination.*
- ii. *If the Department so directs in writing, terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination or assign to the Department in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the Contractor under the subcontracts not so terminated, in which case the Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.*
- iii. *Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.*
- iv. *Be entitled to payment for services rendered through the effective date of termination.*

9. Transition after Termination or Expiration of Contract. In the event that this contract is terminated for any reason except where the health and welfare of service recipients is endangered or if the Department does not offer the Contractor a new contract for the same or similar service at the contract's expiration, the Contractor will assist in the orderly transfer of clients served under this contract as required by the Department and will assist in the orderly cessation of operations under this contract. Prior to incurring expenses related to the orderly transfer or continuation of services to service recipients beyond the terms of the contract, the Department and the Contractor agree to negotiate a termination amendment to the existing agreement to address current program components and expenses, anticipated expenses necessary for the orderly transfer of service recipients and changes to the current program to address service recipient needs. The Contractual agreement may be amended as necessary to assure transition requirements are met during the term of this contract. If the transition cannot be concluded during this term, the Department and the Contractor may negotiate an amendment to extend the term of the current contract until the transition may be concluded.

10. Program Cancellation. Where applicable, the cancellation or termination of any individual program or services under this Contract will not, in and of itself, in any way affect the status of any other program or service in effect under this Contract.

11. Mergers and Acquisitions.

- (a) Contracts in whole or in part are not transferable or assignable without the prior written agreement of the Department.
- (b) At least ninety (90) days prior to the effective date of any fundamental changes in corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility, the Contractor shall provide the Department with written notice of such changes.
- (c) The Contractor shall comply with requests for documentation deemed necessary by the Department to determine whether the Department will provide prior written agreement. The Department shall notify the Contractor of such determination not later than forty-five (45) business days from the date the Department receives such requested documentation.

D. STATUTORY AND REGULATORY COMPLIANCE

1. Health Insurance Portability Act of 1996 ("HIPAA").

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; *and*
- (c) The State of Connecticut Department named on page 1 of this Contract (hereinafter "Department") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; *and*
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; *and*
- (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; *and*
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) "Business Associate" shall mean the Contractor.
 - (2) "Covered Entity" shall mean the Department of the State of Connecticut named on page 1 of this Contract.
 - (3) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (4) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (5) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
 - (6) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information

created or received by the Business Associate from or on behalf of the Covered Entity.

- (7) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (8) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (9) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (10) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (11) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (12) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
 - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
 - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
 - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
 - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.

- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
 - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
 - (10) Business Associate agrees to 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 C.F.R. § 164.528.
 - (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
 - (12) Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

U) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

(1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
- (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
- (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination

(A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of

subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, Contractors or agents, or any third party to whom Business Associate has disclosed PHI pursuant to this Contract. Business Associate is solely responsible for all decisions made and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of

any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract.

2. **Americans with Disabilities Act of 1990.** This clause applies to those Contractors which are or will come to be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12189 and §§ 12201-12213) (Supp. 1993); 47 USC §§ 225, 611 (Supp. 1993). During the term of the Contract, the Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it will hold the state harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor agrees to abide by provisions of § 504 of the Federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
3. **Utilization of Minority Business Enterprises.** It is the policy of the state that minority business enterprises should have the maximum opportunity to participate in the performance of government Contracts. The Contractor agrees to use best efforts consistent with 45 C.F.R. §§ 74.160 et seq. (1992) and paragraph 9 of Exhibit G thereto for the administration of programs or activities using HHS funds; and §§ 13a-95a, 4a-60 to 4a-62, 4b-95(b), and 4a-60q of the Connecticut General Statutes to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall use its best efforts to ensure that it gives priority to hiring welfare recipients who are subject to time limited welfare and must find employment. The Contractor and the Department will work cooperatively to determine the number and types of positions to which this paragraph shall apply. The Department of Social Services regional office staff or staff of Department of Social Service Contractors will undertake to counsel and screen an adequate number of appropriate candidates for positions targeted by the Contractor as suitable for individuals in the time limited welfare program. The success of the Contractor's efforts will be considered when awarding and evaluating Contracts.
5. **Non-discrimination Regarding Sexual Orientation.** Unless otherwise provided by Conn. Gen. Stat. § 46a-81p, the Contractor agrees to the following provisions required pursuant to § 4a-60a of the Connecticut General Statutes:
 - (a) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
 - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to § 46a-56 of the Connecticut General Statutes;
 - (4) the Contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts concerning the employment practices and procedures of the Contractor which relate to provisions of this section and § 46a-56 of the Connecticut General Statutes.
- (b) The Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with § 46a-56 of the Connecticut General Statutes provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. Nondiscrimination and Affirmative Action Provisions in Contracts of the State and Political Subdivisions Other Than Municipalities. The Contractor agrees to comply with provisions of § 4a-60 of the Connecticut General Statutes:

- (a) Every Contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:
 - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;
 - (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
 - (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding, a notice to be provided by the commission advising

the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (4) the Contractor agrees to comply with each provision of this section and Conn. Gen. Stat. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. §§ 46a-56, 46a-68e and 46a-68f;
 - (5) the Contractor agrees to provide the commission of human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and Conn. Gen. Stat. § 46a-56. If the Contract is a public works Contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (b) For the purposes of this section, "minority business enterprise" means any small Contractor or supplier of materials fifty-one per cent or more of capital stock, if any, or assets of which is owned by a person or persons:
- (1) who are active in the daily affairs of the enterprise;
 - (2) who have the power to direct the management and policies of the enterprise; and
 - (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. § 49-60g.
- (c) For the purposes of this section, "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements. Determinations of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative action advertising; recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (e) Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provision shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the

commission, the Contractor may request the state of Connecticut to enter into such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

7. **Government Function; Freedom of Information.** If the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contract is for the performance of a governmental function, as that term is defined in Conn. Gen. Stat. § 1-200(11), the Department is entitled to receive a copy of the records and files related to the Contractor's performance of the governmental function, and may be disclosed by the Department pursuant to the Freedom of Information Act.
8. **Whistleblowing.** This Agreement is subject to the provisions of § 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
9. **Campaign Contribution Restrictions.** On February 8, 2007, Governor Rell signed into law Public Act 07-1, An Act Concerning the State Contractor Contribution Ban and Gifts to State and Quasi-Public Agencies.

For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11.

10. **Non-smoking.** If the Contractor is an employer subject to the provisions of § 31-40q of the Connecticut General Statutes, the Contractor agrees to provide upon request the Department with a copy of its written rules concerning smoking. Evidence of compliance with the provisions of § 31-40q of the Connecticut General Statutes must be received prior to Contract approval by the Department.
11. **Executive Orders.**
 - (a) Executive Order No. 3: Nondiscrimination. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. 3 or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Contract. The

parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. 3 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to Contract performance in regard to nondiscrimination, until the Contract is completed or terminated prior to completion. The Contractor agrees, as part consideration hereof, that this Contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. 3 and that the Contractor will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

(b) Executive Order No. 16: Violence in the Workplace Prevention Policy. This Contract is subject to provisions of Executive Order No. 16 of Governor John J. Rowland promulgated August 4, 1999, and, as such, this Contract may be cancelled, terminated or suspended by the Contracting agency or the State for violation of or noncompliance with said Executive Order No. 16. The parties to this Contract, as part of the consideration hereof, agree that:

- (1) Contractor shall prohibit employees from bringing into the state work site, except as may be required as a condition of employment, any weapon/dangerous instrument defined in Section 2 to follow;
- (2) weapon means any firearm, including a BB gun, whether loaded or unloaded, any knife (excluding a small pen or pocket knife), including a switchblade or other knife having an automatic spring release device, a stiletto, any police baton or nightstick or any martial arts weapon or electronic defense weapon. Dangerous instrument means any instrument, article or substance that, under the circumstances, is capable of causing death or serious physical injury;
- (3) Contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threatening to cause, physical injury or death to any individual in the state work site;
- (4) Contractor shall adopt the above prohibitions as work rules, violation of which shall subject the employee to disciplinary action up to and including discharge. The Contractor shall require that all employees are aware of such work rules;
- (5) Contractor agrees that any subcontract it enters into in the furtherance of the work to be performed hereunder shall contain the provisions 1 through 4, above.

(c) Executive Order No. 17: Connecticut State Employment Service Listings. This Contract is subject to provisions of Executive Order No. 17 of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this Contract may be canceled, terminated or suspended by the Contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order Number 17, notwithstanding that the Labor Commissioner may not be a party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that Executive Order No. 17 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the Contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to Contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

- (d) Executive Order No. 7C: Contracting Standards Board. This Contract is subject to provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated on July 13, 2006. The Parties to this Contract, as part of the consideration hereof, agree that:
- (1) The State Contracting Standards Board ("Board") may review this Contract and recommend to the state Contracting agency termination of this Contract for cause. The State Contracting agency shall consider the recommendations and act as required or permitted in accordance with the Contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state Contracting agency and any other affected party in accordance with the notice provisions in the Contract not later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means: (A) a violation of the State Ethics Code (Chap. 10 of the general statutes) or section 4a-100 of the general statutes or (B) wanton or reckless disregard of any state Contracting and procurement process by any person substantially involved in such Contract or state Contracting agency.
 - (2) For purposes of this Section, "Contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a Contract for the sale or purchase of a fee simple interest in real property following transfer of title.
 - (3) Notwithstanding the Contract value listed in sections 4-250 and 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1, all State Contracts between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift and campaign contribution certification requirements of section 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1. For purposes of this section, the term "certification" shall include the campaign contribution and annual gift affidavits required by section 8 of Executive Order Number 1.
- (e) Executive Order No. 14: Procurement of cleaning products and services. This Agreement is subject to the provisions of Executive Order No. 14 of Governor M. Jodi Rell promulgated April 17, 2006. Pursuant to this Executive Order, the contractor shall use cleaning and/or sanitizing products having properties that minimize potential impacts on human health and the environment, consistent with maintaining clean and sanitary facilities.

12. Change Order Process

The Department may, at any time, with written notice to the contractor, make changes within the general scope of the contract. Such changes may include activities required by new or amended Federal or State laws or regulations or quality related projects that are identified following the execution of the contract, The Department may reimburse the contractor for any activities required by new or amended State or Federal laws or regulations not mentioned in the Scope of

Work or for any other changes outside the Scope of Work defined in the contract, which the Department deems necessary.

The written Change Order issued by the Department shall specify whether the change is to be made on a certain date or placed into effect only after approval of the contractor's fee or cost submission as described in the following paragraph. No changes in scope are to be conducted except by the express written approval of the Department's Contract Administrator.

As soon as possible after receipt of a written Change Order request, but in no event more than five business days thereafter, the contractor shall provide the Department with a written statement that the change has a cost neutral effect on the Department, or that there is a cost impact, in which case the statement shall include a description of the cost involved in implementing the change.

Significant Change Order work may require authorization from the State of Connecticut Office of Policy and Management in order to amend the contract to allocate additional funds to this project