



## **RFQ # BIDCDHH1A3**

**Title:** Process for American Sign Language Interpreting and Communication Access Real-Time Services Agencies/Companies  
**Submission Deadline:** March 13, 2020 @ 11:59 PM Eastern Time (ET)

**Questions** concerning this solicitation must be received by the RI Commission on the Deaf and Hard of Hearing at [Ernest.Covington@cdhh.ri.gov](mailto:Ernest.Covington@cdhh.ri.gov) no later than **January 31, 2020 @ 11:59 PM (ET)**. Questions should be submitted in a *Microsoft Word attachment*. Please reference the RFQ information on all correspondence. Questions received, if any, will be posted on the RI Commission on the Deaf and Hard of Hearing (RICDHH) website as an addendum to this solicitation. It is the responsibility of all interested parties to download this information.

### **PURPOSE:**

The purpose of this solicitation is to establish a contract(s) for ASL interpreting, Video Remote Interpreting (VRI), and CART services for the State of Rhode Island on an as needed when needed basis.

RICDHH is seeking to contract with the agencies/companies that provide American Sign Language (ASL) interpreting, Video Remote Interpreting (VRI), and CART services to work with the Rhode Island State Governmental agencies and departments, which must comply with the Americans with Disabilities Act (ADA) Title II and Section 504 of the Rehabilitation Act of 1973. This is to continue the recruitment as the need of ASL interpreting, VRI, and CART services remains in high demand.

### **BID SCOPE OF WORK AND REQUIREMENTS:**

1. American Sign Language Interpreter (ASL)

Qualified interpreters that handle fast-pace assignments such as Board meetings, hearings and legal situations.

2. Video Remote Interpreting (VRI)

Video Remote Interpreting is a free-based interpreting situation where at least one person is at a distance. The deaf participant and hearing participant are in the same room. The interpreter can be physically located at a call center in another city, working remotely and connected through a high-speed internet connection.

3. Communication Access Realtime Translation (CART)

CART is nearly verbatim, word-for-word instant translation of spoken word into written text using a stenotype machine or notebook computer and Realtime software. The text appears instantly on

a computer screen so that the deaf and hard of hearing participant may read what is being said. This service is used primarily by hard-of-hearing and late-deafened consumers. The level of translation services will be determined by the user department, as needed. The awarded Bidder must furnish all equipment necessary to provide this service and be able to provide a text file following the event.

4. Contractor must contact the RICDHH Interpreter and CART Referral Service (RICDHH ICRS) to confirm the interpreter(s) or inquire about interpreter assignments that are available at the state government.
5. Contractor shall provide Deaf and Deaf-Blind interpreters if appropriate for assignments.
6. Contractor shall provide certified, experienced and qualified interpretation services for deaf and hard of hearing individuals.
7. Contractor shall make interpreter assignments using discretion with regard to skill, setting, and the individuals involved. Contractor may refuse RICDHH ICRS if no Contractor interpreters are available with expertise as required by the assignment (i.e. legal medical settings which require familiarity with legal and medical terms).
8. For educational environments and/or as required by the State Agency requestor, Contractor shall prepare for demanding course material by reading course materials, learning frequently used vocabulary, and developing new signs prior to the presentation of applicable material and otherwise as necessary.

#### **QUALIFICATIONS:**

- Bidder must have qualified specialty trained stenographer(s) that possess certification from the National Court Reporters Association (NCRA). The State shall accept certification from the NCRA. The NCRA has several secondary levels of acceptable certifications that are desired and may enhance the Certified CART Provider (CCP) skill level to provide CART Registered Professional Reporter (RPR), Registered Merit Reporter (RMR), Registered Diplomat Reporter (RDR), Certified Realtime Reporter (CRR), Certified Broadcast Captioner (CBC) and CCP.
- All interpreters provided must be licensed and/or certified in good standing in Rhode Island subject to RI GL 5-71.
  - i. Registry of Interpreter for the Deaf (RID) Specialist Certificate: Legal for Court/Legal (SC:L)
  - ii. Board for Evaluation of Interpreters (BEI), Court Interpreter Certification (CIC) – Court/Legal settings only
  - iii. RID’s CLIP-R for Court/Legal (RID Certification and Legal settings only)
  - iv. National Association of the Deaf Registry of Interpreters for the Deaf (NAD-RID) certification
  - v. State screening in Interpreting
  - vi. Licensure of Interpreters for the Deaf: License for Certified or State screened
- RICDHH Interpreter CART Referral Services (ICRS) reserves the right to interview any potential interpreter candidate to determine their ability to perform the required services if more than two complaints are received regarding the service provider’s services. Contractor shall provide an

alternate Contractor interpreter or interpreters when the RICDHH ICRS has determined that any proposed interpreter will not meet its needs.

- Contractor and RICDHH ICRS shall discuss the new customer's ability and determine their language preference and appropriate interpreting needs before confirming for an assignment if necessary.

### **SCHEDULING:**

- Contractor is responsible for coordinating with the various agencies, courts and departments to meet all scheduling requirements.
- Contractor shall appear for scheduled appointments on the date and time specified by RICDHH ICRS.
- Contractor is required to confirm the appointment within forty-eight (48) hours of the scheduled appointment.

### **EMERGENCY AND NON-SCHEDULED REQUESTS:**

Contractor must be able to respond and provide an interpreter/translator (on-site at a Rhode Island facility or other identified location within Rhode Island) to cover emergency and non-scheduled requests within two (2) hours of the initial request, regardless of the time of day or night.

### **RATES:**

The Pay Schedule for interpreting services shall be established based on the hourly rates and are split up into 8 categories:

- General (Monday through Friday from 8:00am to 4:00pm)
- Medical
- Legal
- Education
- *Added hourly fee* - After Hours (Monday through Friday after 4:00pm)
- *Added hourly fee* - Weekend (Saturday and Sunday)
- *Added hourly fee* - Emergency (Less than 24 hours)

### **PAYMENTS:**

1. Payment will be made for actual hours worked and reflect net pricing.
2. Billing for service will begin at the time of the scheduled appointment or upon arrival of Contractor, whichever is latest.
3. Partial hours will be calculated based on 15-minute increments of the net-hourly pricing. If a two (2) hour minimum applies (for In-Person sign language interpreting services only) then the partial hour will begin in the third (3<sup>rd</sup>) hour.
4. No overtime payment is allowed.
5. Payment for travel, expenses, food, lodging, and/or other miscellaneous expenses is not allowed.
6. Contractor is solely responsible for the payment of all salaries, wages, bonuses, Social Security, workers' compensation, taxes, federal and state unemployment insurance, liability, and worker's compensation insurance, employee benefits if provided, and any and all taxes related to their personnel.

**APPLICABILITY OF FEES FOR IN-PERSON INTERPRETING CANCELLATION AND OTHER FAILURES TO PROCEED:**

1. RICDHH ICRS may cancel previously scheduled appearances and shall make a good faith effort to notify Contractor of the cancellation as soon as possible. The notice can be either in writing, including via e-mail, or by telephone, including leaving a detailed voice mail message.
2. However, Contractor may charge a State Agency Requestor two (2) hours at the hourly rate set forth in their terms if RICDHH ICRS or State Agency Requestor fails to provide a minimum of 3 hours' notice prior to the start of the proceeding for which the appearance was scheduled.
3. This shall also apply if the individual being served was late or failed to appear after 30 minutes of the scheduled meeting time and the meeting was cancelled or rescheduled. Contractor must obtain written verification of cancellation or rescheduled appearance from either a state agency requestor or RICDHH ICRS, and either a state agency requestor or RICDHH ICRS must provide written verification.

**FAILURE TO APPEAR ON A SCHEDULED ASSIGNMENT:**

If an interpreter/translator fails to appear at a scheduled assignment at the day and time requested by the State, he or she is subject to immediate termination of participation and performance of this contract and removal from the Master Price Agreement (MPA) for translation/interpretation services. State will allow a ten (10) minute grace period on the scheduled time. Continuous failure to appear or non-performance with contract terms and conditions may result in the termination of this contract by the State.

**SECURITY AND/OR PROPERTY POLICIES AND PROCEDURES:**

Contractor shall adhere to established security and/or property entrance policies and procedures for each state agency requestor. It is the responsibility of each Contractor to understand and adhere to those policies and procedures prior to any attempt to enter any state agency premises for the purpose of carrying out the scope of work described in this contract.

**STATE OBSERVED HOLIDAYS:**

- New Year's Day
- Dr. Martin Luther King, Jr. Day
- Memorial Day
- Independence Day
- Victory Day
- Labor Day
- Columbus Day
- Election Day (in the even year)
- Veteran's Day
- Thanksgiving Day
- Christmas Day

**STATEWIDE APPLICABILITY:**

- STATEWIDE APPLICABILITY – Political Subdivisions (cities, towns, schools, quasi-public agencies), as authorized by law, may participate in this Agreement. All ordering and billing shall be between the vendor and the political subdivision (only).
  - Contractor shall provide Services in a variety of settings including, but not limited to: State Agency locations, anywhere in the State of Rhode Island, private residences, places of employment; courts; police departments; medical offices; hospitals; schools; all

educational settings including college and universities, classrooms, graduation commencements, or other on or off campus activities, indoor or outdoor class, event, or extracurricular activity, emergency management agency, emergency press conferences, and many more.

### **INTERPRETER PROFESSIONAL CONDUCT:**

1. Contractor shall maintain confidentiality of all assignment-related information as indicated in Section 1. Interpreters shall keep all information related to assignments strictly confidential. Interpreters shall not disclose privileged or confidential communications or information acquired in the course of interpreting/translating or preparing for interpretation/translation unless authorized by the Court or by law. Interpreters/Translators must protect the confidentiality of all knowledge gained during the course of their duties. Interpreters/Translators may have access to private documents, police records, medical files, etcetera during an assignment. Consequently, interpreters/translators must remember that they have an absolute responsibility to keep such information, whether oral or written, completely confidential. Contractor shall ensure that interpreters/translators comply with all State policies and procedures applicable to the security and safety of privileged and confidential information in the possession or knowledge of the interpreters/translators and shall establish and maintain safeguards for the protection thereof.
2. Contractor shall function in a manner appropriate to each interpreted situation, demonstrating professional appearance, conduct and promptness.

### **SUBCONTRACTORS:**

RICDHH ICRS must approve any and all “non-Tier 1 and non-Tier 2” subcontractors utilized by Contractor in writing prior to any such subcontractor commencing any work. This includes those who possess MPA-358 (Tier 1<sup>1</sup>) as freelanced interpreters for each assignment. Contractor acknowledges that any work provided under the Contract to any state entity is work conducted on behalf of the State and that RICDHH ICRS may communicate directly with any subcontractor as the State deems to be necessary or appropriate. Contractor shall be responsible for all payment or fees charged by the subcontractor(s). A performance evaluation of any subcontractor shall be provided promptly by Contractor to RICDHH ICRS upon request.

### **INSURANCE REQUIREMENTS:**

- Certificates of insurance in accordance with the solicitation, or as outlined in Section 13.19 of the General Conditions of Purchase <https://rules.sos.ri.gov/regulations/part/220-30-00-13>. Certificates of insurance must: (i) reference the solicitation title and number; (ii) name the State of Rhode Island as “certificate holder” and “additional insured;” and (iii) state that 30 days’ advance notice of cancellation (referencing the solicitation number) will be sent to: Rhode Island Department of Administration, Division of Purchases, One Capitol Hill, Providence, Rhode Island 02908-5855, fax # (401) 574-8387:
  - Workers compensation - \$1000,000 coverage B
  - Professional liability (“errors and omissions”) - \$1 Million or 5% of estimated project cost, whichever is greater;
  - Automobile liability - \$1 Million each occurrence combined single limit;

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<sup>1</sup> Tier 1 is a list of approved interpreters under MPA-358. Tier 2 is a list of approved agencies providing interpreting services.

- W-9 (attached)
- Drug-Free Workplace Compliance Certificate (attached).
- Business Associate Agreement (HIPAA compliant), executed by an authorized representative of your company (attached).

### **GLOSSARY:**

- ACH - Automated Clearing House
- ADA – Americans with Disabilities Act
- ASCII – American Standard Code for Information Exchange
- ASL – American Sign Language
- BEI – Board for Evaluation of Interpreter
- CART – Communication Access Realtime Translation
- CBC – Certified Broadcast Captioner
- CCP – Certified CART Provider
- CIC – Court Interpreter Certification
- CRR – Certified Realtime Reporter
- ICRS – Interpreter and CART Referral Service
- MPA – Master Price Agreement
- NAD – National Association of the Deaf
- NCRA – National Court Reporters Association
- NIGP - National Institute of Government Purchasing
- RDR – Registered Diplomate Reporter
- RFQ – Request for Quote
- RICDHH – Rhode Island Commission on the Deaf and Hard of Hearing
- RID – Registry of Interpreters for the Deaf
- RMR – Registered Merit Reporter
- RPR – Registered Professional Reporter
- VRI – Video Remote Interpreting

**PROPOSAL CONTENTS & SUBMISSION INSTRUCTIONS:**

- Proof of certification(s)
- Proof of Insurance – Insurance ACCORD
- Cost Excel Forms 1 & 2 (attached)
- W-9 (attached)
- Drug-Free Workplace Compliance Certificate (attached)
- Business Associate Agreement (attached)

**SUBMISSION:**

Proposals should be mailed or hand-delivered in a sealed envelope marked “RFQ # BIDCDHH1A1” to:

Earnest Covington, Executive Director  
RI Commission on the Deaf and Hard of Hearing  
Department of Administration Building  
One Capitol Hill, Ground Level  
Providence, RI 02908

**ADDITIONAL INFORMATION FOR NEW VENDORS:**

The RIFANS Supplier Registration Package is no longer necessary. This requirement was changed after the bid posting. New Vendors should register here:

<https://www.ridop.ri.gov/vendor-registration/>

\*\*\* Please note that the full-registration is required \*\*\*

**COST (Form 1 of 2):**

This form must be used, completely filled out and attached – all cells in **WHITE** need to be filled in.

<b>Line #</b>	<b>INTERPRETING SERVICE</b>	<b>FY20 PER HOUR</b>	<b>FY21 PER HOUR</b>	<b>FY22 PER HOUR</b>	<b>FY23 PER HOUR</b>	<b>FY24 PER HOUR</b>
<b>1.1</b>	With Registry of Interpreters for Deaf (RID) Specialist Certificate: Legal for Court/Legal (SC:L) (RID Certification and Legal settings only)					
<b>1.2</b>	With Board for Evaluation of Interpreter's (BEI) Court Interpreter Certification (CIC) - Court/Legal settings only					
<b>1.3</b>	With RID's CLIP-R for Court/Legal (RID Certification and Legal settings only)					
<b>1.4</b>	Without RID's Specialist Certificate: Legal for Court/Legal (w/o SC:L) or without RID's CLIP-R. (Proof of legal training as defined in the Section 3.1 of RICDHH Policies and Procedures. RID Certification and Legal settings)					
<b>1.5</b>	Educational Interpreter Performance Assessment - 4.0 and higher					
<b>1.6</b>	After State Business Hours - 4:00 p.m. to Midnight					
<b>1.7</b>	Weekends					
<b>1.8</b>	State Holidays					
<b>1.9</b>	Emergency (24 hours or less)					

**COST (Form 2 of 2):**

This form must be used, completely filled out and attached – all cells in **WHITE** need to be filled in.

<b>Line #</b>	<b>CART SERVICE</b>	<b>FY20 PER HOUR</b>	<b>FY21 PER HOUR</b>	<b>FY22 PER HOUR</b>	<b>FY23 PER HOUR</b>	<b>FY24 PER HOUR</b>
<b>2.1</b>	CART Service MINIMUM two hours					
<b>2.2</b>	CART Services additional hour					
<b>2.3</b>	Projection/Screen Equipment fee					
<b>2.4</b>	American Standard Code for Information Interchange (ASCII) Rough edit file fee					
<b>2.5</b>	ASCII Rough edit file fee (up to 8 hours)					
<b>2.6</b>	After State Business Hours - 4:00 p.m. to Midnight					
<b>2.7</b>	Special Prep Time					
<b>2.8</b>	With Certified Shorthand Reporter (CSR), Register Professional Reporter (RPR), Certified CART Provider (CCP) and Certified Realtime					
<b>2.9</b>	With CSR and CCP for Court/Legal fee					
<b>2.1</b>	With CSR for Court/Legal fee					
<b>2.11</b>	Longer than 3 hours (solo CART Provider only)					
<b>2.12</b>	Weekends					
<b>2.13</b>	State Holidays					
<b>2.14</b>	Emergency (24 hours or less)					

STATE OF RHODE ISLAND  
FORM W-9 PAYER'S REQUEST FOR TAXPAYER  
IDENTIFICATION NUMBER AND CERTIFICATION



THE IRS REQUIRES THAT YOU FURNISH YOUR TAXPAYER IDENTIFICATION NUMBER TO US. FAILURE TO PROVIDE THIS INFORMATION CAN RESULT IN A \$50 PENALTY BY THE IRS. IF YOU ARE AN INDIVIDUAL, PLEASE PROVIDE US WITH YOUR SOCIAL SECURITY NUMBER (SSN) IN THE SPACE INDICATED BELOW. IF YOU ARE A COMPANY OR A CORPORATION, PLEASE PROVIDE US WITH YOUR EMPLOYER IDENTIFICATION NUMBER (EIN) WHERE INDICATED.

**Taxpayer Identification Number (T.I.N.)**

Enter your taxpayer identification number in the appropriate box. For most individuals, this is your social security number.

**Social Security No. (SSN)**

Form boxes for Social Security No. (SSN)

**Employer ID No. (EIN)**

Form boxes for Employer ID No. (EIN)

**NAME**

**ADDRESS**

**CITY, STATE AND ZIP CODE**

**PAYMENT REMITTANCE ADDRESS, IF DIFFERENT FROM THE ADDRESS ABOVE**

**ADDRESS**

**CITY, STATE AND ZIP CODE**

**CERTIFICATION:** Under penalties of perjury, I certify that:

- (1) The number shown on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me), and
- (2) I am not subject to backup withholding because either: (A) I am exempt from backup withholding, or (B) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (C) the IRS has notified me that I am no longer subject to backup withholding.
- (3) I am a U.S. citizen or other U.S. person (as defined by the IRS).

**Certification Instructions** -- You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item (2) does not apply.

*Please sign here and provide title, date and telephone number:*

**SIGNATURE** \_\_\_\_\_ **TITLE** \_\_\_\_\_ **DATE** \_\_\_\_\_ **TEL NO** \_\_\_\_\_  
*Original Signature Required (Digital Signature Not Acceptable)*

**BUSINESS DESIGNATION:**

- Please Check One: Individual  Corporation  Trust/Estate  Government/Nonprofit Corporation   
Partnership  Medical Services Corporation  Legal Services Corporation   
LLC Tax Classification: Single Member (Individual)  Partnership  Corporation

**TIPS:**

- NAME:** Be sure to enter your full and correct legal name as shown on your income tax return for the SSN or EIN provided.  
**ADDRESS, CITY, STATE AND ZIP CODE:** If you operate a business at more than one location, adhere to the following:  
1) Same EIN with more than one location -- attach a list of location addresses with remittance address for each location and indicate to which location the year-end tax information return should be mailed.  
2) Different EIN for each different location -- submit a completed W-9 form for each EIN and location. (One year-end tax information return will be reported for each EIN and remittance address.)

**Mail Completed Form To:**  
Supplier Coordinator  
Purchasing Department  
One Capitol Hill, 2nd Floor  
Providence RI 02908

**Or Email To:** [doa.pursuppliercoordinator@purchasing.ri.gov](mailto:doa.pursuppliercoordinator@purchasing.ri.gov)

For State Use Only:  
IRS \_\_\_ RI SOS \_\_\_ FED \_\_\_ Other \_\_\_\_\_  
RI Supplier # \_\_\_\_\_ Approved \_\_\_\_\_  
Date Entered \_\_\_\_\_ Entered By \_\_\_\_\_



State of Rhode Island and Providence Plantations  
Department of Administration  
Division of Purchases

## **DRUG-FREE WORKPLACE POLICY**

### **Certificate of Compliance**

The Bidder, intending to perform work pursuant to a contract with the State of Rhode Island, through the Division of Purchases, acknowledges that it has reviewed a copy of the State of Rhode Island Drug and Alcohol Free Workplace Policy requiring the maintenance of a drug-free workplace. The Bidder understands that:

- (i) the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance (including without limitation, marijuana, heroin, cocaine, PCP, and crack, as well as legal drugs prescribed by a physician) is prohibited on the property of the State or in the conduct of the business of the State; and
- (ii) all workers must report for work in a fit condition to perform their duties.

As a condition for contracting with the State, and in accordance with Executive Order No. 91-14, the Bidder will comply with, and require its employees and its subcontractors to comply with, this policy. The Bidder further acknowledges that any violation of this policy may result in suspension or termination of the contract.

### **BIDDER**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Signature in ink

\_\_\_\_\_  
Printed name and title of person signing on behalf of Bidder



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
DIVISION OF PURCHASES  
One Capitol Hill  
Providence, RI 02908-5855

Tel: (401) 574-8100  
Fax: (401) 574-8387  
Website: [www.purchasing.ri.gov](http://www.purchasing.ri.gov)

**BUSINESS ASSOCIATE AGREEMENT**

Except as otherwise provided in this Business Associate Agreement (hereinafter referred to as the “BAA”), (INSERT VENDOR NAME), (hereinafter referred to as “Business Associate”), may use, access or disclose Protected Health Information to perform functions, activities or services for or on behalf of the State of Rhode Island, (EOHHS/BHDDH/DHS/DOH/DCYF/DEA/DVA/DOC/DOA/CCRI/RIC/URI/RIDE/DEM (PICK AS APPROPRIATE)) (hereinafter referred to as the “Covered Entity”), as specified herein and the attached Contract between the Business Associate and the Covered Entity (hereinafter referred to as the “Contract”), which this BAA supplements and is made part of, provided such use, access, or disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (hereinafter referred to as “HIPAA”), Public Law 104-191, and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter referred to as “HITECH”), and any regulations promulgated pursuant to HIPAA and HITECH, including, but not limited to, 45 C.F.R., Parts 160 and 164 (hereinafter referred to as the “Omnibus Rule”), the Rhode Island Mental Health Law, R.I. Gen. Laws § 40.1-5, and the Rhode Island Confidentiality of Health Care Communications and Information Act, R.I. Gen. Laws § 5-37.3 Business Associate recognizes and agrees it is obligated by law to meet the applicable privacy, security and confidentiality provisions of the aforementioned laws and regulations.

1. Definitions.

A. Generally:

- (1) Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in 45 C.F.R. §§ 160.103, 164.103, 164.304, 164.402, and 164.501.
- (2) The following terms used in this BAA shall have the same meaning as those terms in HIPAA, HITECH, and the Omnibus Rule: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

B. Specific:

- (1) "BAA" means this Business Associate Agreement.
- (2) "Contract" means the contractual arrangement by and between the State of Rhode Island, (EOHHS/BHDDH/DHS/DOH/DCYF/DEA/DVA/DOC/DOA/CCRI/RIC/URI/RIDE/DEM (PICK AS APPROPRIATE)) and Business Associate, awarded pursuant to the State of Rhode Island's Purchasing Law (R.I. Gen. Laws § 37-2) and the Rhode Island Department of Administration Division of Purchases Procurement Regulations and General Conditions of Purchase.
- (3) "Business Associate" generally has the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this BAA, shall mean [Insert Name of Business Associate].
- (4) "Covered Entity" generally has the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this BAA, shall mean [Insert Name of Covered Entity].
- (5) "Electronic Protected Health Information" or "Electronic PHI" or "e-PHI" means PHI that is transmitted by or maintained in electronic media as defined in the Omnibus Rule.
- (6) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended from time to time.
- (7) "Omnibus Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the privacy and security of Protected Health Information and Electronic Protected Health Information including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.
- (8) "HITECH" means the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as amended from time to time.
- (9) "Privacy Rule" means the standards for the privacy and confidentiality of Protected Health Information ("PHI") found at 45 C.F.R. Part 160, and Subparts A and E of 45 C.F.R. Part 164.
- (10) "Secured PHI" means PHI that was rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of technologies or methodologies specified under HITECH § 13402 (h)(2).
- (11) "Security Incident" means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information.
- (12) "Security Rule" means the standards for the security of Electronic Protected Health Information found at 45 C.F.R. Part 160, and Subparts A and C of 45 C.F.R. Part 164. The provisions of 45 C.F.R. §§ 164.308, 164.310, 164.312,

164.314 and 164.316 shall apply to Business Associate of Covered Entity in the same manner that such sections apply to the Covered Entity.

- (13) "Suspected breach" is a suspected acquisition, access, use or disclosure of PHI in violation of the HIPAA Omnibus Rule that compromises the security or privacy of PHI.
- (14) "Unsecured PHI" means PHI that is not Secured PHI, as defined above, through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.

2. Obligations and Activities of Business Associate.

- A. Business Associate agrees to not use or further disclose PHI other than as permitted or required by this BAA or as Required by Law, provided such use or disclosure would also be permissible by law if done by Covered Entity.
- B. Business Associate agrees to use appropriate safeguards (including encryption as specified in the Security Rule) and destruction, to prevent use or disclosure of PHI other than as provided for by this BAA.
- C. As required by the Security Rule, Business Associate agrees to conduct a risk assessment and implement Administrative Safeguards, Physical Safeguards and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- D. Business Associate agrees to use reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purposes of the use, disclosure, or request.
- E. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA.
- F. Business Associate agrees to report to Covered Entity any use or disclosure of the PHI not provided for by this BAA, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware, within five (5) days of the incident's occurrence or Business Associate's discovery thereof.
- G. Business Associate agrees to ensure that any agent, including a subcontractor or vendor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information through a contractual arrangement that complies with 45 C.F.R. § 164.314.
- H. Business Associate agrees to provide paper or electronic access, at the request of Covered Entity and in the time and manner designated by Covered Entity, 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. If the Individual requests an electronic copy of the information, Business Associate must provide Covered Entity with the information requested in the electronic form and format requested by the Individual and/or Covered Entity if it is readily producible in such form and format; or, if not, in a readable electronic form and format as requested by Covered Entity.

- I. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity. If Business Associate receives a request for amendment to PHI directly from an Individual, Business Associate shall promptly notify Covered Entity upon receipt of such request.
- J. Business Associate agrees to make its internal practices, books, and records, including policies and procedures, 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 at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for the purposes of the Secretary determining compliance with the Omnibus Rule.
- K. 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.
- L. Business Associate agrees to provide to Covered Entity or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with this BAA, 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.
- M. If Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured PHI (as defined in 45 C.F.R. § 164.402) for Covered Entity, it shall, following the discovery of a Breach of such information, notify Covered Entity of such Breach within a period of five (5) days after discovery of the breach. Such notice shall include: a) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired or disclosed during such Breach; b) a brief description of what happened, including the date of the Breach and discovery of the Breach; c) a description of the type of Unsecured PHI that was involved in the Breach; d) a description of the investigation into the Breach, and the steps taken by Business Associate to mitigate harm to the affected Individuals and protect against further Breaches; e) the results of any and all investigation performed by Business Associate related to the Breach; and f) contact information of the most knowledgeable individual for Covered Entity to contact relating to the Breach and Business Associate's investigation of the

Breach.

- N. To the extent the Business Associate is carrying out an obligation of the Covered Entity's under the Privacy Rule, the Business Associate must comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligation.
- O. Business Associate agrees that it will not receive remuneration directly or indirectly in exchange for PHI without authorization unless an exception under 45 C.F.R. § 164.502(a)(5)(ii)(B)(2) applies.
- P. Business Associate agrees that it will not receive remuneration for certain communications that fall within the exceptions to the definition of "Marketing" under 45 C.F.R. § 164.501, unless permitted by 45 C.F.R. § 164.508(a)(3)(i)(A)-(B).
- Q. If applicable, Business Associate agrees that it will not use or disclose genetic information for "underwriting purposes", as that term is defined in 45 C.F.R. § 164.502.
- R. Business Associate hereby agrees to comply with state laws and rules and regulations applicable to PHI and Individuals' personal information it receives from Covered Entity during the term of the Contract.
  - i. Business Associate agrees to: (a) implement and maintain appropriate physical, technical and administrative security measures for the protection of personal information as required by any state law and rules and regulations; including, but not limited to: (i) encrypting all transmitted records and files containing personal information that will travel across public networks, and encryption of all data containing personal information to be transmitted wirelessly; (ii) prohibiting the transfer of personal information to any portable device unless such transfer has been approved in advance; and (iii) encrypting any personal information to be transferred to a portable device; and (b) implement and maintain a Written Information Security Program as required by any state law as applicable.
  - ii. The safeguards set forth in this Agreement shall apply equally to PHI, confidential and "personal information." Personal information means an individual's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided, however, that "personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

### 3. Permitted Uses and Disclosures by Business Associate.

- A. Except as otherwise limited in this BAA, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the 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 Covered Entity required by 45 C.F.R. § 164.514(d).
- B. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- C. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person/entity to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person/entity, and that the person/entity will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- D. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services relating to the Health Care Operations of the Covered Entity as permitted by 45 C.F.R. § 164.504 (e)(2)(i)(B).
- E. Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

#### 4. Obligations of Covered Entity

- A. Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- C. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by 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.
- D. Covered Entity shall provide written authorization to Business Associate

prior to requesting that Business Associate disclose, transfer, or provide PHI to a third party.

5. 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 Covered Entity, provided that, to the extent permitted by the Contract, Business Associate may use or disclose PHI for Business Associate's Data Aggregation activities, for the Business Associate's management and administrative activities, or to carry out the legal responsibilities of the Business Associate.

6. Term and Termination.

- A. The term of this Agreement shall begin as of the effective date of the Contract 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 of this Section.
- B. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this BAA and the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.
  - ii. Immediately terminate this BAA and the Contract if Business Associate has breached a material term of this BAA and cure is not possible.
- C. Except as provided in paragraph (d) of this Section, upon any termination or expiration of this BAA, Business Associate shall return to Covered Entity, or destroy, all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form. 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. Business Associate shall ensure that its subcontractors or vendors return or destroy any of Covered Entity's PHI received from Business Associate.

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 Covered Entity's written agreement that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this BAA to such PHI and limit further uses

and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

- D. The respective rights and obligations of Business Associate under this Section shall survive the termination of this BAA.

7. Miscellaneous.

- A. Any costs associated with Breach notifications, including mitigation costs, shall be the responsibility of Business Associate.
- B. If a term in the Contract conflicts or is otherwise inconsistent with a term in this BAA, the provisions of this BAA will prevail with respect to the subject matter hereof. This BAA and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Omnibus Rule and HITECH.
- C. A reference in this BAA to a section in the Omnibus Rule, Privacy Rule or Security Rule means the section as in effect or as amended.
- D. The parties to this BAA agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the Omnibus Rule and HITECH. If Covered Entity and Business Associate have nevertheless not amended this BAA to address a law or final regulation that becomes effective after the effective date of the Contract and that is applicable to this BAA, then upon the effective date of such law or regulation (or any portion thereof), this BAA shall be amended automatically and deemed to incorporate such new or revised provisions as are necessary for this BAA to be consistent with such law or regulation and for Covered Entity and Business Associate to be and remain in compliance with all applicable laws and regulations.
- E. Any ambiguity in this BAA shall be resolved to permit Covered Entity to comply with HIPAA and HITECH.
- F. Business Associate confirms that it is an independent contractor and is not acting as an agent of Covered Entity. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and its obligations under this BAA.
- G. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer upon any person/entity other than Covered Entity, Business Associate and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.
- H. Modification of the terms of this BAA shall not be effective or binding upon the parties unless and until such modification is committed to writing and executed by the parties hereto.

- I. This BAA shall be binding upon the parties hereto, and their respective subsidiaries, legal representatives, trustees, receivers, successors and permitted assigns; provided, however, that Business Associate may not assign its rights or delegate its responsibilities under this BAA.
- J. Should any provision of this BAA be found unenforceable, it shall be deemed severable and the balance of the BAA shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.
- K. This BAA and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Rhode Island, including all matters of construction, validity and performance.
- L. All notices and communications required or permitted to be given hereunder shall be sent by certified or regular mail, addressed to the other party at its respective address as shown on the signature page, or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.
- M. This BAA, including such portions as are incorporated by reference herein, constitutes the entire agreement by, between and among the parties as required by 45 C.F.R. § 164.504(e), and such parties acknowledge by their signature hereto that they do not rely upon any representations or undertakings by any person or party, past or future, not expressly set forth in writing herein, and that this BAA supersedes all prior agreements and understandings, both written and oral, with respect to the subject matter hereof.
- N. Business Associate shall maintain or cause to be maintained sufficient insurance coverage as shall be necessary to insure Business Associate and its employees, agents, representatives or subcontractors against any and all claims or claims for damages arising under this BAA and such insurance coverage shall apply to all services provided by Business Associate or its agents or subcontractors pursuant to this BAA. Business Associate shall indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs and other expenses (including but not limited to, reasonable attorneys' fees and costs, administrative penalties and fines, costs expended to notify Individuals and/or to prevent or remedy possible identity theft, financial harm, reputational harm, or any other claims of harm related to a breach) incurred as a result of, or arising directly or indirectly out of or in connection with any acts or omissions of Business Associate, its employees, agents, representatives or subcontractors, under this BAA, including, but not limited to, negligent or intentional acts or omissions. This provision shall survive termination of this BAA.
- O. This BAA may be executed in two or more counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

P. From time to time after the effective date of the Contract, and without any consideration, Covered Entity and Business Associate will execute and deliver, or arrange for execution and delivery of, such other documents and take such other action or arrange for such other actions as may reasonably be requested to more fully effectuate the intent of this BAA.

**8. Acknowledgment.**

The undersigned affirms that he/she is a duly authorized representative of Business Associate for which he/she is signing and has the authority to execute this BAA on behalf of the Business Associate.

Acknowledged and agreed to by:

\_\_\_\_\_  
DIRECTOR  
(EOHHS/BHDDH/DHS/DOH/  
DCYF/DEA/DVA/DOC/DOA/  
CCRI/RIC/URI/RIDE/DEM  
(PICKAS APPROPRIATE)))

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
AUTHORIZED AGENT  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date