



**Title: SNAP Outreach Program at the Rhode Island Department of Human Services  
Request for Proposals**

**Questions concerning this solicitation must be received by the Department of Human Services at [Bethany.caputo@dhs.ri.gov](mailto:Bethany.caputo@dhs.ri.gov) no later than 7/14/2020 @ 3:00 pm.**

**INITIAL SUBMISSION DEADLINE: July 29, 2020 @ 11:00 AM**

**SUBMISSION DEADLINE: Continuous Recruitment through March 31, 2021**

**BID SCOPE OF WORK AND REQUIREMENTS:**

**1. OVERVIEW:**

The Rhode Island Department of Human Services ("RI DHS"), is soliciting proposals from qualified vendors to provide outreach services and application assistance to individuals and families residing in Rhode Island who are eligible or may be eligible for Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamp benefits. The state anticipates that contracts will be awarded to one or more service providers at varied funding levels with the experience and expertise to efficiently target a multitude of potentially SNAP-eligible groups and individuals.

The initial contract term will be from October 1, 2020 through September 30, 2021. Contracts may be renewed for up to four additional 12-month periods based on vendors' performance and the availability of funds:

Initial Term: 10/1/2020 – 9/30/2021

1st Renewal: 10/1/2021 – 9/30/2022

2nd Renewal: 10/1/2022 – 9/30/2023

3rd Renewal: 10/1/2023 – 9/30/2024

4th Renewal: 10/1/2024 – 9/30/2025

Please see Appendix A for example of a DHS base contract.

The deadline for enrollment in an outreach contract is March 31, 2021. This Continuous Recruitment ("CR") solicitation may be awarded to one (1) or more qualified vendors at the sole discretion of the Department of Human Services. Selections will be made on an "as-needed" basis. Once need has been determined, selection will be based on several factors, including, but not limited to expertise, populations served and geographic reach. Selection of a vendor is at the sole discretion of the Department of Human Services.

Through this CR solicitation vendors are permitted to submit a proposal at any time until March 31, 2021. All vendor proposals shall be evaluated under terms and conditions set forth in this solicitation. Proposals submitted

after the initial submission date will be reviewed at the convenience of the State. The Department of Human Services may renew the CR on an annual basis or may cancel it at any time at its convenience.

Vendors are advised to review all sections of this solicitation carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.

Proposals which depart from or materially alter the terms, requirements, or scope of work defined by this solicitation may be rejected as being non-responsive.

## **2. REQUIREMENTS:**

The successful organization(s) will demonstrate the ability to:

1. Support the required 50% reimbursement mechanism. SNAP outreach is a reimbursement program. Federal regulations allow for the reimbursement of 50% of reasonable and necessary costs to implement the program. A vendor may spend the cash on approved outreach activities and submit its billings to the DHS. DHS then reports these expenditures and receives reimbursement from FNS. DHS will retain 5% of the federal reimbursement as an administrative fee. Any qualified outreach program must submit claims which reflect 100% of approved, reasonable, and necessary costs and will be reimbursed for 45% of those expenditures. Reimbursement will be based on total expenditures.
2. Utilize only non-Federal funds to draw down Federal funding for reimbursement. Spending claimed for reimbursement can include cash contributed by other non-federal public agencies and in-kind donations from public agencies. To count, funds cannot originate from or be claimed under another federal program and cannot be used as match or maintenance of effort for another federal program, unless specifically allowed under the other program. Private in-kind donations such as use of space, equipment or volunteer time from private entities cannot be claimed. However, donations from other public entities, such as community colleges, can be claimed.

All costs submitted to RI DHS for Federal reimbursement must be valid obligations of the selected contractors and must meet the threshold for reasonable, necessary, and allowable costs for SNAP Outreach programming as defined below.

- a. Reasonable costs are those that:
  - Provide a program benefit generally commensurate with the amount incurred;
  - Are in proportion with other program costs for the function; and,
  - Have a high priority relative to other demands.
- b. Necessary costs are those that:
  - Are needed to carry out essential functions as defined by the contract;
  - Cannot be avoided without adverse impact on program operations; and,
  - Do not duplicate existing efforts.
- c. Administrative expenses are deemed allowable as they are considered operational costs for outreach, including all administrative expenses that are reasonable and necessary to operate approved outreach activities.
  - Allowable expenses include:
    1. Salaries and benefits of personnel involved in program outreach and administrative support;
    2. Pro-rated costs of office equipment, supplies, postage, duplication costs;

3. Development and production of outreach materials when no other appropriate materials exist;
  4. Pro-rated costs associated with lease or rental costs;
  5. Pro-rated costs associated with maintenance expenses; and,
  6. Charges for approved travel for the purpose of fulfilling the approved outreach plan based on official State, local or travel regulations.
- d. In-kind contributions for the Outreach program may be claimed by a non-Federal public agency as part of the agency's expenditures toward the vendor's contribution/share. An in-kind donation is the value of volunteer time or other non-billable goods or services. There is no cash transfer between parties. A non-Federal public agency is defined as an organization of State or local government supported by funds from general tax revenues of a State or locality and allocated by an appropriate budgetary authority (a State legislature, or a county or local government).
3. Deliver one or more allowable SNAP outreach services to underserved, low-income populations throughout the State of Rhode Island. Allowable activities include:
- Eligibility prescreening
  - Application assistance, including assisting clients with an on-line application, delivery of a paper application to the local SNAP office, if needed, and conducting home visits for home-bound elderly and disabled individuals.
  - Application assistance to include new applications for SNAP as well as support to customers with Interim Reporting, Recertification and reporting changes to keep case information updated.
  - Assistance obtaining application, recertification or interim verification documents
  - Information dissemination in locations where low-income people gather
  - Outreach exhibit or booth at community events
  - Conducting outreach workshops with community organizations at their locations
  - Operate a toll-free telephone hotline to answer questions about SNAP for the general public which may include accessing read-only information from DHS's eligibility system and providing information regarding case status, application status, receipt of documentation, benefit amount and date, and case denial reason.
  - Maintain a website and social media presence to disseminate and share up-to-date SNAP information.
  - Provide assistance in the event of a disaster declaration including funding a toll-free hotline with staff to respond or recorded messages with Disaster SNAP (D-SNAP) information. The vendor(s) may also provide on-site assistance at D-SNAP sites by pre-screening applicants, directing applicants to the right queue and helping applicants complete applications.
  - Offer training for staff at agencies working with potentially eligible clients, social service staff to provide information about SNAP eligibility, screening and the application process.
  - Target hard to reach or underserved communities such as seniors, low-income working families, non-English speaking households, people with disabilities, pre-release inmates at the Adult Correctional Institution, indigenous and native communities, foster families and DCYF youth about to age-out of care, post-secondary students, graduating high school seniors, immigrant households and the homeless.
  - Inform Able Bodied Adults without Dependents (ABAWDs) of potential exemptions to the time limits/work requirements and availability of SNAP employment and training opportunities.

### 3. REQUIREMENTS:

1. Collect basic demographic data to help in determining the vendor is reaching target populations: elderly/disabled, non-English speaking, working households, ABAWDs, etc. as well as on the total number of household members being reached.
2. In October of the performance period and any other time outreach workers are trained, the report on the schedule and content of outreach worker training.
3. Report quarterly on (as applicable, depending on the type of service(s) provided):
  - a. The number of unduplicated sites visited, and the total number of outreach site visits;
  - b. The names of the sites;
  - c. The number of participants in outreach events;
  - d. The number of people seen by outreach workers;
  - e. Basic demographic data of people seen individually by outreach workers, that is, if the client is elderly or disabled, non-English speaking, working head of household, as well as on the total number of household members being reached;
  - f. The number of people screened for eligibility along with the number of household members being reached;
  - g. The number of people screened for eligibility along with the number who were likely eligible;
  - h. The number of people who were assisted with completing an application along with the number who completed the application using the online Customer Portal;
  - i. The number of people who were assisted with any issues related to their SNAP cases;
  - j. The number of interims, recertifications, and other types of DHS forms completed with SNAP recipients;
  - k. The number of people provided non-application assistance via the on-line Customer Portal;
  - l. The number of visits of homebound Rhode Islanders;
  - m. The number of recipients of unemployment insurance who received information about SNAP;
  - n. The number of public housing authorities in which information was distributed to residents.
  - o. Number and type of collaborative efforts with the SNAP Nutrition Education program and SNAP Employment and Training (E&T) program.
  - p. Other reports on activities as might be agreed upon with the Department of Human Services Administrator.
4. Work with the Department on the creation of updated outreach plans for approval by FNS.
5. Meet quarterly with state SNAP personnel to review the effectiveness of the State Plan.
6. Participate in SNAP training with State staff to ensure understanding of the program requirements.
7. Participate in mandatory annual civil rights training for all outreach staff.
8. Participate in ongoing meetings to coordinate with other outreach providers to ensure work is not duplicated
9. Accept fiscal responsibility for activities funded as part of the Federal SNAP Outreach Program and will be liable for repayment of unallowable costs as determined by RI DHS and/or FNS.
  - i. The vendor will cooperate with RI DHS regarding appeals of disallowances or other actions taken by FNS and will promptly return federal funds for which there has been a disallowance or deferral resulting from an audit by RI DHS or FNS. Additionally, the vendor will be responsible for time and effort reporting for all paid staff (full and part time) and volunteers supported by the outreach plan and maintaining completed time records for audit. Time records are used to calculate the charges, including salaries and benefits, for time spent on allowable activities.

#### **4. PROPOSAL REQUIREMENTS:**

A proposal should be submitted to RI DHS with the following information.

1. Staff Qualifications – Provide staff resumes/CV and describe qualifications and experience of key staff who will be involved in this project, including their experience in the field of outreach and providing nutrition-

based program services to low-income individuals and households. Program staff shall include but not be limited to a program manager who shall implement and manage daily program activities. Program manager responsibilities shall include, but not be limited to day-to-day oversight of the program, attending all program meetings at the request of the Department, and responding to the Department's requests for program status updates and all required reports. If applicable, contractor shall provide outreach specialists who shall be equipped with necessary hardware and software to provide awareness and assistance in applying for SNAP on site at community-based organizations.

A responsive proposal must include the following information about the number and qualifications of staff that the Respondent intends to employ to deliver the services required by this request.

- a. Program Staff/Managers. If the staff that will be assigned to this program are currently employed by the organization, identify their names and job titles. Attach resumes reflecting their qualifications including related work experience. If the staff that will be assigned to this program are not currently employed by the organization, present a strategy to recruit and hire staff that possess the qualifications specified in the job descriptions requested below. State the proportion of time that staff will allocate to the program.

Describe the cultural and linguistic background of staff in relation to the service population. Since it is unrealistic to maintain staff with cultural and linguistic capabilities for all potential ethnic groups, explain how the program intends to serve those ethnic groups outside the cultural and linguistic capabilities of program staff.

[Note: The Department must be notified in writing and in advance regarding the departure of any staff from the program.]

- b. Job Descriptions. Attach job descriptions for program staff/managers. The job descriptions must include specific job duties and minimum education, training, and experience requirements.
  - c. Staff Training/Education/Development. Describe the organization's capacity to provide program staff/managers with access to all required training from the Department so they can explain the benefits of SNAP and help those seeking the benefits to apply.
2. Capability, Capacity, and Qualifications of the Offeror - Please provide a detailed description of the Vendors' experience providing nutrition-based program services to low-income individuals and households, offering application assistance for social services programs and serving multicultural, multilingual populations. A list of relevant client references must be provided, to include client names, addresses, phone numbers, dates of service and type(s) of service(s) provided. A responsive proposal must include the following information about how the Respondent intends to provide the services required by this request.
    - a. Catchment Area. Outreach activities should be targeted to high need areas of the State. Describe the proposed methodology for identifying high need areas.
    - b. Documentation of Community Needs/Resources. Provide a concise description of the need for SNAP outreach throughout the State. Include data such as the incidence of hunger and food insecurity within certain areas of the State. Include the source and date of the data. Additional data such as demand for emergency food providers, poverty rates, unemployment rates, and other similar information may also be provided to support the need.
    - c. Hours of Operation. Program staff must be available at times when critical communication can take place with the target population including evenings and weekends, and on-call in response to emergency situations. Indicate the days/times all client service location sites are open for service.

- d. **Target Population.** The population to be served is low-income individuals or households that are potentially eligible for SNAP benefits. Eligible clients include low-income individuals or households that meet the eligibility criteria for SNAP benefits but are not receiving them, including the elderly (60 years old and over) and the working poor (those individuals and households who maintain regular employment but remain in relative poverty due to low levels of pay and dependent expenses). Additional populations include refugees, post-secondary students, recent high school graduates, indigenous and native communities, prerelease prisoners, DCYF youth aging out of care, individuals or households effected by a disaster or emergency and Able Bodied Adults Without Dependents (ABAWDs). List the number of anticipated individuals and/or households that will be assisted on a monthly basis.
- e. **Service Capacity/Delivery Plan.** Describe in detail activities that will be provided including but not limited to:
  - i. Providing SNAP information to individuals, families, social service providers, community-based organizations, soup kitchens, food pantries, senior centers, and grocery stores;
  - ii. Conducting SNAP informational presentations or other outreach activities to community-based organizations that assist individuals and households that would meet SNAP eligibility requirements;
  - iii. Conducting presentations and pre-screenings with potentially eligible SNAP clients;
  - iv. Assisting potentially eligible clients with completing and submitting their SNAP applications to the Department, and contacting the Department to follow up on individual SNAP applications as needed;
  - v. Obtaining and distributing generic marketing material from the U.S. Food and Nutrition Service, and producing marketing material tailored to Rhode Island’s target population.
  - g. **Program Access/Referral Process.** Describe a proposed referral process and how clients will be served on a first-come, first-served basis.
  - h. **Program Collaboration/Coordination.** Describe how client services and resources will be coordinated with other social services providers to improve service delivery and reduce barriers.
  - i. **Culturally Competent Services:** Describe the organization’s ability to ensure a culturally responsive delivery of services that recognizes and affirms diversity.
  - j. **Quality Assurance Protocols.** Describe the organization’s internal process to assure the quality and appropriateness of the services provided.
  - k. **Audit Compliance:** Indicate the organization’s experience with being in compliance with past contracts and/or directives. State any deficiencies identified in recent annual program audits and, if applicable, detail what steps the organization has taken to address any recommendations.
  - l. **Community Collaboration.** Indicate the organization’s ability to actively participate in the SNAP Advisory Committee, which consist of DHS staff and community-based organizations.
- f. **Department Responsibilities.** The Department shall have the following responsibilities. Indicate any additional responsibilities your organization may need from the Department.

- i. Training for the contractor to be able to explain the benefits of SNAP and help those seeking the benefits to apply;
- ii. Samples of outreach materials available through FNS;
- iii. Supplies such as application forms and other required materials to carry out the required activities;
- iv. Staff to respond to case and applicant issues raised through the vendor(s);
- v. Providing data (following a data sharing agreement) regarding individual households needing recertification assistance, and
- vi. Required oversight.

3. Evaluation/Outcome Measures- The proposal must include the following:

- i. Specific and quantifiable annual performance measures for funding activities. The below metrics serve as examples only and can be modified based upon the type of services offered and the population that will be served:
  - (a) Will provide 100% of individuals contacted with general information regarding SNAP eligibility to assist in obtaining SNAP benefits;
  - (b) Will conduct a minimum of 2,500 pre-screenings per year for potentially eligible SNAP clients;
  - (c) Will assist a minimum of 1,500 potentially eligible SNAP clients per year with the application process including contacting DHS to follow up on individual SNAP applications.
  - (d) 50% of SNAP applicants assisted will have customer accounts and applications submitted via the customer portal
- ii. How the organization will monitor service delivery to ensure performance measures are met.
- iii. The organization's experience tracking performance and adjusting service delivery to ensure performance measures are met.
- iv. The organization's method for collecting and analyzing data to ensure credible documentation of service delivery.
- v. Historical evidence of the organization's ability to meet performance measures.

4. Work Plan - A responsive proposal must include a comprehensive and realistic work plan including details about the population(s) which will be targeted and the approach for targeting the particular population(s) for the period of October 1, 2020 - September 30, 2021 using the Outreach Project Details template in Appendix D. Qualified vendor(s) shall be required to carry insurance per the requirements outlined in Appendix E. The program shall be fully operational no later than November 1, 2020.

**5. DETAILED BUDGET AND BUDGET NARRATIVE:**

Provide a proposal for fees charged for the services outlined in this proposal. Please explain the basis and rationale of your fee structure. Use the format provided in Appendix B: Outreach Project Budget Details and Narrative (1) for

the period of October 1, 2020 – September 30, 2021. To request an excel version of the budget document in Appendix B, email [Bethany.caputo@dhs.ri.gov](mailto:Bethany.caputo@dhs.ri.gov). Applicants will be required to submit the following:

1. Budget Summary Table: complete table 1 in Appendix B to present the overall line item budget for your outreach plan.
2. Outreach Staffing Details. Use Table 2 in Appendix B to calculate the staffing costs of the outreach project.
3. Provide a Budget Narrative using the embedded template in the third tab within Appendix B that justifies each cost and explains how the amount for each line was determined. Describe how both the 45% Federal share of SNAP Outreach funds detailed in the master budget and the 50% non-Federal share of SNAP Outreach associated with SNAP Outreach activities will be used to draw down the Federal reimbursement.

All costs must be allowable, reasonable, and necessary for the delivery of services. All costs must be consistent with the scope of services described in the submitted proposal.

Staffing narrative for positions funded less than full time must be broken down by the percent time spent on SNAP Outreach and the percent time spent on outreach for other programs if applicable.

Budget category definitions are as follows:

1. Staff Salaries are the annual salaries of the staff that will be working on the project and the corresponding Full-time Equivalent (FTE) value and the time by administrative and program tasks allocated to the project. The budget narrative must include the titles, roles of the staff positions, and percent time charged to the program.
2. Fringe Benefits include any social security, workers' compensation, unemployment insurance, disability insurance and other insurance programs the applicant organization provides and the narrative shall explain the calculation of fringe benefits associated with the staff salaries.
3. Contracted Services include institutions, individuals, or organizations external to the contractor which have entered into an agreement with the contractor to provide any services outlined in or associated with the contract, and whose services are to be funded under the contract. All such agreements are to be by bona fide written contracts and a copy of each must be included in the application package. If details are not known, include a brief narrative of each contracted service to be provided, indicating the organization/individual selected, projected budget, and anticipated outcomes.
4. Staff Travel are travel costs associated with service delivery or training. Only travel costs for personnel listed under staff salaries are reimbursable.
5. Equipment includes the reasonable cost of necessary tangible property, having a useful life of more than one year and an acquisition cost of \$5000 or more per unit, which is required to operate the program and may be either purchased or rented, whichever is more economical. An inventory of all equipment purchased must be kept including depreciation schedule when necessary. Justification for any exceptional equipment purchases and/or rental costs must be provided in the Budget Narrative.
6. Space/Utilities include pro-rated necessary and cost reasonable real estate rental and utilities costs required for the operation of the program. Justification for any exceptional space or utilities costs must be provided in the Budget Narrative. A rental agreement must be included as part of an awarded contract. Space justification must include the cost per square foot and only the square foot being used by the SNAP Outreach staff by FTE can be charged to the program.
7. Other Operating Expenses includes any itemized expenses that fall outside of the categories listed above.

Any personnel that provide both direct services and administrative duties may be split accordingly between the personnel and administrative cost categories. The Explanation/Justification should be very specific as to the time spent on activities in such instances.

### **Financial Capacity**

1. Describe the Respondent's capacity to properly isolate SNAP Outreach program-related income and expenditures.
2. Discuss the internal controls used to ensure the safeguarding of funds so a thorough record of expenditures can be provided for purposes of an audit.
3. Indicate that the Respondent has adequate cash reserves to meet all financial obligations while awaiting payment from the Department.
4. Describe the Respondent's capability to identify non-federal, non-federally matched funds that will be used as the basis for its financial request.

## **6. PROPOSAL SUBMISSION**

Interested vendors must submit proposals to provide the services covered by this RFP . It is the current intention to keep this solicitation open, but RI DHS reserves the right to close or modify it at any time deemed necessary.

Proposals should be mailed or hand-delivered in a sealed envelope marked RFP #SNAPOR2020 to:

RI Department of Human Services, Building 57  
Attn: Marisa Petreccia  
25 Howard Avenue  
Cranston, RI 02920

Vendors should follow the full registration process. Vendors can register here: <https://www.ridop.ri.gov/vendor-registration/>

NOTE: Proposals faxed, or emailed, to the Department of Human Services shall not be accepted.

### **Response Contents**

*A. Responses shall include the following:*

1. One completed and signed RIVIP generated **Bidder Certification Cover Form** (included in the original copy only) downloaded from the RI Division of Purchases website at [www.ridop.ri.gov](http://www.ridop.ri.gov). Do not include any copies in the Technical proposal.
2. One completed and signed **Rhode Island W-9** (included in the original copy only) downloaded from the RI Division of Purchases website at [www.ridop.ri.gov/osp/osp-vendor-registration.php](http://www.ridop.ri.gov/osp/osp-vendor-registration.php). Do not include any copies in the Technical proposal.
3. **A Separate Technical Proposal** - describing 1. Staff Qualifications, 2. Capability, Capacity, and Qualifications of the Offeror, 3. Evaluation/Outcome Measures, 4. Work Plan, 5. Detailed Budget and Budget Narrative. The Technical Proposal is limited to forty (40) pages (this excludes any appendices, certifications and as appropriate, resumes of key staff that will provide services covered by this request).
  - a. One (1) Electronic copy on a CD-R, marked "Technical Proposal - Original".
  - b. One (1) printed Paper copy, marked "Technical Proposal - Original" and signed.

*B. Formatting of Proposal Contents shall consist of the following:*

**1. Formatting of CD-Rs** – All CD-Rs submitted must be labeled with:

- a. Vendor's name
- b. RFP #
- c. RFP Title
- d. Proposal Type (e.g., Technical Proposal)
- e. If file sizes require more than one CD-R, multiple CD-Rs are acceptable. Each

CD-R must include the above labeling and additional labeling of how many CD-Rs should be accounted for (e.g., 3 CD-Rs are submitted for a technical proposal and each CD-R should have additional label of '1 of 3' on first CD-R, '2 of 3' on second CD-R, '3 of 3' on third CD-R).

Vendors are responsible for testing their CD-Rs before submission as the State's inability to read your CD-Rs may be grounds for rejection of a Vendor's proposal. All files should be readable and readily accessible on the CD-Rs submitted with no instructions to download files from any external resource(s). If a file is partial, corrupt or unreadable, the State may consider it "non-responsive". USB Drives or any other electronic media will not be accepted. Please note that CD-Rs submitted, shall not be returned.

**2. Formatting of written documents and printed copies:**

- a. For clarity, the Technical Proposal shall be typed. These documents shall be single-spaced with 1" margins on white 8.5"x 11" paper using a font of 12 point Calibri or 12 point Times New Roman.
- b. All pages on the Technical Proposal are to be sequentially numbered in the footer, starting with number 1 on the first page of the narrative (this does not include the cover page or table of contents) through to the end, including all forms and attachments. The Vendor's name should appear on every page, including attachments. Each attachment should be referenced appropriately within the proposal section and the attachment title should reference the proposal section it is applicable to.
- c. Printed copies are to be only bound with removable binder clips.

**7. CONCLUDING STATEMENTS**

Notwithstanding the above, the Department of Human Services reserves the right to award on the basis of cost alone, to accept or reject any or all proposals, and to award in the State's best interest.

Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further.

If a Vendor is selected for an award, no work is to commence until a purchase order is issued by the Division of Purchases.

The State's General Conditions of Purchase contain the specific contract terms, stipulations and affirmations to be utilized for the contract awarded for this RFP. The State's General Conditions of Purchases can be found at the following URL: <https://rules.sos.ri.gov/regulations/part/220-30-00-13>







Document

**APPENDIX  
PAYMENTS AND REPORTS  
SCHEDULE**

**1. Request for Payment & Reports**

**a. Reports**

- i. The Contractor shall submit to the Department on a monthly basis an invoice and fiscal report, within ten (10) business days after the end of the month, using **DHS Form FM1**, indicating incurred expenditures during the reporting period.
- ii. The Contractor shall submit to the Department a quarterly program report measuring progress toward achieving the goals and objectives outlined in the State Plan. The quarterly report shall include:
  - the number of unduplicated sites visited, and the total number of outreach site visits;
  - the names of the sites;
  - the number of participants in outreach events;
  - the number of people seen by outreach workers;
  - basic demographics data of people seen individually by outreach workers, that is, if the client is elderly or disabled, homeless, non-English speaking, working head of household, as well as the total number of household members being reached;
  - the number of people screened for eligibility along with the number of those who were likely eligible;
  - the number of people who were assisted with completing an application along with the number of people who completed the application using the RIBridges Customer Portal;
  - the number of people who were assisted with any issues relating to their SNAP cases;
  - the number of visits of homebound Rhode Islanders;
  - the number of recipients of unemployment insurance who received information about SNAP;
  - the number of recipients of WIC who received information about SNAP;
  - the number of public housing authorities in which information was distributed to residents.
- iii. The Contractor shall meet at least semi-annually with state SNAP personnel to review the implementation and effectiveness of the State Plan.
- iv. The Contractor shall provide additional reports at the request of the Department.

b. **Request for Payment**

- i. The Contractor shall submit to the Department a **Monthly** request for Payment within ten (10) business days after the end of each month, using **DHS Form FM1**.
- ii. [In addition to the FM1, the Auditor General and DHS requires backup for all cost categories. Backup material would include, but is not limited to](#) a detailed description of the work performed, an itemization of the hours that are being billed, receipts for goods and services purchased by the vendor and charged to DHS. Consultant fees will be reimbursed when documentation of paid invoices are provided to DHS. Office space and utilities will require invoices from landlords and utility companies.
- iii. Failure to provide acceptable program and fiscal reports within the prescribed time frame may, at DHS' sole discretion, result in a delay of the monthly payments.
- iv. Request for payment shall be sent to: State of Rhode Island Department of Administration, Division of Accounts & Control, One Capitol Hill, 4<sup>th</sup> Floor, Providence, RI 02908 or [if applicable](#) submit the request for payment through the RIFANS Supplier Portal (ISupplier): <http://controller.admin.ri.gov/iSupplier/isup/index.php>.
  1. Please ensure that all invoices include the purchase order number. [If applicable](#), the invoice should identify the charges associated to each line item described in the purchase order. It is important to follow this process to assure that your payments are not delayed.

c. **Payments**

- i. Payments under this agreement are contingent upon the submission of the appropriate documentation by the Contractor. Payments are to be requested monthly, the Department must receive the DHS Form FM1, and any other reports as requested above in **a. Reports** prior to payments being released. All payments must be reimbursable, no advanced payments are permitted.
- ii. Failure to provide reporting or documentation from any Agreement may result in a delay of payments.
- iii. All funds are subject to Paragraph 8 d) Availability of Funds of this Agreement.

2. **Performance Measures Reports**

- a. The Contractor shall submit to the Department a quarterly program report

measuring progress toward achieving the goals and objectives outlined in the State Plan.

- b. The documentation will be reviewed by the Department. If the documentation provided does not contain adequate data, the Department shall request more documentation. It is the Contractor's responsibility to provide documentation to ensure performance is being completed in accordance with this Agreement.
- c. If the Documentation provided does not satisfy the Performance Measures, the Department will conduct a Risk Assessment of the Contractor. While a risk assessment is being conducted, payments may be held.

### **3. Audits and Fiscal Reports**

- a. The Contractor shall submit all applicable documents to the Federal Audit Clearinghouse (FAC) <https://harvester.census.gov/facweb>, within six (6) months after the completion of the Contractor's fiscal year /or in accordance with 2 CFR 200.500 et seq. If documents are not uploaded to the FAC provide them to the Department within six (6) months after the completion of the Contractor's fiscal year /or in accordance with 2 CFR 200et seq.
- b. The Financial Statements and/or reports will be reviewed by the Department. If the documentation provided does not contain adequate data or contains abnormalities, the Department shall request more documentation. Any additionally requested data must be provided to the Department within twenty (20) calendar days, unless otherwise agreed upon in writing by both the Department and the Contractor. It is the Contractor's responsibility to provide documentation to ensure payments are being used in accordance with this Agreement.
- c. If the Documentation provided does not satisfy the Department, the Department will conduct a financial review and request corrective measures from the Contractor. While a financial review is being conducted, payments may be held.

Reports shall be provided in accordance with 2 CFR 200.300, 2 CFR 200.500 et Seq.

# OUTREACH PROJECT DETAILS TEMPLATE

## **1. Statement of Need**

Provide a concise description of the need for the projects. Include data such as trends in SNAP participation, and the incidence of hunger and food insecurity. Include the source and date of the data. Additional data such as demand for emergency food providers, poverty rates, unemployment rates, or other similar information may also be provided to support the need. (Suggested length: Not more than 2 pages)

## **2. Outreach Plan Summaries**

**Executive Summary:** Provide an overview of your outreach plan. Briefly describe your goals and expected results. Include the target audiences and the outreach strategies that will be implemented. Give a general description of your evaluation plan. (Suggested length: Not more than 1 page).

**Summary of Projects:** Complete the table to provide a summary of the projects/initiatives you will implement. Give each project/initiative a number and a title. Refer to each project/initiative by number and title throughout the rest of your outreach plan. Add more lines as needed. The first row of this table is completed to provide an example.

**Table 3: Outreach Plan Summary Example**

<b>Project Number</b>	<b>Title</b>	<b>Geographic Area</b>	<b>Target Audience</b>	<b>Contracted (list contractor) or In-House?</b>
1	Outreach Worker Train-the-Trainer	Boomtown	Food Pantry Volunteers; Health Center Case Managers; Parish Nurses	In-house

### **3. Outreach Project Details**

**Project Table:** Complete this section for each project listed in the Summary of Projects Table in Section 3 above. (Suggested length: Not more than 2 pages for each project)

**Table 4: Outreach Project Details Instructions**

<b>Project Number</b>	List the project number as noted in the table in Section 3.			
<b>Goal</b>	List the goal of the project. The goal should be measurable (a numeric goal, if possible). Likely, the goal will focus on increasing SNAP participation. Indicate if the number of people is contacts, applicants, approved applicants, etc.			
<b>Target audience</b>				
<b>Timeline</b>	Start	Month and year, quarter, or annual/ongoing.	End	Month and year, quarter, or annual/ongoing.
<b>Description of Activity</b>	Provide a description of the activity and how it will be implemented.			
<b>Subrecipient</b>	If a subrecipient will be hired, list the name of the subrecipient. If there is no subrecipient, indicate so. Subrecipients may be community or faith-based organizations, local SNAP offices, food banks or pantries, retailers, or other community organizations. Obtaining a letter of commitment from your partners is good project management. It is suggested that you obtain such a letter from each partner and maintain the letter in your files.			
<b>Tax ID of Subrecipient</b>				
<b>Role of the Subrecipient</b>	Describe the role of the subrecipient. Add rows for additional subrecipients, if necessary.			
<b>Role of State agency</b>				
<b>State/ subrecipient funding source</b>				
<b>Volunteers</b>	Are volunteers involved in this activity:      Yes      No <input type="checkbox"/> If Yes, in what capacity?			
<b>Evaluation</b>	Explain how the project will be evaluated. Include your data collection and analysis plan. Note if your evaluation will be able to assess how many people reached by the outreach activities were certified or denied for SNAP benefits.			

## **GENERAL CONDITIONS – ADDENDUM A**

### **GENERAL INSURANCE REQUIREMENTS**

Unless otherwise specified in the solicitation or procurement, the following Insurance Requirements shall apply. These Insurance Requirements establish minimum types and limits of insurance coverage for many contract situations entered into by State. It is possible that certain contract exposures are not addressed. Risk management and insurance questions regarding any Contract to be entered into by State, including any that may be deemed “high-risk procurement” (*i.e.*, either by amount of the procurement or solicitation and/or Contract Party’s scope of services) should be reviewed with State Risk Management personnel at (401) 222-6200.

Schedule A1: General Requirements

Schedule A2: Professional Services

Schedule A3: Information Technology

Schedule A4: Public Works

Schedule A5: Department of Transportation Projects

## Schedule A1 – General Requirements

### Definitions

**“State:”** *The State of Rhode Island and its branches, departments, agencies, offices, commissions, any using entity authorized by R.I. Gen. Laws § 37-2-1, et seq., to participate in a procurement or solicitation and any other party directed by the State and the officers, directors, officials, agents, employees, independent contractors and volunteers of any of them.*

**“Contract Party:”** *Any person, organization or entity that is a Contract Party with State in which the Contract Party (i.e., vendor) provides services or products to State. Contract Party shall also include as insured persons Contract Party’s officers, directors, officials, agents, employees, subcontractors, independent contractors, volunteers and any other entity or person for which the Contract Party is legally responsible. For purposes of this document, Contract Party does not include any branches, departments, agencies, offices, or commissions of the State that may contract with any other State branches, departments, agencies, offices, or commissions.*

### Required Insurance

Contract Party shall procure **Required Insurance** as defined herein:

- a. At the sole cost and expense of Contract Party.
- b. Obtain and maintain such **Required Insurance** in full force and effect during the entire term of the Contract until all obligations of Contract Party have been discharged, including any warranty periods or extended reporting periods, against claims that may arise out of, are alleged to arise out of, directly or indirectly, in whole or in part, from or in connection with the Contract and/or result from the performance of the Contract.
- c. Any deductible, self-insured retention, or form of self-insurance under the policies shall be the sole responsibility of the Contract Party and shall be disclosed to and acceptable to the State authorized personnel.
- d. Any required liability insurance policy that is to insure any form of products liability and/or completed operations exposure created by Contract Party must provide extended coverage as follows:
  1. When required liability insurance policy uses “Occurrence” coverage trigger (including that known as “Reported Occurrence”):
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or
      - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
    - c. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
  2. When required liability insurance policy uses any form of “claims-first made trigger:”
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions

- of prior expired policy or 2-coverage at least equal to that required by Contract.
- b. Provide coverage with a retroactive date on or before the effective date of the Contract or at the beginning of Contract work.
- c. Such coverage must be provided for a period of not less than five (5) years after the later of:
  - i. when the Contract has ended; or
  - ii. when products or services have been put to intended use; or
  - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
- d. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
- e. If “claims-first made” liability insurance policy is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
- f. **Required Insurance** limits to be provided by single insurance policy or through “follow form primary” layered excess insurance policies to obtain overall required limit(s).
- g. Contract Party’s subcontractors to maintain same insurance.
- h. Any insurance obtained by Contract Party that includes an “insured vs. insured” exclusion must be revised to exclude State as Additional Insured.
- i. State Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional more extensive coverage for any individual requirement and can modify types of insurance and revise limits required of Contract Party at any time during the term of this Contract.

**Required Insurance:**

1. Commercial General Liability Insurance. Commercial General Liability Insurance (“CGL”) based on Insurance Services Office (“ISO”) most recent version of Commercial General Liability policy form CG00 01, or its equivalent:
  - a. Covering bodily injury (including death), broad form property damage, personal and advertising injury, independent contractors, products and completed operations and contractual liability.
  - b. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence, \$1,000,000 general aggregate and \$1,000,000 products/completed operations aggregate.
  - c. The general aggregate must be on a “per project” or “per location” basis.
  - d. Shall include waiver of subrogation in favor of State.
  - e. Include State as additional insured on a primary and non-contributory basis.
  - f. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insured<sup>1</sup> on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
2. Automobile Liability Insurance. Automobile Liability Insurance based on ISO most recent version of Business Automobile Policy (“BAP”) CA 00 01, or its equivalent:
  - a. Covering bodily injury and property damage for any vehicles used in conjunction with the performance of this Contract including owned, non-owned, and hired vehicles.

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<sup>1</sup>Any time Contract Party is responsible for construction of any kind the additional insured status for State shall include additional Insured-products/completed operations in addition to additional insured-premises/operations.

- b. If a Contract Party does not own any vehicle at any time during the duration of this Contract then the Contract Party can seek hired and non-owned automobile coverage as provided by BAP or by hired non-owned automobile coverage endorsement to CGL.
  - c. At a minimum Contract Party must maintain hired and non-owned automobile coverage for the full duration of this Contract.
  - d. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insured on a primary and non-contributory basis.
  - g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
3. Workers' Compensation and Employers' Liability.
- a. Statutory coverage as required by the workers' compensation laws of the State of Rhode Island, plus any applicable state law other than State of Rhode Island if employee(s) state of hire is other than State of Rhode Island or employee(s) work related to the Contract is not in the State of Rhode Island.
  - b. Policy form based on NCCI or its equivalent.
  - c. Employers' Liability with minimum limits of \$100,000 each accident, \$100,000 disease or policy limit and \$100,000 each employee or minimum amount necessary for umbrella/excess liability policy of Contract Party.
  - d. A Contract Party neither eligible for, nor entitled to, Worker's Compensation who is an independent Contract Party under Rhode Island law must comply with the statutory procedure precluding an independent Contract Party from bringing a workers' compensation claim against the State.
  - e. Policy to include waiver of subrogation in favor of State.
  - f. The Contract Party shall submit a copy of any policy endorsement or blanket endorsement evidencing the waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the State authorized personnel.

Crime insurance, as applicable to the procurement or solicitation:

4. Crime Insurance. Crime Insurance to cover dishonest acts of Contract Party that result in a loss of any State property, including funds or securities of any kind, plus any other entity or person's property, including funds or securities of any kind, entrusted to the State that is in the custody or control of the Contract Party. The policy shall:
- a. Include insuring agreements for employee dishonesty, forgery/alteration, theft of money and securities, robbery and safe burglary, money order and counterfeit currency, computer crime and funds transfer fraud.
  - b. Include an endorsement for "Client's Property" using ISO form CR04010813 or the equivalent;
  - c. Have minimum combined limits of not less than \$500,000 per occurrence; however, in no instance shall the combined limits be less than fifty per cent (50%) of the value of the Contract or based on the amount of funds that may be diverted, whichever is greater.
  - d. Name State as loss payee based on ISO CR20141010 or the equivalent.
  - e. Not contain a condition requiring an arrest.
  - f. When Contract Party has custody of State funds in excess of \$250,000 then Contract Party must have crime coverage commonly referred to as Social Engineering Fraud

("SEF") in an amount equal to Computer Crime limit and/or Fraudulent Funds Transfer limit.

**All Required Insurance shall be:**

1. Placed with insurers:
  - a. Authorized to do business in Rhode Island and, when admitted insurers are not possible, then use of non-admitted insurers will be allowed to the extent acceptable to State.
  - b. Rated "A-," class X or better by A.M. Best Company, Inc.
  - c. Any insurer with a lesser financial rating must be approved by the authorized State personnel.
2. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
3. As evidence of the insurance required by this Contract, the Contract Party shall furnish to State Certificates of Insurance, including confirmation of all required policy endorsements including, but not limited to, additional insured endorsements:
  - a. In form acceptable to the State to the Department of Administration, Division of Purchases prior to a Division of Purchases award. Failure to comply with this provision may result in rejection of the bid offer.
  - b. All certificates of insurance, whenever issued, shall include the requirement of the insurer for thirty (30) days advance written notice of cancellation or non-renewal of any insurance policy to Department of Administration, Division of Purchases Attn: Purchasing Agent, One Capitol Hill, Providence, RI 02908. Contract Party shall also immediately notify the State if the Required Insurance is cancelled, non-renewed, potential exhaustion of policy limits or otherwise changed.
  - c. Certificates of Insurance and required endorsements shall thereafter be submitted annually or earlier upon expiration and renewal of any of the policies.
  - d. All Certificates of Insurance and to the extent possible endorsements shall reference the State procurement number.
  - e. State retains the right to demand a certified copy of any **Required Insurance** policy, Certificate of Insurance or endorsement.
4. The Contract Party shall be responsible to obtain and maintain insurance on any real or personal property owned, leased or used by State that is in the care, custody or control of Contract Party. All property insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
5. No warranty is made that the coverages and limits listed herein are adequate to cover and/or protect the interests of the Contract Party for the Contract Party's operations. These are solely minimums to protect the interest of State.
6. State shall be indemnified and held harmless as required by the Contract and to the full extent of any coverage actually secured by the Contract Party in excess of the minimum requirements set forth above.
7. The Contract Party shall use at its own risk and insure at its own cost any of its owned, leased or used real or personal property. All such insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
8. The Contract Party shall comply with any other insurance requirements including, but not limited to, additional coverages or limits contained in the procurement or solicitation.

9. Failure to comply with these Insurance Requirements is a material breach entitling the State to terminate or suspend the Contract immediately.
10. These Insurance Requirements shall survive expiration or termination of the Contract.

## Schedule A2 – Professional Services

### Definitions

**“Professional Services:”** *A type of liability insurance designed to protect traditional professionals (e.g., accountants, attorneys) and quasi-professionals (e.g., real estate brokers, consultants) against liability incurred as a result of errors and omissions made in performing their professional services to State. Although there are a few exceptions (e.g., physicians, architects, and engineers), most professional liability policies only cover economic or financial losses suffered by State as opposed to bodily injury (BI) and property damage (PD) claims. This is because the latter two types of loss are typically covered under commercial general liability (CGL) policies. The vast majority of professional liability policies are written with claims-made coverage triggers. In addition, professional liability policies contain what are known as “shrinking limits,” meaning that unlike CGL policies (where defense costs are paid in addition to policy limits), the insurer’s payment of defense costs reduces available policy limits. Accordingly, when attempting to determine appropriate policy limits, insureds [State] must consider the fact that because defense costs are often a high proportion of any claim settlement or judgment, they must usually purchase additional limits. The most common exclusions in professional liability policy forms are for BI, PD, and intentional/dishonest acts.<sup>2</sup>*

**“State:”** *The State of Rhode Island and its branches, departments, agencies, offices, commissions, any using entity authorized by R.I. Gen. Laws § 37-2-1, et seq., to participate in a procurement or solicitation and any other party directed by the State and the officers, directors, officials, agents, employees, independent contractors and volunteers of any of them.*

**“Contract Party:”** *Any person, organization or entity that is a Contract Party with State in which the Contract Party (i.e., vendor) provides services or products to State.” Contract Party shall also include as insured persons Contract Party’s officers, directors, officials, agents, employees, subcontractors, independent contractors, volunteers and any other entity or person for which the Contract Party is legally responsible. For purposes of this document “Contract Party” does not include any branches, departments, agencies, offices, or commissions of the State that may contract with any other State departments, agencies, offices, commissions.*

### Required Insurance

Contract Party shall procure **Required Insurance** as defined herein:

- a. At the sole cost and expense of Contract Party.
- b. Obtain and maintain such **Required Insurance** in full force and effect during the entire term of the Contract until all obligations of Contract Party have been discharged, including any warranty periods or extended reporting periods, against claims that may arise out of, are alleged to arise out of, directly or indirectly, in whole or in part, from or in connection with the Contract and/or result from the performance of the Contract.
- c. Any deductible, self-insured retention, or form of self-insurance under the policies shall be the sole responsibility of the Contract Party and shall be disclosed to and acceptable to the State authorized personnel.
- d. Any required liability insurance policy that is to insure any form of products liability and/or completed operations exposure created by Contract Party must provide extended coverage as follows:
  1. When required liability insurance policy uses “Occurrence” coverage trigger (including that known as “Reported Occurrence”):

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<sup>2</sup>Definition based on one used by International Risk Management Institute:  
<https://www.irmi.com/term/insurance-definitions/professional-liability>.

- a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
- b. Such coverage must be provided for a period of not less than five (5) years after the later of:
  - i. when the Contract has ended; or
  - ii. when products or services have been put to intended use; or
  - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
- c. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
- 2. When required liability insurance policy uses any form of “claims-first made trigger:”
  - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
  - b. Provide coverage with a retroactive date on or before the effective date of the Contract or at the beginning of Contract work.
  - c. Such coverage must be provided for a period of not less than five (5) years after the later of:
    - i. when the Contract has ended; or
    - ii. when products or services have been put to intended use; or
    - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
  - d. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
- e. If “claims-first made” liability insurance policy is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
- f. **Required Insurance** limits to be provided by single insurance policy or through “follow form primary” layered excess insurance policies to obtain overall required limit(s).
- g. Contract Party’s subcontractors to maintain same insurance.
- h. Any insurance obtained by Contract Party that includes an “insured vs. insured” exclusion must be revised to exclude State as Additional Insured.
- i. State Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional more extensive coverage for any individual requirement and can modify types of insurance and revise limits required of Contract Party at any time during the term of this Contract.

**Required Insurance:**

1. Commercial General Liability Insurance. Commercial General Liability Insurance (“CGL”) based on Insurance Services Office (“ISO”) most recent version of Commercial General Liability policy form CG00 01, or its equivalent:
  - a. Covering bodily injury (including death), broad form property damage, personal and advertising injury, independent contractors, products and completed operations and contractual liability.

- b. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence, \$1,000,000 general aggregate and \$1,000,000 products/completed operations aggregate.
  - c. The general aggregate must be on a “per project” or “per location” basis.
  - d. Shall include waiver of subrogation in favor of State.
  - e. Include State as additional insureds on a primary and non-contributory basis.
  - f. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds<sup>3</sup> on a primary and non-contributory basis and a waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the authorized State personnel.
2. Automobile Liability Insurance. Automobile Liability Insurance based on ISO most recent version of Business Automobile Policy (“BAP”) CA 00 01, or its equivalent:
- a. Covering bodily injury and property damage for any vehicles used in conjunction with the performance of this Contract including owned, non-owned, and hired vehicles.
  - b. If a Contract Party does not own any vehicle at any time during the duration of this Contract then the Contract Party can seek hired and non-owned automobile coverage as provided by BAP or by hired non-owned automobile coverage endorsement to CGL.
  - c. At a minimum Contract Party must maintain hired and non-owned automobile coverage for the full duration of this Contract.
  - d. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insureds on a primary and non-contributory basis.
  - g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the authorized State personnel
3. Workers’ Compensation and Employers’ Liability.
- a. Statutory coverage as required by the workers’ compensation laws of the State of Rhode Island, plus any applicable state law other than State of Rhode Island if employee(s) state of hire is other than State of Rhode Island or employee(s) work related to the Contract is not in the State of Rhode Island.
  - b. Policy form based on NCCI or its equivalent.
  - c. Employers’ Liability with minimum limits of \$100,000 each accident, \$100,000 disease or policy limit and \$100,000 each employee or minimum amount necessary umbrella/excess liability of Contract Party.
  - d. A Contract Party neither eligible for, nor entitled to, Worker’s Compensation who is an independent Contract Party under Rhode Island law must comply with the statutory procedure precluding an independent Contract Party from bringing a workers’ compensation claim against the State.
  - e. Policy to include waiver of subrogation in favor of State.
  - f. The Contract Party shall submit a copy of any policy endorsement or blanket endorsement evidencing the waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the State authorized personnel.

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<sup>3</sup> Any time Contract Party is responsible for construction of any kind the additional status for State shall include additional Insured-products/completed operations in addition to additional insured-premises/operations.

4. Professional Liability Insurance.<sup>4</sup>

- a. Covering any damages to State caused by any error, omission, wrongful act, or breach of Contract in performance of Contract Party's professional services to State.
- b. Combined single limit per occurrence shall not be less than \$2,000,000 and include an annual aggregate of not less than \$2,000,000.
- c. Shall include waiver of subrogation in favor of State to extent coverage to Contract Party is not impaired.
- d. If Contract Party is providing services to State where Contract Party has access to paper and/or e-data privacy/confidential information then go to Schedule A3 and ensure appropriate cyber/privacy insurance is contained in Contract Party's Professional Liability Insurance. If cyber/privacy insurance is not contained in Contract Party's Professional Liability Insurance then refer to Schedule A3 Required Insurance Number 5 and add this coverage in addition to Professional Liability Insurance.

Crime Insurance, Environmental/Pollution Liability Insurance, and Working with Children, Elderly or Disabled Persons as applicable to the procurement or solicitation:

5. Crime Insurance. Crime Insurance to cover dishonest acts of Contract Party that result in a loss of any State property, including funds or securities of any kind, plus any other entity or person's property, including funds or securities of any kind, entrusted to the State that is in the custody or control of the Contract Party. The policy shall:

- a. Include insuring agreements for employee dishonesty, forgery/alteration, theft of money and securities, robbery and safe burglary, money order and counterfeit currency, computer crime and funds transfer fraud.
- b. Include an endorsement for "Client's Property" using ISO form CR04010813 or the equivalent.
- c. Have minimum combined limits of not less than \$500,000 per occurrence; however, in no instance shall the combined limits be less than fifty per cent (50%) of the value of the Contract or based on the amount of funds that may be diverted, whichever is greater.
- d. Name State as loss payee based on ISO CR20141010 or the equivalent.
- e. Not contain a condition requiring an arrest.
- f. When Contract Party has custody of State funds in excess of \$250,000 then Contract Party must have crime coverage commonly referred to as Social Engineering Fraud ("SEF") in an amount equal to Computer Crime limit and/or Fraudulent Funds Transfer limit.

5. Environmental/Pollution Liability Insurance when past, present or future hazard is possible. Environmental/Pollution Liability Insurance coverage for bodily injury, property damage and resulting loss of use and environmental damages resulting from sudden accidental (and/or gradual if appropriate) pollution and related cleanup costs arising out of the work or services to be performed under the Contract:

- a. If coverage is on a "claims-first made" basis then 1-any retroactive date will precede the effective date of the Contract, and 2- remain in-force for the later period of five years after Contract has ended and/or work by Contract Party has been put to its intended use.
- b. Per occurrence limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy shall include defense including costs, charges and expenses

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<sup>4</sup>Medical malpractice insurance whether for an individual practitioner such as MD, OD or DMD, hospital or nurses, is considered a subset of Professional Liability insurance. When medical malpractice insurance may be required consult with State Risk Management.

- incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- c. Policy to include State as additional insured for work performed by Contract Party for State to the extent coverage is not subject to an insured versus insured exclusion. Additional insured status for State to be on a primary and non-contributory basis.
- d. Shall include waiver of subrogation in favor of State.
- e. Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the authorized State personnel.

For environmental engineering and consultant services, the environmental liability insurance may be included with errors and omissions insurance and coverage if on a claims-made basis and will remain in effect for the period of the Contract with a minimum extended reporting period of five (5) years.

6. Working with Children, Elderly or Disabled Persons-Physical Abuse and Molestation Liability Insurance. Physical Abuse and Molestation Insurance covering damages arising out of: actual or threatened physical abuses; mental injury; sexual molestation; negligent hiring, employment, or supervision; negligent investigation or reporting to proper authorities; and, retention of any person for whom the Contract Party is responsible:
  - a. Coverage shall be written in an amount not less than \$1,000,000 per occurrence.
  - b. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage.
  - c. When policy uses any form of "claims-first made trigger:"
    - i. Remain in-force for a period of five (5) years after the Contract has ended;
    - ii. Provide coverage with a retroactive date on or before the Effective Date of the Contract or at the beginning of Contract work; and,
    - iii. If coverage is cancelled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
  - d. Shall include waiver of subrogation in favor of State.
  - e. Policy to include State as additional insured for work performed by Contract Party for State to the extent that coverage is not subject to an insured versus insured exclusion. Additional insured status for State to be on a primary and non-contributory basis.
  - f. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation. All endorsements shall be subject to review and approval by the authorized State personnel.

**All Required Insurance shall be:**

1. Placed with insurers:
  - a. Authorized to do business in Rhode Island.
  - b. Rated "A-," class X or better by A.M. Best Company, Inc.
  - c. Any insurer with a lesser financial rating must be approved by the authorized State personnel.
2. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.

3. As evidence of the insurance required by this Contract, the Contract Party shall furnish to State Certificates of Insurance, including confirmation of all required policy endorsements including, but not limited to, additional insured endorsements:
  - a. In form acceptable to the State to the Department of Administration, Division of Purchases prior to a Division of Purchases award. Failure to comply with this provision may result in rejection of the bid offer.
  - b. All certificates of insurance, whenever issued, shall include the requirement of the insurer for thirty (30) days advance written notice of cancellation or non-renewal of any insurance policy to Department of Administration, Division of Purchases Attn: Purchasing Agent, One Capitol Hill, Providence, RI 02908. Contract Party shall also immediately notify the State if the Required Insurance is cancelled, non-renewed, potential exhaustion of policy limits or otherwise changed.
  - c. Certificates of Insurance and required endorsements shall thereafter be submitted annually or earlier upon expiration and renewal of any of the policies.
  - d. All Certificates of Insurance and to the extent possible endorsements shall reference the State procurement number.
  - e. State retains the right to demand a certified copy of any **Required Insurance** policy. Certificate of Insurance or endorsement.
4. The Contract Party shall be responsible to obtain and maintain insurance on any real or personal property owned, leased or used by State that is in the care, custody or control of Contract Party. All property insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
5. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contract Party for the Contract Party's operations. These are solely minimums that have been established to protect the interest of the State.
6. State shall be indemnified and held harmless as required by the Contract and to the full extent of any coverage actually secured by the Contract Party in excess of the minimum requirements set forth above.
7. The Contract Party shall use at its own risk and insure at its own cost any of its owned, leased or used real or personal property. All such insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
8. The Contract Party shall comply with any other insurance requirements including, but not limited to, additional coverages or limits contained in the procurement or solicitation.
9. Failure to comply with these Insurance Requirements is a material breach entitling the State to terminate or suspend the Contract immediately.
10. These Insurance Requirements shall survive expiration or termination of the Contract.

## Schedule A3 – Information Technology and/or Cyber/Privacy

### Definitions

**“Information Technology”** A type of insurance designed to cover providers of technology *services* or *products*. For example, data storage companies and website designers provide *technology services*, while computer software and computer manufacturers offer *technology products*.<sup>5</sup>

Technology E&O (“Tech E & O”) policies cover both liability and property loss exposures. Major liability insuring agreements include losses resulting from: (1) technology services, (2) technology products, (3) media content, and (4) network security breaches. Key property insuring agreements provide coverage for extortion threats, crisis management expense, and business interruption.

Tech E&O insurance is often confused with cyber and privacy insurance. In contrast to Tech E&O coverage, cyber and privacy insurance is intended to protect *consumers* of technology products and services. Nevertheless, cyber and privacy insurance policies do offer a number of the same insuring agreements as Tech E&O policies.

**Cyber/Privacy:** A type of insurance designed to cover consumers of technology services or products. More specifically, the policies are intended to cover a variety of both liability and property losses that may result when a business engages in various electronic activities, such as selling on the Internet or collecting data within its internal electronic network.<sup>6</sup> Note this coverage is not only for an electronic breach, but also for paper data breaches.

Most notably, but not exclusively, cyber and privacy policies cover liability for a data breach in third party personal information, such as Social Security numbers, credit card numbers, Protected Health Information as defined in HIPAA and its implementing regulations, Personal Information as defined in HIPAA and its implementing regulations and Personal Information as defined in R.I. Gen. Laws § 11-49.3-1, *et seq.*, as amended, or as otherwise defined in the Contract (“Confidential Information”) is exposed or stolen by a hacker or other criminal who has gained access to Contract Party’s electronic network. The policies cover a variety of expenses associated with both electronic and paper data breaches including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, and loss resulting from identity theft.

In addition, the policies cover liability arising from website media content, as well as property exposures from: (a) business interruption, (b) data loss/destruction, (c) computer fraud, (d) funds transfer loss, and (e) cyber extortion.

Cyber and privacy insurance is often confused with Tech E&O insurance. In contrast to cyber and privacy insurance, Tech E&O coverage is intended to protect providers of technology products and services, such as computer software and hardware manufacturers, website designers, and firms that store data on an off-site basis. Nevertheless, Tech E&O insurance policies do contain a number of the same insuring agreements as cyber and privacy policies.

**“State:”** *The State of Rhode Island and its branches, departments, agencies, offices, commissions, any using entity authorized by R.I. Gen. Laws § 37-2-1, et seq. to participate in a procurement and any other party directed by the State and the officers, directors, officials, agents, employees, independent contractors and volunteers of any of them.*

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<sup>5</sup><https://www.irmi.com/term/insurance-definitions/technology-errors-and-omissions-insurance>.

<sup>6</sup><https://www.irmi.com/term/insurance-definitions/cyber-and-privacy-insurance>.

**“Contract Party:”** Any person, organization or entity that is a Contract Party with State in which the Contract Party (i.e., vendor) provides services or products to State. Contract Party shall also include as insured persons Contract Party’s officers, directors, officials, agents, employees, subcontractors, independent contractors, volunteers and any other entity or person for which the Contract Party is legally responsible. For purposes of this document “Contract Party” does not include any branches, departments, agencies, offices, or commissions of the State that may contract with any other State branches, departments, agencies, offices, commissions.

### **Required Insurance**

Contract Party shall procure **Required Insurance** as defined herein:

- a. At the sole cost and expense of Contract Party.
- b. Obtain and maintain such **Required Insurance** in full force and effect during the entire term of the Contract until all obligations of Contract Party have been discharged, including any warranty periods or extended reporting periods, against claims that may arise out of, are alleged to arise out of, directly or indirectly, in whole or in part, from or in connection with the Contract and/or result from the performance of the Contract.
- c. Any deductible, self-insured retention, or form of self-insurance under the policies shall be the sole responsibility of the Contract Party and shall be disclosed to and acceptable to the State authorized personnel.
- d. Any required liability insurance policy that is to insure any form of products liability and/or completed operations exposure created by Contract Party must provide extended coverage as follows:
  1. When required liability insurance policy uses “Occurrence” coverage trigger (Including that known as “Reported Occurrence”):
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or
      - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
    - c. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
  2. When required liability insurance policy uses any form of “claims-first made trigger:”
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Provide coverage with a retroactive date on or before the effective date of the Contract or at the beginning of Contract work.
    - c. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or

- iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
  - d. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations.”
- e. If “claims-first made” liability insurance policy is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
- f. **Required Insurance** limits to be provided by single insurance policy or through “follow form primary” layered excess insurance policies to obtain overall required limit(s).
- g. Contract Party’s subcontractors to maintain same insurance.
- h. Any insurance obtained by Contract Party that includes an “insured vs. insured” exclusion must be revised to exclude State as Additional Insured.
- i. State Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional more extensive coverage for any individual requirement and can modify types of insurance and revise limits required of Contract Party at any time during the term of this Contract.

**Required Insurance:**

1. Commercial General Liability Insurance. Commercial General Liability Insurance (“CGL”) based on Insurance Services Office (“ISO”) most recent version of Commercial General Liability policy form CG00 01, or its equivalent:
  - a. Covering bodily injury (including death), broad form property damage, personal and advertising injury, independent contractors, products and completed operations and contractual liability.
  - b. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence, \$1,000,000 general aggregate and \$1,000,000 products/completed operations aggregate.
  - d. The general aggregate must be on a “per project” or “per location” basis.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insureds on a primary and non-contributory basis.
  - g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of the State<sup>7</sup>. All endorsements shall be subject to review and approval by the authorized State personnel.
2. Automobile Liability Insurance. Automobile Liability Insurance based on ISO most recent version of Business Automobile Policy (“BAP”) CA 00 01, or its equivalent:
  - a. Covering bodily injury and property damage for any vehicles used in conjunction with the performance of this Contract including owned, non-owned, and hired vehicles.
  - b. If a Contract Party does not own any vehicle at any time during the duration of this Contract then the Contract Party can seek hired and non-owned automobile coverage as provided by BAP or by hired non-owned automobile coverage endorsement to CGL.
  - c. At a minimum Contract Party must maintain hired and non-owned automobile coverage for the full duration of this Contract.

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<sup>7</sup> Any time Contract Party is responsible for construction of any kind the additional status for State shall include additional Insured-products/completed operations in addition to additional insured-premises/operations.

- d. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insureds on a primary and non-contributory basis.
  - g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the authorized State personnel
3. Workers' Compensation and Employers' Liability.
- a. Statutory coverage as required by the workers' compensation laws of the State of Rhode Island, plus any applicable state law other than State of Rhode Island if employee(s) state of hire is other than State of Rhode Island or employee(s) work related to the Contract is not in the State of Rhode Island.
  - b. Policy form based on NCCI or its equivalent.
  - c. Employers' Liability with minimum limits of \$100,000 each accident, \$100,000 disease or policy limit and \$100,000 each employee or minimum amount necessary for Contract Party.
  - d. A Contract Party neither eligible for, nor entitled to, Worker's Compensation who is an independent Contract Party under Rhode Island law must comply with the statutory procedure precluding an independent Contract Party from bringing a workers' compensation claim against the State.
  - e. Policy to include waiver of subrogation in favor of State.
  - f. The Contract Party shall submit a copy of any policy endorsement or blanket endorsement evidencing the waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the State authorized personnel.

If Contract Party's technology, hardware, software or professional services to State **does not provide Contract Party access to Confidential Information** as defined in Number 5(a) below:

4. Technology Errors and Omissions Coverage. Technology Errors and Omissions Insurance covering any damages caused by any error, omission, wrongful act or breach of Contract by Contract Party. Coverage to include, but not be limited to: product failure, security failure, professional liability, intellectual property infringement and personal injury if limited or uninsured under commercial general liability insurance. Combined single limit per occurrence shall not be less than \$5,000,000. Annual aggregate shall not be less than \$5,000,000.

If Contract Party's technology, hardware, software, or professional services to State **does provide Contract Party with access to Confidential Information** as defined in Number 5(a) below:

5. Information Technology/Cyber Privacy. Errors and Omission Insurance covering damages to Insured Parties caused by any error, omission, wrongful act or breach of Contract in performance of contracted professional services by Contractor.
- a. Such insurance to have minimum limits of \$5,000,000 per occurrence and \$5,000,000 annual aggregate. If Contract Party provides: a) key back office services Contract Party shall have a minimum limit of \$10,000,000 per occurrence and \$10,000,000 annual aggregate; b) if Contract Party has access to Protected Health Information as defined in HIPAA and its implementing regulations, Personal Information as defined in in R.I. Gen. Laws § 11-49.3-1, *et seq.*, or as otherwise defined in the Contract (together Confidential Information"), Contract Party shall have as a minimum the per occurrence,

per annual aggregate, the total rounded product of projected number of persons data multiplied by \$25 per person breach response expense per occurrence; but no less than \$5,000,000 per occurrence, per annual aggregate; or, c) if the Contract Party provides or has access to mission critical services, network architecture and/or the totality of confidential data \$20,000,000 per occurrence and in the annual aggregate.

- b. Such insurance to include insuring agreements as identified below either as modules in master policy or as separate insurance policies.

#### Information Technology

Minimum coverage for Contract Party is liability insuring agreements for loss resulting from: (1) technology services, (2) technology products, (3) media content, (4) network security breaches and breach expenses incurred by State.

#### **Cyber/Privacy Insurance**

Coverage for Contract Party to include:

- i. Regulatory liability;
  - ii. Information security and privacy, regardless of the media involved;
  - iii. Network interruption and/or business interruption;
  - iv. Digital asset loss of State;
  - v. Event breach costs including but not limited to crisis management (such as forensic investigation, legal fees), public relations, notification costs, call center operation costs, credit file monitoring and identity theft insurance;
  - vi. Placing and lifting of security freezes;
  - vii. Cyber extortion;
  - viii. Online media liability (i.e. including but not limited to website content);
  - ix. Costs to defend, including but limited attorney fees and settle; and,
  - x. Fines and penalties when insurable under appropriate state or federal law.
- c. Coverage to include but not be limited to damage by Contract Party to States' records (whether e-data or other) product failure, security failure, privacy failure of e-data records, privacy failure of other than e-data records, intellectual property infringement, and personal injury as customarily insured by this type of insurance policy.

Crime Insurance as applicable to the procurement or solicitation:

- 6. Crime Insurance. Crime Insurance to cover dishonest acts of Contract Party that result in a loss of any State property, including funds or securities of any kind, plus any other entity or person's property, including funds or securities of any kind, entrusted to the State that is in the custody or control of the Contract Party. The policy shall:
  - a. Include insuring agreements for employee dishonesty, forgery/alteration, theft of money and securities, robbery and safe burglary, money order and counterfeit currency, computer crime and funds transfer fraud.
  - b. Include an endorsement for "Client's Property" using ISO form CR04010813 or the equivalent.
  - c. Have minimum combined limits of not less than \$500,000 per occurrence; however, in no instance shall the combined limits be less than fifty per cent (50%) of the value of the Contract or based on the amount of funds that may be diverted, whichever is greater.
  - d. Name the State as loss payee based on ISO CR20141010 or the equivalent.
  - e. Not contain a condition requiring an arrest.
  - f. When Contract Party has custody of State funds in excess of \$250,000 then Contract Party must have crime coverage commonly referred to as Social Engineering Fraud

("SEF") in an amount equal to Computer Crime limit and/or Fraudulent Funds Transfer limit.

**All Required Insurance shall be:**

1. Placed with insurers:
  - a. Authorized to do business in Rhode Island.
  - b. Rated "A-," class X or better by A.M. Best Company, Inc.
  - c. Any insurer with a lesser financial rating must be approved by the authorized State personnel.
2. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
3. As evidence of the insurance required by this Contract, the Contract Party shall furnish to State Certificates of Insurance, including confirmation of all required policy endorsements including, but not limited to, additional insured endorsements:
  - a. In form acceptable to the State to the Department of Administration, Division of Purchases prior to a Division of Purchases award. Failure to comply with this provision may result in rejection of the bid offer.
  - b. All certificates of insurance, whenever issued, shall include the requirement of the insurer for thirty (30) days advance written notice of cancellation or non-renewal of any insurance policy to Department of Administration, Division of Purchases Attn: Purchasing Agent, One Capitol Hill, Providence, RI 02908. Contract Party shall also immediately notify the State if the Required Insurance is cancelled, non-renewed, potential exhaustion of policy limits or otherwise changed.
  - c. Certificates of Insurance and required endorsements shall thereafter be submitted annually or earlier upon expiration and renewal of any of the policies.
  - d. All Certificates of Insurance and to the extent possible endorsements shall reference the State procurement number.
  - e. State retains the right to demand a certified copy of any **Required Insurance** policy, Certificate of Insurance or endorsement.
4. The Contract Party shall be responsible to obtain and maintain insurance on any real or personal property owned, leased or used by State that is in the care, custody or control of Contract Party. All property insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
5. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contract Party for the Contract Party's operations. These are solely minimums that have been established to protect the interest of the State.
3. State shall be indemnified and held harmless as required by the Contract and to the full extent of any coverage actually secured by the Contract Party in excess of the minimum requirements set forth above.
4. The Contract Party shall use at its own risk and insure at its own cost any of its owned, leased or used real or personal property. All such insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
8. The Contract Party shall comply with any other insurance requirements including, but not limited to, additional coverages or limits contained in the procurement or solicitation.
9. Failure to comply with these Insurance Requirements is a material breach entitling the State to terminate or suspend the Contract immediately.

10. These Insurance Requirements shall survive expiration or termination of the Contract.

## Schedule A4 – Public Works

As contained in the AIA documents and as required below. If the AIA documents' insurance provisions and the following insurance requirements conflict, the AIA documents' insurance requirements control.

Contract Party shall procure **Required Insurance** as defined herein:

- a. At the sole cost and expense of Contract Party.
- b. Obtain and maintain such **Required Insurance** in full force and effect during the entire term of the Contract until all obligations of Contract Party have been discharged, including any warranty periods or extended reporting periods, against claims that may arise out of, are alleged to arise out of, directly or indirectly, in whole or in part, from or in connection with the Contract and/or result from the performance of the Contract.
- c. Any deductible, self-insured retention, or form of self-insurance under the policies shall be the sole responsibility of the Contract Party and shall be disclosed to and acceptable to the State authorized personnel.
- d. Any required liability insurance policy that is to insure any form of products liability and/or completed operations exposure created by Contract Party must provide extended coverage as follows:
  1. When required liability insurance policy uses "Occurrence" coverage trigger (Including that known as "Reported Occurrence"):
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or
      - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
    - c. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as "discontinued products or operations."
  2. When required liability insurance policy uses any form of "claims-first made trigger:"
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Provide coverage with a retroactive date on or before the effective date of the Contract or at the beginning of Contract work.
    - c. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or
      - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.

- d. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations”.
- e. If “claims-first made” liability insurance policy is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
- f. **Required Insurance** limits to be provided by single insurance policy or through “follow form primary” layered excess insurance policies to obtain overall required limit(s).
- g. Contract Party’s subcontractors to maintain same insurance.
- h. Any insurance obtained by Contract Party that includes an “insured vs. insured” exclusion must be revised to exclude State as Additional Insured.
- i. State Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional more extensive coverage for any individual requirement and can modify types of insurance and revise limits required of Contract Party at any time during the term of this Contract.

**Required Insurance:**

1. Commercial General Liability Insurance. Commercial General Liability Insurance (“CGL”) based on Insurance Services Office (“ISO”) most recent version of Commercial General Liability policy form CG00 01, or its equivalent:
  - a. Covering bodily injury (including death), broad form property damage, personal and advertising injury, independent contractors, products and completed operations and contractual liability.
  - b. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence, \$1,000,000 general aggregate and \$1,000,000 products/completed operations aggregate.
  - c. The general aggregate must be on a “per project” or “per location” basis.
  - d. Shall include waiver of subrogation in favor of State.
  - e. Include State as additional insured on a primary and non-contributory basis.
  - f. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insured<sup>8</sup> on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
2. Automobile Liability Insurance. Automobile Liability Insurance based on ISO most recent version of Business Automobile Policy (“BAP”) CA 00 01, or its equivalent:
  - a. Covering bodily injury and property damage for any vehicles used in conjunction with the performance of this Contract including owned, non-owned, and hired vehicles.
  - b. If a Contract Party does not own any vehicle at any time during the duration of this Contract then the Contract Party can seek hired and non-owned automobile coverage as provided by BAP or by hired non-owned automobile coverage endorsement to CGL.
  - c. At a minimum Contract Party must maintain hired and non-owned automobile coverage for the full duration of this Contract.
  - d. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insured on a primary and non-contributory basis.

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<sup>8</sup>Any time Contract Party is responsible for construction of any kind the additional status for State shall include additional Insured-products/completed operations in addition to additional insured-premises/operations.

- g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
3. Workers' Compensation and Employers' Liability.
- a. Statutory coverage as required by the workers' compensation laws of the State of Rhode Island, plus any applicable state law other than State of Rhode Island if employee(s) state of hire is other than State of Rhode Island or employee(s) work related to the Contract is not in the State of Rhode Island.
  - b. Policy form based on NCCI or its equivalent.
  - c. Employers' Liability with minimum limits of \$100,000 each accident, \$100,000 disease or policy limit and \$100,000 each employee or minimum amount necessary for umbrella/excess liability policy of Contract Party.
  - d. A Contract Party neither eligible for, nor entitled to, Worker's Compensation who is an independent Contract Party under Rhode Island law must comply with the statutory procedure precluding an independent Contract Party from bringing a workers' compensation claim against the State.
  - e. Policy to include waiver of subrogation in favor of State.
  - f. The Contract Party shall submit a copy of any policy endorsement or blanket endorsement evidencing the waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the State authorized personnel.

**All Required Insurance shall be:**

- 1. Placed with insurers:
  - a. Authorized to do business in Rhode Island.
  - b. Rated "A-," class X or better by A.M. Best Company, Inc.
  - c. Any insurer with a lesser financial rating must be approved by the authorized State personnel.
- 2. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
- 3. As evidence of the insurance required by this Contract, the Contract Party shall furnish to State Certificates of Insurance, including confirmation of all required policy endorsements including, but not limited to, additional insured endorsements:
  - a. In form acceptable to the State to the Department of Administration, Division of Purchases prior to a Division of Purchases award. Failure to comply with this provision may result in rejection of the bid offer.
  - b. All certificates of insurance, whenever issued, shall include the requirement of the insurer for thirty (30) days advance written notice of cancellation or non-renewal of any insurance policy to Department of Administration, Division of Purchases Attn: Purchasing Agent, One Capitol Hill, Providence, RI 02908. Contract Party shall also immediately notify the State if the Required Insurance is cancelled, non-renewed, potential exhaustion of policy limits or otherwise changed.
  - c. Certificates of Insurance and required endorsements shall thereafter be submitted annually or earlier upon expiration and renewal of any of the policies.
  - d. All Certificates of Insurance and to the extent possible endorsements shall reference the State procurement number.
  - e. State retains the right to demand a certified copy of any **Required Insurance** policy, Certificate of Insurance or endorsement.

4. The Contract Party shall be responsible to obtain and maintain insurance on any real or personal property owned, leased or used by State that is in the care, custody or control of Contract Party. All property insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the Insured Parties.
5. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contract Party for the Contract Party's operations. These are solely minimums that have been established to protect the interest of the State.
6. State shall be indemnified and held harmless as required by the Contract and to the full extent of any coverage actually secured by the Contract Party in excess of the minimum requirements set forth above.
7. The Contract Party shall use at its own risk and insure at its own cost any of its owned, leased or used real or personal property. All such insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
8. The Contract Party shall comply with any other insurance requirements including, but not limited to, additional coverages or limits contained in the procurement or solicitation.
9. Failure to comply with these Insurance Requirements is a material breach entitling the State to terminate or suspend the Contract immediately.
10. These Insurance Requirements shall survive expiration or termination of the Contract.

## Schedule A5 – Department of Transportation Projects

As contained in the State of Rhode Island Department of Transportation's Standard Specifications for Road and Bridge Design document commonly referenced as the Rhode Island Department of Transportation's "Blue Book" located at [www.dot.ri.gov/business/bluebook.php](http://www.dot.ri.gov/business/bluebook.php) and as required below. If the Blue Book's insurance requirements and the following insurance requirements conflict, the Blue Books' insurance requirements control.

### Required Insurance

Contract Party shall procure **Required Insurance** as defined herein:

- a. At the sole cost and expense of Contract Party.
- b. Obtain and maintain such **Required Insurance** in full force and effect during the entire term of the Contract until all obligations of Contract Party have been discharged, including any warranty periods or extended reporting periods, against claims that may arise out of, are alleged to arise out of, directly or indirectly, in whole or in part, from or in connection with the Contract and/or result from the performance of the Contract.
- c. Any deductible, self-insured retention, or form of self-insurance under the policies shall be the sole responsibility of the Contract Party and shall be disclosed to and acceptable to the State authorized personnel.
- d. Any required liability insurance policy that is to insure any form of products liability and/or completed operations exposure created by Contract Party must provide extended coverage as follows:
  1. When required liability insurance policy uses "Occurrence" coverage trigger (Including that known as "Reported Occurrence"):
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or
      - iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
    - c. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as "discontinued products or operations."
  2. When required liability insurance policy uses any form of "claims-first made trigger:"
    - a. Policy issued by same insurer for Contract Party as of effective date of Contract between State and Contract Party or by comparable insurer providing renewal insurance policy of 1-same coverage terms and conditions of prior expired policy or 2-coverage at least equal to that required by Contract.
    - b. Provide coverage with a retroactive date on or before the effective date of the Contract or at the beginning of Contract work.
    - c. Such coverage must be provided for a period of not less than five (5) years after the later of:
      - i. when the Contract has ended; or
      - ii. when products or services have been put to intended use; or

- iii. when hardware, software, buildings, other physical structures or repairs have been put to intended use.
- d. Such required insurance can be provided by annual insurance policies or by single runoff policy commonly referred to as “discontinued products or operations”.
- e. If “claims-first made” liability insurance policy is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract date, the Contract Party must purchase extended reporting coverage for a minimum of five (5) years after completion of work.
- f. **Required Insurance** limits to be provided by single insurance policy or through “follow form primary” layered excess insurance policies to obtain overall required limit(s).
- g. Contract Party’s subcontractors to maintain same insurance.
- h. Any insurance obtained by Contract Party that includes an “insured vs. insured” exclusion must be revised to exclude State as Additional Insured.
- i. State Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional more extensive coverage for any individual requirement and can modify types of insurance and revise limits required of Contract Party at any time during the term of this Contract.

**Required Insurance:**

1. Commercial General Liability Insurance. Commercial General Liability Insurance (“CGL”) based on Insurance Services Office (“ISO”) most recent version of Commercial General Liability policy form CG00 01, or its equivalent:
  - a. Covering bodily injury (including death), broad form property damage, personal and advertising injury, independent contractors, products and completed operations and contractual liability.
  - b. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence, \$1,000,000 general aggregate and \$1,000,000 products/completed operations aggregate.
  - c. The general aggregate must be on a “per project” or “per location” basis.
  - d. Shall include waiver of subrogation in favor of State.
  - e. Include State as additional insured on a primary and non-contributory basis.
  - f. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insured<sup>9</sup> on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
2. Automobile Liability Insurance. Automobile Liability Insurance based on ISO most recent version of Business Automobile Policy (“BAP”) CA 00 01, or its equivalent:
  - a. Covering bodily injury and property damage for any vehicles used in conjunction with the performance of this Contract including owned, non-owned, and hired vehicles.
  - b. If a Contract Party does not own any vehicle at any time during the duration of this Contract then the Contract Party can seek hired and non-owned automobile coverage as provided by BAP or by hired non-owned automobile coverage endorsement to CGL.
  - c. At a minimum Contract Party must maintain hired and non-owned automobile coverage for the full duration of this Contract.
  - d. Such insurance coverage is subject to a minimum combined single limit of \$1,000,000 per occurrence.
  - e. Shall include waiver of subrogation in favor of State.
  - f. Include State as additional insured on a primary and non-contributory basis.

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<sup>9</sup>Any time Contract Party is responsible for construction of any kind the additional status for State shall include additional Insured-products/completed operations in addition to additional insured-premises/operations.

- g. The Contract Party shall submit a copy of any policy endorsement, or blanket endorsement, evidencing the State as additional insureds on a primary and non-contributory basis and a waiver of subrogation in favor of State. All endorsements shall be subject to review and approval by the authorized State personnel.
3. Workers' Compensation and Employers' Liability.
- a. Statutory coverage as required by the workers' compensation laws of the State of Rhode Island, plus any applicable state law other than State of Rhode Island if employee(s) state of hire is other than State of Rhode Island or employee(s) work related to the Contract is not in the State of Rhode Island.
  - b. Policy form based on NCCI or its equivalent.
  - c. Employers' Liability with minimum limits of \$100,000 each accident, \$100,000 disease or policy limit and \$100,000 each employee or minimum amount necessary for umbrella/excess liability policy of Contract Party.
  - d. A Contract Party neither eligible for, nor entitled to, Worker's Compensation who is an independent Contract Party under Rhode Island law must comply with the statutory procedure precluding an independent Contract Party from bringing a workers' compensation claim against the State.
  - e. Policy to include waiver of subrogation in favor of State.
  - f. The Contract Party shall submit a copy of any policy endorsement or blanket endorsement evidencing the waiver of subrogation in favor of the State. All endorsements shall be subject to review and approval by the State authorized personnel.

**All Required Insurance shall be:**

- 1. Placed with insurers:
  - a. Authorized to do business in Rhode Island.
  - b. Rated "A-," class X or better by A.M. Best Company, Inc.
  - c. Any insurer with a lesser financial rating must be approved by the authorized State personnel.
- 2. The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
- 3. As evidence of the insurance required by this Contract, the Contract Party shall furnish to State Certificates of Insurance, including confirmation of all required policy endorsements including, but not limited to, additional insured endorsements:
  - a. In form acceptable to the State to the Department of Administration, Division of Purchases prior to a Division of Purchases award. Failure to comply with this provision may result in rejection of the bid offer.
  - b. All certificates of insurance, whenever issued, shall include the requirement of the insurer for thirty (30) days advance written notice of cancellation or non-renewal of any insurance policy to Department of Administration, Division of Purchases Attn: Purchasing Agent, One Capitol Hill, Providence, RI 02908. Contract Party shall also immediately notify the State if the Required Insurance is cancelled, non-renewed, potential exhaustion of policy limits or otherwise changed.
  - c. Certificates of Insurance and required endorsements shall thereafter be submitted annually or earlier upon expiration and renewal of any of the policies.
  - d. All Certificates of Insurance and to the extent possible endorsements shall reference the State procurement number.
  - e. State retains the right to demand a certified copy of any **Required Insurance** policy, Certificate of Insurance or endorsement.

4. The Contract Party shall be responsible to obtain and maintain insurance on any real or personal property owned, leased or used by State that is in the care, custody or control of Contract Party. All property insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
5. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contract Party for the Contract Party's operations. These are solely minimums that have been established to protect the interest of the State.
6. State shall be indemnified and held harmless as required by the Contract and to the full extent of any coverage actually secured by the Contract Party in excess of the minimum requirements set forth above.
7. The Contract Party shall use at its own risk and insure at its own cost any of its owned, leased or used real or personal property. All such insurance of Contract Party must include a waiver of subrogation that shall apply in favor of the State.
8. The Contract Party shall comply with any other insurance requirements including, but not limited to, additional coverages or limits contained in the procurement or solicitation.
9. Failure to comply with these Insurance Requirements is a material breach entitling the State to terminate or suspend the Contract immediately.
10. These Insurance Requirements shall survive expiration or termination of the Contract.

**Agreement Number:**

**AGREEMENT**

**Between the**

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF HUMAN SERVICES**

**and**

**[insert name of Contractor]**

**Name of Contractor:** **Name of Contractor**

**Title of Agreement:** **ABC Agreement**

**Basis for Contract:** **(Ex RFP or LOI #)**

**Contract Award:** **\$000,000**

**Performance Period:** **July 1, 2019 to June 30, 2020 (EXAMPLE)**

## A G R E E M E N T

This Agreement/Contract (hereinafter referred to as “the Agreement”), including attached ADDENDA, is hereby entered into this (DATE PRESENTED) \_\_\_\_\_ day of \_\_\_\_\_ 201#, by and between the State of Rhode Island acting by and through the **Rhode Island Department of Human Services** (hereinafter referred to as “the Department”), and \_\_\_\_\_ (hereinafter referred to as “the Contractor”).

WHEREAS, the Department desires to engage the Contractor to offer services and activities further described, but not limited to the work described in this Agreement, including any Exhibit(s) or Addenda, that are attached hereto and are hereby incorporated by reference into this Agreement.

WHEREAS the Contractor is willing and qualified to provide services, the parties hereto do mutually agree as follows:

### **PAR. 1. GOVERNING LAW AND GENERAL TERMS AND CONDITIONS**

The State’s Purchasing Law (Chapter 37-2 of the Rhode Island General Laws) and Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing apply as the governing terms and conditions of this Agreement, which can be obtained at <http://www.purchasing.ri.gov/rulesandregulations/rulesAndRegulations.aspx>. In addition, the provisions of Federal Laws, Regulations and Procedures governing the implementation of federal funds apply to this Agreement. See also **PAR. 35. - GOVERNING LAW** for further governing law issues. All **ADDENDA** referenced herein and attached hereto are made a part of and are inclusive in this Agreement.

### **PAR. 2. PERFORMANCE**

The Contractor shall perform all obligations, duties and the required scope of work for the period of time listed in this Agreement, Exhibit(s) and/or Addenda that are attached hereto and are incorporated by reference herein, in a satisfactory manner to be determined at the sole and absolute discretion of the Department, and in accordance with requirements of this Agreement. The Contractor shall perform in accordance with applicable State statutory and policy requirements as well as Federal statutory and policy requirements (as defined in 2 CFR §200.300). More specifically, the **ADDENDUM I - SCOPE OF WORK** shall include performance measurement(s) 2 CFR §200.301, monitoring and reporting program performance 2 CFR §200.328, and performance must be in accordance with requirements for pass-through entities 2 CFR § 200.331. The Department shall have the right at any time, to review the work being performed as well as the place where such work is performed; and to that end, the Department shall be given reasonable access to all activities related to this Agreement.

In accordance with 2 CFR §200.331 (d) the Department will:

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the

subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR §200.521 Management decision.

The Department may request at any time additional monitoring, reporting, site visits, and audits in accordance with 2 CFR §200.501 or if applicable “Yellow Book” audits (see Paragraph 24). All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the Department or the Federal Government in accordance with 2 CFR §200.333.

### **PAR. 3. TIME OF PERFORMANCE**

The Contractor shall commence performance of this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_ 20##, and shall complete performance no later than the \_\_\_\_\_ day of \_\_\_\_\_ 20## (hereinafter the “Initial Term”), unless terminated prior to that day by other provisions of this Agreement. *If this contract was awarded as a result of an RFP or bid process, then, by mutual agreement, this contract may be extended as stated in the RFP or bid process (hereinafter “Renewal Term(s)”) beyond the Initial Term upon one hundred twenty (120) days prior written notice of the expiration of the Initial Term or any Renewal Term to the Contractor.*

In the event the Department or the Contractor gives notice of its intent not to renew this Agreement, the Department shall have the right to extend all or any services to be performed under this Agreement for an additional period of one hundred and eighty (180) days, or such longer period as mutually agreed by the parties in writing.

### **PAR. 4. PROJECT OFFICER – DEPARTMENT**

The Department shall appoint a Contract Officer to manage this Agreement. The Contractor agrees to maintain close and continuing communication with the Contract Officer throughout the performance of work and services undertaken under the terms of this Agreement. The Contract Officer is responsible for authorizing or seeking authorization of all payments made by the Department to the Contractor under this Agreement.

### **PAR. 5. PROJECT OFFICER – CONTRACTOR**

The Contractor shall appoint a Project Officer to be responsible for coordinating and reporting work performed by the Contractor agency under this Agreement. The Project Officer shall notify the Department in writing immediately, and seek approval from the

Department, should a change to this Agreement be necessary in the opinion of the Project Officer. Under no circumstances will a change be undertaken without the prior written approval of the Department.

#### **PAR. 6. BUDGET**

Total payment for services to be provided under this Agreement shall not exceed the total budget as detailed in **ADDENDUM II**. Expenditures exceeding budget line-item categories by ten percent (10%) shall not be authorized unless prior written approval is first obtained pursuant to **PAR. 10. - MODIFICATION OF AGREEMENT**, subject to the maximum amount of this Agreement as stated above.

#### **PAR. 7. METHOD OF PAYMENT AND REPORTS**

The Department will make payments to the Contractor in accordance with provisions of **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE** attached hereto and incorporated by reference herein. The Department acknowledges and agrees that any increase in expenses due to delays by the Department which extends the time of performance shall be subject to reimbursement of the costs associated with such delays. The Contractor will complete and forward narrative, fiscal, and all other reports per **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE**.

#### **PAR. 8. TERMINATION AND/OR DEFAULT OF AGREEMENT**

This Agreement shall be subject to termination under any of the following conditions:

- a) Mutual Agreement  
The contracting parties mutually agree in writing to termination.
- b) Default by Contractor  
The Department may, by not less than thirty (30) days prior written notice to the Contractor, terminate the Contractor's right to proceed as to the Agreement if the Contractor:
  1. Materially fails to perform the services within the time specified or any extension thereof; or
  2. So fails to make progress as to materially endanger performance of the Agreement in accordance with its terms; or
  3. Materially breaches any provision of this Agreement.Termination, at the option of the Department shall be effective not less than thirty (30) days after receipt of such notice, unless the Contractor shall have corrected such failure(s) thirty (30) days after the receipt by the Contractor of such written notice; any failure which, in the exercise of due diligence, cannot be cured within such thirty (30) day period shall not be deemed a default so long as the Contractor shall within such period commence and thereafter continue diligently to cure such failure.
- c) Termination in the Interest of the Department  
The Department may terminate this agreement at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, not less than thirty (30) days prior to the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of the Department, become its property. If the

agreement is terminated by the Department as provided herein, the Contractor will be paid an amount which bears the same rate to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Agreement, less payment of compensation previously made.

**PAR. 9. RESPONSIBILITIES UPON TERMINATION AND/OR DEFAULT OF AGREEMENT**

Upon delivery to the Contractor of a notice of termination, specifying the nature of the termination, the extent to which performance of work under this contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

1. Stop work under this contract on the date and to the extent specified in the notice of termination.
2. Take such action as may be necessary, or as the Department's project manager may reasonably direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Department has or may acquire an interest.
3. Terminate all orders to the extent that they relate to the performance of work terminated by the notice of termination.
4. Subject to the provisions of this paragraph, assign to the Department in the manner and to the extent directed by the Department's project officer all of the rights, title, and interest of the Contractor under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders, however, notwithstanding this provision, the Contractor will not be obligated to assign any such rights, title or interest in the absence of payment therefore by the Department.
5. With the approval or ratification of the Department's project manager, initiate settlement of all outstanding liabilities and all claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract. Prior to a final settlement of said outstanding liabilities and claims arising out of such termination, final written approval of the Department's project manager must be obtained. Final approval by the Department shall not be unreasonably withheld.
6. Subject to the provisions of this paragraph, transfer title, or if the Contractor does not have title, then transfer their rights to the Department (to the extent that title has not already been transferred) and deliver in the manner, at reasonable times, and to the extent reasonably directed by the Department's project manager all files, processing systems, data manuals, or other documentation, in any form, that relate to all the work completed or in progress prior to the notice of termination.
7. Complete the performance of such part of the work as shall not have been terminated by the notice of termination. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.
8. Unless terminated by the Department for default of the Contractor, the Contractor shall be entitled to reasonable account shut down expenses associated with such termination including the penalties associated with early termination of lease, software, hardware, and any other unamortized or incremental expenses accrued but not charged, excluding anticipated profits which shall not be reimbursed. The

Contractor shall submit all identified shut down expenses associated with such termination incurred before and prior to the termination date. Any damages to the Department shall offset any shutdown expenses to the Department.

9. The Contractor acknowledges and agrees the services and/or deliverables provided under this Agreement are very important to the Department and that upon expiration or termination of the Agreement, must be continued without interruption whether by the State, the Department, governmental agency or another private entity (“successor entity”). Prior to the end of the Termination and up to sixty (60) days thereafter, the Contractor agrees to make an orderly transition of contract and/or deliverables hereunder and to perform any and all tasks in good faith that are necessary to preserve the integrity of the work performed by the Contractor on behalf of the Department. Upon termination or expiration of the Agreement, the Contractor, shall, if requested by the Department at least thirty (30) days prior to such termination or expiration, provide reasonable training for the successor entity and/or continued performance of services. For providing such training or continued performance after the Term of the Agreement, the Department shall pay the Contractor at mutually agreed rates for personnel used in providing such training and/or services unless services delivered are already defined herein and rates established then such rates shall apply for such period. Should any missing data, materials, documents, etc., be discovered after expiration or termination, a grace period of one hundred and twenty (120) days shall be in effect during which the data, materials, documents, etc., is to be provided at a predetermined cost or at no additional cost if the Contractor caused the loss. Lost data shall be provided to the Department in form acceptable to the Department.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Agreement price, or both, and the agreement shall be modified, in writing, accordingly, if:

- a) The stop work order results in an increase in the time required for, or in the Contractor’s cost properly allocable to the performance of any part of this agreement; and
- b) The Contractor asserts its right to an equitable adjustment within ninety (90) days after the end of the period of work stoppage; provided, that if the state decides the facts justify the action, the state may receive and act upon a proposal submitted at any time before final payment under this Agreement.

The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause, however, unless termination is for a default by the Contractor, the Contractor shall have the right to recover costs associated with maintaining the personnel, leases and equipment during the period of time the stop work order was in effect that cannot otherwise be reasonably utilized by the Contractor during the stop work period.

If the agreement is terminated for default, following a reasonable notice and cure period not to exceed thirty (30) days unless agreed to by both parties, the Department may withhold payment of any amount in excess of fair compensation for the work actually completed by the Contractor prior to termination of this Agreement and will be entitled to pursue all of its other available legal remedies against the Contractor. Notwithstanding the

above, the Contractor shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Contractor.

The Contractor's liability to the Department for any damages arising out of or related to this Agreement, regardless of the form of action that imposes liability, whether in contract, equity, negligence, intended conduct, tort or otherwise, and including any direct damages incurred by the Department due to the intentional tortious actions of the Contractor in the performance or nonperformance of its obligations under this Agreement is not limited to the total fees paid by the Department to the Contractor under this Agreement. Also, there should be no limitation of the Contractor's liability for disclosure of confidential information or intellectual property infringement. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement; provided, however, that the foregoing shall not be deemed to limit in any way the provisions of **ADDENDUM XIII - LIQUIDATED DAMAGES** of this Agreement.

The imposition of liquidated damages shall not limit the Department's rights to pursue any other non-monetary remedies available to it.

The Department may, by written notice of default to the Contractor, provide that the Contractor may cure a failure or breach of this contract within a period of thirty (30) days (or such longer period as the Department's agreement administrator or project manager may authorize in writing), said period to commence upon receipt of the notice of default specifying such failure or breach. The Department's exercise of this provision allowing the Contractor time to cure a failure or breach of this Agreement does not constitute a waiver of the Department's right to terminate this Agreement, without providing a cure period, for any other failure or breach of this Agreement.

In the event the Contractor has failed to perform any substantial obligation under this Agreement, or has otherwise committed a breach of this Agreement, the Department may withhold all monies due and payable to the Contractor directly related to the breach, without penalty, until such failure is cured or otherwise adjudicated.

Assurances before breach

a) If documentation or any other deliverables due under this contract are not in accordance with the contract requirements as reasonably determined by the project manager, upon the Department's request, the Contractor, to the extent commercially reasonable, will deliver additional the Contractor resources to the project in order to complete the deliverable as required by the agreement as reasonably determined by the Department and to demonstrate that other project schedules will not be affected. Upon written notice by the Department's project manager of the Department's concerns regarding the quality or timeliness of an upcoming deliverable, the Contractor shall, within five (5) business days of receipt of said notice, submit a corrective action plan documenting the Contractor's approach to completing the deliverable to the satisfaction of the Department's project officer without affecting other project schedules. The Department's project manager, within five (5) business days of receipt of the corrective action plan, shall approve the plan, reject the plan, or return the plan to the Contractor with specific instructions as to how the plan can be

modified to merit approval and a specific time period in which the revised plan must be resubmitted.

Nothing in the language contained in “limitation of liability” article, “Contractor’s liability for injury to person’s or damage to property” article and “indemnification” article shall be construed to waive or limit the state or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Laws, Title 9 Chapter 31, “Governmental Tort Liability.”

Department’s options at termination

In the event the Department terminates this contract pursuant to this paragraph, the Department may at its option:

- a) Retain all or a portion of such hardware, equipment, software, and documentation as has been provided, obtaining clear title or rights to the same, and procure upon such terms and in such manner as the Department's project manager may deem appropriate, hardware, equipment, software, documentation, or services as are necessary to complete the project; or
- b) Notwithstanding the above, except as otherwise agreed, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Contractor.

In order to take into account any changes in funding levels because of executive or legislative actions or because of any fiscal limitations not presently anticipated, the Department may reduce or eliminate the amount of the contract as a whole with the scope of services being reduced accordingly, or subject to agreement by the parties concerning the scope and pricing, reduce or eliminate any line item(s).

Notwithstanding the terms, conditions and/or requirements set out in Paragraphs 7 and 8, the Contractor shall not be relieved of liability to the Department for damages sustained by the Department by virtue of any breach of the Agreement by the Contractor, and the Department may withhold payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Department from the Contractor is determined.

**PAR. 10. MODIFICATION OF AGREEMENT**

The Department may permit changes in the scope of services, time of performance, or approved budget of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by the Department and the Contractor, must be in writing and shall be made a part of this agreement by numerically consecutive amendment excluding “Special Projects”, if applicable, and are incorporated by reference into this Agreement. No changes are effective unless reflected in an approved change order issued by the State’s Division of Purchases.

Special Projects are defined as additional services available to the Department on a time and materials basis with the amounts not to exceed the amounts referenced on the Contractor’s RFP cost proposal or as negotiated by project or activity. The change order will specify the scope of the change and the expected completion date. Any change order shall be subject to the same terms and conditions of this Agreement unless otherwise specified in the change order and agreed upon by the parties. The

parties will negotiate in good faith and in a timely manner all aspects of the proposed change order.

#### Availability of Funds

It is understood and agreed by the parties hereto that all obligations of the Department, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and Federal funds, and in no event shall the Department be liable for any payments hereunder in excess of such available and appropriated funds. In the event that the amount of any available or appropriated funds provided by the State or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason whatsoever, the Department shall notify the Contractor of such reduction of funds available and the Department shall be entitled to reduce its commitment hereunder as it deems necessary, but shall be obligated for payments due to the Contractor up to the time of such notice. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement.

### **PAR. 11. SUBCONTRACTS**

It is expressly agreed that the Contractor shall not enter into any subcontract(s) nor delegate any responsibilities to perform the services listed in this Agreement without the advanced, written approval of the Department. If in **ADDENDUM XVI – BID PROPOSAL**, the Bid Proposal permits Subcontracting, the Contractor must provide the name and the extent of services provided by the Subcontractor in the **BUDGET** paragraph 6, and more fully explained in **ADDENDUM II** of this Agreement, and as further agreed to by the Department and the Contractor in **ADDENDUM IX – SUBCONTRACTOR COMPLIANCE**, which is incorporated by reference herein, and which outlines the expectations and requirements of subcontracted vendors to this Agreement.

If the Contractor subsequently needs to enlist the services of a Subcontractor, the Contractor shall obtain prior written approval of the Department. Approval of the Department for the Contractor to enter into subcontracts to perform the services or obligations of the Contractor pursuant to this Agreement shall not be unreasonably withheld. Nothing in this Agreement or in a subcontract or sub-agreement between the Contractor and subcontractors shall create any contractual relationship between the subcontractor and the Department. Approval by the Department of the Contractor's request to subcontract shall not relieve the Contractor of its responsibilities under this contract and the Contractor shall therefore remain responsible and liable to the Department for any conduct, negligence, acts and omissions, whether intentional or unintentional, by any subcontractor

The positions named by the Contractor and detailed in **ADDENDUM XVII – CORE STAFF POSITIONS**, which is incorporated by reference herein, will be considered core project staff positions for this project. The Contractor will not alter the core project

team or use an independent contractor, company or subcontractor to meet required deliverables without the prior written consent of the Department's project officer or other appointed designee(s) for which consent shall not be unreasonably withheld. Failure to comply with the provisions of this Paragraph could result in denial of reimbursement for such non-approved sub-contracts.

## **PAR. 12. CONTRACTOR'S LIABILITY/INDEMNIFICATION**

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the "Indemnitees" and their subcontractors) harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney's fees) to the extent arising in whole or part from the Contractor's willful misconduct, negligence, or omission in provision of services or breach of this Agreement including, but not limited to, injuries of any kind which the staff of the Contractor or its subcontractor may suffer directly or may cause to be suffered by any staff person or persons in the performance of this Agreement, unless caused by the willful misconduct or gross negligence of the Indemnitees.

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the "Indemnitees" and their subcontractors") harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney's fees) to the extent arising in whole or part for infringement by the Contractor of any intellectual property right by any product or service provided hereunder.

Nothing in this agreement shall limit the Contractor's liability to indemnify the State for infringements by the Contractor of any intellectual property right.

Nothing in the language contained in this Agreement shall be construed to waive or limit the State or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Law, Title 9, Chapter 31 et al., entitled "Governmental Tort Liability."

## **PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

By signing this Agreement, the Contractor agrees to comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794); Americans with Disabilities Act of 1990 (42 USC 12101 et. seq.); Title IX of the Education Amendments of 1972 (20 USC 1681 et. seq.); Food and Nutrition Act of 2008, as amended, and in the manner prescribed by regulations issued pursuant to the Act, The United States Department of Health and Human Services Regulations found in 45 CFR, Parts 80 and 84; the United States Department of Education Implementing regulations (34 CFR, Parts 104 and 106; and the United States Department of Agriculture, Food and Nutrition Services (7 CFR §272.6), which prohibit discrimination on the basis of race, color, national origin (limited English proficiency persons), age, sex, disability, religion, political beliefs, in

acceptance for or provision of services, employment, or treatment in educational or other programs or activities, or as any of the Acts are amended from time to time.

Pursuant to Title VI and Section 504, as listed above and as referenced in **ADDENDA V AND VI**, which are incorporated herein by reference and made part of this Agreement, the Contractor shall have policies and procedures in effect, including, mandatory written compliance plans, which are designed to assure compliance with Title VI section 504, as referenced above. An electronic copy of the Contractor's written compliance plan, all relevant policies, procedures, workflows, relevant chart of responsible personnel, and/or self-assessments must be available to the Department upon request.

The Contractor's written compliance plans and/or self-assessments, referenced above and detailed in **ADDENDA V AND VI** of this Agreement, must include but are not limited to the requirements detailed in **ADDENDA V AND VI** of this Agreement.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS or DHS, full and complete information on Title VI and/or Section 504 compliance and/or self-assessments, as referenced above, by the Contractor and/or any subcontractor or vendor of the Contractor.

The Contractor acknowledges receipt of **ADDENDUM V - NOTICE TO DEPARTMENT OF HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964** and **ADDENDUM VI - NOTICE TO DEPARTMENT OF HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**, which are incorporated herein by reference and made part of this Agreement.

The Contractor further agrees to comply with all other provisions applicable to law, including the Americans with Disabilities Act of 1990; the Governor's Executive Order No. 05-01, Promotion of Equal Opportunity and the Prevention of Sexual Harassment in State Government.

The Contractor also agrees to comply with the requirements of the Department of Human Services for safeguarding of client information as such requirements are made known to the Contractor at the time of this contract. Changes to any of the requirements contained herein shall constitute a change and be handled in accordance with **PAR. 10. - MODIFICATION OF AGREEMENT** above.

Failure to comply with this Paragraph may be the basis for cancellation of this Agreement.

#### **PAR. 14. ASSIGNABILITY**

The Contractor shall not assign any interest in this Agreement (whether by assignment or novation) without the prior written consent of the State's Division of Purchases, thereto; provided, however, that claims or money due or to become due to the

Contractor from the Department under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Department.

## **PAR. 15. COPYRIGHTS**

Any and all data, technical information, information systems, materials gathered, originated, developed, prepared, modified, used or obtained by the Contractor in performance of the Agreement used to create and/or maintain work performed by the Contractor, including but not limited to, all hardware, software computer programs, data files, application programs, intellectual property, source code, documentation and manuals, regardless of state of completion shall be deemed to be owned and remain owned by the State (“State Property”), and the State has the right to (1) reproduce, publish, disclose or otherwise use and to authorize others to use the State Property for State or federal government purposes, and (2) receive delivery of such State Property upon 30 days notice by the State throughout the term of the contract and including 120 days thereafter. To be clear with respect to State Property, the work shall be considered “work for hire,” i.e., the State, not the selected Contractor or any subcontractor, shall have full and complete ownership of all State Property. The selected Contractor and any subcontractor hereby convey, assign and transfer to State any and all of its or their right, title and interest in State Property, if any, including but not limited to trademarks and copyrights. The State hereby grants to the federal government, and the federal government reserves, a royalty-free, nonexclusive and irrevocable license to reproduce, publish, disclose or otherwise use and to authorize others to use for federal government purposes such software, modifications and documentation designed, developed or installed with federal financial participation.

The Contractor agrees that no findings, listing, or information derived from information obtained through performance, as described in the Scope of Work in Addendum I with or without identifiers, may be released or publicly disclosed in any form for any purpose if such findings, listing, or information contain any combination of data elements that might allow an individual to determine a beneficiary’s identification without first obtaining written authorization from the Department’s project officer. Examples of such data elements include, but are not limited to geographic indicators, age, sex, diagnosis, procedure, date of birth, or admission/discharge date(s). The Contractor agrees further that the Department shall be the sole judge as to whether any finding, listing, information, or any combination of data extracted or derived from the Department’s files identify or would, with reasonable effort, permit one to identify an individual, or to deduce the identifying of an individual to a reasonable degree of certainty. The Contractor agrees that the conditions set forth herein apply to any materials presented or submitted review and/or publication that contain individual identifying elements in the information obtained, as stated above, unless such information is presented in the aggregate. Under no circumstance, shall the Contractor publicly disclose or present or submit any materials for review and/or publication that contains an individual’s social security number, in part or in whole. The Contractor is hereby notified that all initial data received from DHS is considered confidential by the Department. For further requirements regarding confidentiality of information please refer to Paragraph 23 of this Agreement.

With respect to claims arising from computer hardware or software manufactured by a third party and sold by the Contractor as a reseller, the Contractor will pass through to the Department such indemnity rights as it receives from such third party (“third party obligation”) and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the third party obligation, the Contractor will provide the Department with indemnity protection equal to that called for by the third party obligation, but in no event greater than that called for in the first sentence of this Paragraph the provisions of the preceding sentence apply only to third party computer hardware or software sold as a distinct unit and accepted by the Department. Unless a third party obligation provides otherwise, the defense and payment obligations set forth in this Paragraph will be conditional upon the following:

1. The Department will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time;
2. The Contractor will have sole control of the defense of any action on all third party claims, costs (including without limitation reasonable attorneys’ fees), and losses for infringement or violation of any U.S. Intellectual Property Rights by any product or service provided hereunder; and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future state operations or liability, or when involvement of the state is otherwise mandated by law, the state may participate in such action at its own expense with respect to attorneys’ fees and costs (but not liability); (ii) the state will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and
3. The State will reasonably cooperate in the defense and in any related settlement negotiations.

Should the deliverables or software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Rights, the Department shall permit the Contractor at its option and expense either to procure for the Department the right to continue using the deliverables or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such deliverables or software by the Department shall be prevented by injunction, the Contractor agrees to take back such deliverables or software and make every reasonable effort to assist the Department in procuring substitute deliverables or software. If, in the sole opinion of the Department, the return of such infringing deliverables or software makes the retention of other deliverables or software acquired from the Contractor under this Agreement impractical, the Department shall then have the option of terminating such agreements, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such deliverables or software and refund any sums the Department has paid the Contractor less any reasonable amount for use or damage.

The Contractor shall have no liability to the Department under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement that is based upon:

- The combination or utilization of deliverables furnished hereunder with equipment or devices not made or furnished by the Contractor; or,
- The operation of equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of the Contractor-supplied operating software; or
- The modification by the Department of the equipment furnished hereunder or of the software; or
- The combination or utilization of software furnished hereunder with non-Contractor supplied software.

The Contractor certifies that it has appropriate systems and controls in place to ensure that Department funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**PAR. 16. PARTNERSHIP**

It is understood and agreed that nothing herein is intended or should be construed in any manner as creating or establishing the legal relation of partnership between the parties hereto, or as constituting the employees, agents, or representatives of the Contractor included in this Agreement as employees, agents, or representatives of the Department.

**PAR. 17. INTEREST OF CONTRACTOR**

The Contractor covenants that it presently has no pecuniary interest and shall not acquire any such interest, direct or indirect, without first disclosing to the Department in writing and then subsequently obtaining approval, in writing, from the Department, that would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor further covenants that no person having any such interest shall be employed by the Contractor for the performance of any work associated with this Agreement.

**PAR. 18. FEDERAL FUNDING PROVISIONS**

Funds made available to the Contractor under this Agreement are or may be derived from federal funds made available to the Department. The Provisions of Paragraph 5 and Addendum II notwithstanding, the Contractor agrees to make claims for payment under this Agreement in accordance with applicable federal policies. The Contractor agrees that no payments under this Agreement will be claimed for reimbursement under any other Agreement, grant or contract that the Contractor may hold that provides funding from the same State or Federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of claims for payment under this Agreement. The Contractor specifically agrees to abide by all applicable federal requirements for Contractors, including laws, regulations and requirements related to services performed outside the United States by Contractor or its subcontractors. Additionally, the Federal Award must be used in accordance with the specific Catalog of Federal Domestic Assistance (CFDA) number listed in **ADDENDUM IV – FISCAL**

**ASSURANCES.** <https://www.cfda.gov/>

States are required to collect information from contractors for awards greater than \$25,000 as described in **ADDENDUM XVIII – FEDERAL SUBAWARD REPORTING** (hereafter referred to as the FFATA form). The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide new FFATA forms for each contract year. When applicable in multiyear contracts, the Contractor is required to review and update the FFATA form, this must be provided to the Department 30 days prior to the end of the first contract year. For example, if the contract performance period is July 1, 2015 to June 30, 2018; then the FFATA form for the second contract year is due June 1, 2016. Any sub-contractor paid with Federal Funding will provide the FFATA form for each contract year to the Contractor, the Contractor must then provide all sub-contractor FFATA forms to the Department. Sub-contractor forms must be provided within fifteen (15) days of date of signature of this Agreement, and if applicable, within fifteen (15) days of the end of each contract year for all subsequent contract years.

#### **PAR. 19. FUNDING DENIED**

It is understood and agreed that in the event that less than full federal funding or other funding is received by the Department due directly to the failure of the Contractor to comply with the terms of this Agreement, the Contractor is liable to the State of Rhode Island for an amount equal to the amount of the denied funding. Should the Contractor be liable for the amount of the denied funding, then such amount shall be payable upon demand of the Department.

The Contractor agrees that no expenditures claimed for reimbursement under this Agreement will be claimed for reimbursement under any other agreement, grant, or contract that the Contractor may hold which provides funding from state or federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of expenditures: (a) claimed by the Contractor for reimbursement under this Agreement, and/or (b) submitted by the Contractor in meeting any cost participation requirements.

#### **PAR. 20. ACCESSIBILITY AND RETENTION OF RECORDS**

The Contractor agrees to make accessible and to maintain all fiscal and activity records relating to this Agreement to state and/or federal officials, or their designated representatives, necessary to verify the accuracy of Contractor invoices or compliance with this Agreement. This accessibility requirement shall include the right to review and copy such records. This requirement is also intended to include but is not limited to any auditing, monitoring, and evaluation procedures, including on-site visits, performed individually or jointly, by state or federal officials or their agents necessary to verify the accuracy of Contractor invoices or compliance with this Agreement (in accordance with 2 CFR §200.331). If such records are maintained out of the State of Rhode Island, such records shall be made accessible by the Contractor at a Rhode Island location. Minutes of board of directors' meetings, fiscal records, and narrative records pertaining to activities performed will be retained for audit purposes for a period of at least three (3) years following the submission of the final expenditure report for this

Agreement. Additionally, if any litigation, claim, or audit is started before the expiration of the 3 year period, as mentioned in Paragraph 2 of this Agreement, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR §200.333. If audit findings have not been resolved at the end of the three (3) years, the records shall be retained for an additional three (3) years after the resolution of the audit findings are made or as otherwise required by law.

The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide and maintain a quality assurance system acceptable to the state covering deliverables and services under this Agreement and will tender to the state only those deliverables that have been inspected and found to conform to this Agreement's requirements. The Contractor will keep records evidencing inspections and their result and will make these records available to the state during Agreement performance and for three (3) years after final payment. The Contractor shall permit the state to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance system or other similar business practices related to performance of the Agreement.

Further, the Contractor agrees to include a similar right of the state to audit records and interview staff in any subcontract related to performance of this Agreement.

The parties agree that in regards to fixed price portions of the contract, the state's access to the Contractor's books, records and documents shall be limited to those necessary to verify the accuracy of the Contractor's invoice. In no event will the state have access to the Contractors internal cost data as they relate to fixed price portion of the contract.

## **PAR. 21. CAPITAL ASSETS**

The Contractor agrees that any capital assets purchased on behalf of the Department on a pass-through basis and used on behalf of the Department by the Contractor shall upon payment by the Department, become the property of the Department unless otherwise agreed to by the parties and may be utilized by the Contractor in a reasonable manner. Capital assets are defined as any item having a life expectancy of greater than one (1) year and an initial cost of greater than five thousand dollars (\$5,000) per unit, except greater than five hundred dollars (\$500) per unit for computer equipment.

Upon written request by the Department, the Contractor agrees to execute and deliver to the Department a security interest in such capital assets in the amount of the value of such capital asset (or for a lesser amount as determined by the Department).

## **PAR. 22. COMPETITIVE BIDS**

With the exception of services or products obtained for use in a leveraged environment, the Contractor agrees competitive bidding will be utilized for all purchases in direct and exclusive support of the Department which are made under this Agreement in excess of five hundred dollars (\$500) or an aggregate of one thousand dollars (\$1,000) for any

like items during the time of performance of this Agreement. Evidence of competitive bids must be retained in accordance with **PAR. 20. - ACCESSIBILITY AND RETENTION OF RECORDS.**

### **PAR. 23. SECURITY AND CONFIDENTIALITY**

The Contractor shall take security measures to protect against the improper use, loss, access of and disclosure of any confidential information it may receive or have access to under this Agreement as required by this Agreement, the RFP and proposal, or which becomes available to the Contractor in carrying out this Agreement and the RFP and the proposal, and agrees to comply with the requirements of the Department for safeguarding of client and such aforementioned information. Confidential information includes, but is not limited to: names, dates of birth, home and/or business addresses, social security numbers, protected health information, financial and/or salary information, employment information, statistical, personal, technical and other data and information relating to the State of Rhode Island data, and other such data protected by Department laws, regulations and policies (“confidential information”), as well as State and Federal laws and regulations. All such information shall be protected by the Contractor from unauthorized use and disclosure and shall be protected through the observance of the same or more effective procedural requirements as are applicable to the Department.

The Contractor expressly agrees and acknowledges that said confidential information provided to and/or transferred to provider by the Department or to which the Contractor has access to for the performance of this Agreement is the sole property of the Department and shall not be disclosed and/or used or misused and/or provided and/or accessed by any other individual(s), entity(ies) and/or party(ies) without the express written consent of the Department. Further, the Contractor expressly agrees to forthwith return to the Department any and all said data and/or information and/or confidential information and/or database upon the Department’s written request and/or cancellation and/or termination of this Agreement.

The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information, which is or becomes legitimately publicly available, is already rightfully in the Contractor’s possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties under no obligation of confidentiality.

The Contractor agrees to abide by all applicable, current and as amended Federal and State laws and regulations governing the confidentiality of information, including to but not limited to the Business Associate requirements of HIPAA ([WWW.HHS.GOV/OCR/HIPAA](http://WWW.HHS.GOV/OCR/HIPAA)), to which it may have access pursuant to the terms of this Agreement. In addition, the Contractor agrees to comply with the Department confidentiality policy recognizing a person's basic right to privacy and confidentiality of personal information. ("confidential records" are the records as defined as not public in R.I. Gen. Laws 38-2-2-(4) (A)-(AA) entitled "Access to Public Records").

In accordance with this Agreement and all Addenda thereto, the Contractor will

additionally receive, have access to, or be exposed to certain documents, records, that are confidential, privileged or otherwise protected from disclosure, including, but not limited to: personal information; Personally Identifiable Information (PII), Sensitive Information (SI), and other information (including electronically stored information), records sufficient to identify an applicant for or recipient of government benefits; preliminary draft, notes, impressions, memoranda, working papers-and work product of state employees; as well as any other records, reports, opinions, information, and statements required to be kept confidential by state or federal law or regulation, or rule of court ("State Confidential Information"). State Confidential Information also includes PII and SI as it pertains to any public assistance recipients as well as retailers within the SNAP Program and Providers within any of the State Public Assistance programs.

Personally Identifiable Information (PII) is defined as any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc. (As defined in 2 CFR §200.79 and as defined in OMB Memorandum M-06-19, "Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments"). PII shall also include individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts (As defined in 2 CFR § 200.82 Protected Personally Identifiable Information).

Sensitive Information (SI) is information that is considered sensitive if the loss of confidentiality, integrity, or availability could be expected to have a serious, severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals. Further, the loss of sensitive information confidentiality, integrity, or availability might: (i) cause a significant or severe degradation in mission capability to an extent and duration that the organization is unable to perform its primary functions; (ii) result in significant or major damage to organizational assets; (iii) result in significant or major financial loss; or (iv) result in significant, severe or catastrophic harm to individuals that may involve loss of life or serious life threatening injuries. (Defined in HHS Memorandum ISP-2007-005, "Departmental Standard for the Definition of Sensitive Information" as amended).

The Contractor agrees to adhere to any and all applicable State and Federal statutes and regulations relating to confidential health care and substance abuse treatment including but not limited to the Federal Regulation 42 CFR, Part 2; Rhode Island Mental Health Law, R.I. General Laws Chapter 40.1-5-26; Confidentiality of Health Care Communications and Information Act, R.I. General Laws Chapter 5-37.3-1 *et seq.*, and HIPAA 45 CFR 160 and the Rhode Island Identity Theft Protection Act, R.I. General Laws § 11-49.3-1 *et seq.* The Contractor acknowledges that failure to comply with the

provisions of this paragraph will result in the termination of this Agreement.

The Contractor shall notify the Department and the Department's designated security officer by telephone call plus e-mail, web form or fax upon the discovery of any breach of security of PHI, PII or SI or suspected breach of security of PHI, PII or SI (where the use or disclosure is not provided for and permitted by this Agreement) of which it becomes aware within one (1) hour and in no case later than forty-eight (48) hours of the breach and/or Security Incident. The Contractor shall, within forty-eight (48) hours, notify the Department and the Department's designated security officer of any suspected breach of unauthorized electronic access, disclosure or breach of confidential information or any successful breach of unauthorized electronic access, disclosure or breach of confidential information. A breach is defined pursuant to HIPAA guidelines as well as those found in the "Health Information Technology for Economic and Clinical Health Act" (HITECH). A breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PHI in violation of HIPAA privacy rules that compromise PHI security or privacy. Additionally, a breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PII or SI. The notice of a breach or suspected breach shall contain information available to the Contractor at the time of the notification to aid the Department in examining the matter. More complete and detailed information shall be provided to the Department as it becomes available to the Contractor.

Upon notice of a breach, suspected breach or a security incident, the Department and Contractor will meet to jointly develop an incident investigation and remediation plan. Depending on the nature and severity of the confirmed breach, the plan may include the use of an independent third-party security firm to perform an objective security audit in accordance with recognized cyber security industry commercially reasonable practices. The parties will consider the scope, severity and impact of the security incident to determine the scope and duration of the third party audit. If the parties cannot agree on either the need for or the scope of such audit, then the matter shall be escalated to senior officials of each organization for resolution. The Contractor will pay the costs of all such audits. Depending on the nature and scope of the security incident, remedies may include, among other things, information to individuals on obtaining credit reports and notification to applicable credit card companies, notification to the local office of the Secret Service, and or affected users and other applicable parties, utilization of a call center and the offering of credit monitoring services on a selected basis.

Notwithstanding any other requirement set out in this Agreement, the Contractor acknowledges and agrees that the HITECH Act and its implementing regulations impose new requirements with respect to privacy, security and breach notification and contemplates that such requirements shall be implemented by regulations to be adopted by the U.S. Department of Health and Human Services. The HITECH requirements, regulations and provisions are hereby incorporated by reference into this Agreement as if set forth in this Agreement in their entirety. Notwithstanding anything to the contrary or any provision that may be more restrictive within this Agreement, all requirements and provisions of HITECH, and its implementing regulations currently in effect and promulgated and/or implemented after the date of this Agreement, are automatically

effective and incorporated herein. Where this Agreement requires stricter guidelines, the stricter guidelines must be adhered to.

Failure to abide by the Department's confidentiality policy or the required signed **Business Associate Agreement (BAA)** will result in termination remedies, including but not limited to, termination of this Agreement. A **Business Associate Agreement (BAA)** shall be signed by the Contractor, simultaneously or as soon thereafter as possible, from the signing of this Agreement, as required by the Department.

Nothing herein shall limit the Department's ability to seek injunctive relief or any and all damages resulting from the Contractor's negligent or intentional disclosure of confidential information.

## **PAR. 24. AUDIT**

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least twenty-five thousand dollars (\$25,000) in any year, at no additional cost for the Department, the Contractor shall prepare an annual financial statement of the Contractor or the Contractor's parent, where applicable, within nine (9) months of the end of the Contractor's fiscal year. The financial statements must provide full and frank disclosures of all assets, liabilities, changes in the fund balances, all revenue, and all expenditures. Upon written or oral request by the Department, the Contractor shall provide the Department a copy of the above described financial statement(s) within ten (10) days of the Department's request or within twenty (20) days of the end of the Time of Performance, Paragraph 3 herein. If additional financial documentation is required by the Federal funding source, these additional financial requirements must be met in addition to the preparation of the above financial statements.

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, at no additional cost for the Department, the audit must be performed in accordance with 2 CFR § 200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR §200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the Department.

In the case wherein the Contractor expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR § 200.501, et seq. at no additional cost for the Department, the audit must be performed in accordance with 2 CFR §200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR § 200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the Department.

Moreover, if the Contractor has Agreements and/or Federal Awards which **in aggregate** are at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, including the amount identified in **PAR. 6 – BUDGET**, the audit must be performed in accordance with federal requirements as outlined above (2 CFR §200.500 et seq.).

Should the Contractor expend less than seven hundred and fifty thousand federal dollars (\$750,000) in a fiscal year and be, therefore, exempt from having to perform an audit in accordance with 2 CFR §200.500 et. seq., the Contractor may not charge the cost of such an audit to a federal award.

Pursuant to 2 CFR §200.501 (h), “for-profit” entities shall conduct a “Yellow Book” audit annually by a Public Accounting Firm in accordance with Government Auditing Standards, mentioned above, and standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the U.S. (GAGAS) and provide a copy thereof to Client, the Contractor may not charge the cost of such an audit to a federal award.

The Contractor agrees that the state or its designated representative will be given access to any part of the system which is delivered under this Agreement to inventory and/or inspect the system.

The Contractor expressly agrees that any overpayment identified through an audit must be repaid to the Department within a period of six (6) months from the issuance of the audit.

#### **PAR. 25. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

#### **PAR. 26. ON-SITE INSPECTION**

The Contractor agrees to permit on-site monitoring, evaluation and inspection of all activities related to the Agreement by officials of the Department, its designee, and where appropriate, the Federal government. On-site inspections and monitoring shall be in accordance with 2 CFR §200.328. All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the Department or the Federal Government in accordance with 2 CFR §200.333.

If, as a result of on-site inspections, changes are requested by the Department to ensure compliance with this Agreement and/or Federal Awards, the Contractor must perform changes within a time period defined by the Department. All changes shall be documented by the Contractor and provided to the Department upon request. All requested changes shall comply with 2 CFR §200.331.

**PAR. 27. DRUG-FREE WORKPLACE POLICY**

The Contractor agrees to comply with the provisions of the Governor's Executive Order 91-14, the State's Drug Free Workplace Policy, and the Federal Omnibus Drug Abuse Act of 1988. As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM VII - DRUG-FREE WORKPLACE POLICY**, and in accordance therewith has executed **ADDENDUM VIII - DRUG-FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE**.

Furthermore, the Contractor agrees to submit to the Department any report or forms which may from time-to-time be required to determine the Contractor's compliance with this policy.

The Contractor acknowledges that a violation of the Drug-Free Workplace Policy may, at the Department's option, result in termination of this Agreement.

**PAR. 28. PRO-CHILDREN ACT OF 1994 (ACT)**

As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**, and in accordance has executed **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**.

**PAR. 29. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Contractor agrees to abide by **ADDENDUM XI – INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**, and in accordance has executed the required certification included in **ADDENDUM XII – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**.

**PAR. 30. CHIEF PURCHASING OFFICER**

This Agreement shall take effect upon the issuance of a Purchase Order by the State of Rhode Island's Chief Purchasing Officer or his/her designee. No modifications to this agreement shall be effective unless in an authorized change order issued by the State's Division of Purchases.

**PAR. 31. OWNERSHIP**

The following additional paragraphs are added to the Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing.

PROPRIETARY SOFTWARE. Each party will retain all rights in any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the date of this Agreement or acquired

or developed after the date of this Agreement without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third party vendor will be and remain the property of such vendor.

DEVELOPED SOFTWARE. All software that is developed by the Contractor and delivered by the Contractor to the Department under this Agreement and paid for by the Department (“Developed Software”) is and shall remain the property of the Department. For a period of ninety (90) days following acceptance of any developed software in accordance with the approval procedures adopted by the parties, the Contractor warrants that each item of developed software will conform in all material respects to the written technical specifications agreed to by the parties in accordance with the software development methodologies adopted by the parties and set forth in the procedures manual. As soon as reasonably practicable after discovery by State or Contractor of a failure of the Developed Software to so conform (a “**non-conformance**”), State or Contractor, as applicable, will deliver to the other a statement and supporting documentation describing in reasonable detail the alleged nonconformance. If Contractor confirms that there is a non-conformance, then Contractor will use commercially reasonable efforts to correct such non-conformance. The methods and techniques for correcting non-conformances will be at the sole discretion of the Department. The foregoing warranty will not extend to any non-conformances caused (i) by any change or modification to software without Contractor’s prior written consent; or (ii) by state operating software otherwise than in accordance with the applicable documentation, for the purpose for which it was designed, or on hardware not recommended, supplied or approved in writing by Contractor. Furthermore, if, after undertaking commercially reasonable efforts to remedy a breach by Contractor of the foregoing warranty, Contractor, in the exercise of its reasonable business judgment, determines that any repair, adjustment, modification or replacement is not feasible, or in the event that the developed software subsequent to all repairs, adjustments, modifications and replacements continues to fail to meet the foregoing warranty, the Department will return the developed software to Contractor, and Contractor will credit to the State, in a manner and on a schedule agreed to by the parties and as the Department’s sole and exclusive remedy for such failure, an amount equal to the charges actually paid by the Department to the Contractor for the developed software that has failed to meet the foregoing warranty. Upon written request of the Department, the Contractor will use commercially reasonable efforts to correct an alleged non-conformance for which Contractor is not otherwise responsible hereunder because it is caused or contributed to by one of the factors listed above and, to the extent that such correction cannot be performed within the scope of the Contractor services, such correction will be paid for by the Department at the Contractor’s then current commercial billing rates for the technical and programming personnel and other materials utilized by the Contractor. Notwithstanding anything to the contrary in this Agreement, the Contractor will continue to own, and will be free to use, the development tools and the residual technology, so long as such use does not breach Contractor’s obligations of confidentiality set forth herein

OTHER. Notwithstanding anything to the contrary in this Agreement, the Contractor (i) will retain all right, title and interest in and to all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the services hereunder which are based on trade secrets or proprietary

information of the Contractor, are developed or created by or on behalf of the Contractor without reference to or use of the intellectual property of the Department or are otherwise owned or licensed by the Contractor (collectively, “tools”); (ii) subject to the confidentiality obligations set forth in this Agreement, will be free to use the ideas, concepts, methodologies, processes and know-how which are developed or created in the course of performing the services and may be retained by the Contractor’s employees in an intangible form, all of which constitute substantial rights on the part of the Contractor in the technology developed as a result of the services performed under this Agreement; and (iii) will retain ownership of any Contractor-owned software or tools that are used in producing the developed software and become embedded therein. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks or copyrights, except as otherwise expressly provided in this Agreement.

**PAR. 32. FORCE MAJEURE**

Except for defaults of subcontractors at any tier, in the event that any party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of (or if failure to perform the services is caused by) natural disaster, actions or decrees of governmental bodies, or other event or failure not the fault or within control of the affected party (hereinafter referred to as a “Force Majeure Event”), the party who has been so affected shall immediately give notice to the other parties and shall use reasonable efforts to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended

**PAR. 33. RESERVED**

**PAR. 34. DISPUTES**

The parties shall use good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. When a dispute arises between the Department and Contractor, both parties will attempt to resolve the dispute pursuant to this subsection. When a dispute arises, the party initiating the dispute shall notify the other party in writing of the dispute, with the notice specifying the disputed issues and the position of the party submitting the notice. The Department's project officer and Contractor project officer shall use good faith efforts to resolve the dispute within ten (10) State business days of submission by either party to the other of such notice of the dispute.

If the Department's Project Officer and the Contractor’s Project Officer are unable to resolve the dispute, either party may request that the dispute be escalated for resolution to the Director of the Department of Human Services or his or her designee, the Contractor’s President or his or her designee and a mutually agreed upon third party shall attempt to resolve the issue.

If the issue is not resolved, the parties shall proceed pursuant to R.I. General Laws § 37-2-46 and applicable State Procurement Regulations (1.5).

If the issue is not resolved, the parties shall endeavor to resolve their claims by mediation which, shall be administered by the Presiding Justice of the Providence County Superior Court. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the court. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this paragraph, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the State of Rhode Island where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**PAR. 35. GOVERNING LAW**

This Agreement is deemed executed and delivered in the City of Cranston, State of Rhode Island, and all questions arising out of or under this Agreement shall be governed by the laws of the State of Rhode Island.

**PAR. 36. WAIVER AND ESTOPPEL**

Nothing in this Agreement shall be considered waived by any party, unless the party claiming the waiver receives the waiver in writing. No breach of this Agreement is considered to be waived unless the non-breaching party waives it in writing. A waiver of one provision shall not constitute a waiver of any other. A failure of any party to enforce at any time any provisions(s) of this contract, or to exercise any option which is herein provided, shall in no way be construed as a waiver of such provision of this contract. No consent, or excuse by either party, express or implied, shall constitute a subsequent consent, waiver or excuse.

**PAR. 37. INSURANCE**

Throughout the term of the Agreement, the Contractor and any subcontractor shall procure and maintain, at its own cost and expense, insurance as required by the Bid Specifications.

**PAR. 38. WORK REVIEWS**

The Contractor agrees that all work performed under this Agreement may be reviewed by the Rhode Island Department of Human Services, Department of Administration, and/or by any third party designated by the Department of Human Services.

**PAR. 39. BUSINESS CONTINUITY PLAN**

The Contractor shall prepare and maintain a Business Continuity Plan upon execution of this Agreement, which shall include, but not be limited to, the Contractor's procedure

for recovery of data and recovery for all operation components in case of an emergency or disaster. Upon written or oral request by the Department, the Contractor shall provide the Department a copy of the above described Business Continuity Plan within ten (10) days of the Department's request.

**PAR. 40. NOTICES**

No notice, approval or consent permitted or required to be given by this Agreement will be effective unless the same is in writing and sent postage prepaid, certified mail or registered mail, return receipt requested, or by reputable overnight delivery service to the other party at the address set forth in **ADDENDUM XVII – CORE STAFF POSITIONS**, or such other address as either party may direct by notice given to the other as provided **ADDENDUM XVII – CORE STAFF POSITIONS**, and shall be deemed to be given when received by the addressee. The Contractor and the Department shall list, in **ADDENDUM XVII – CORE STAFF POSITIONS**, the names, addresses, email addresses, telephone numbers, and the facsimile numbers of all individuals that the above such notice, approval or consent shall be sent to or copied on. The Parties agree to update any changes to the designated notice recipients, in writing pursuant to the terms outlined in **PARAGRAPH 40**.

**PAR. 41. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages and the parties will follow such delivery by prompt delivery of originals of such pages.

**PAR. 42. AMENDMENTS**

Except as may otherwise set forth in this Agreement, the Agreement may only be amended by the parties agreeing to the amendment, in writing, duly executed by the parties and shall only be effective upon incorporation by the State's Division of Purchases through the issuance of a change order.

**PAR. 43. SURVIVAL**

Any obligations and provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement, including but not limited to safeguarding confidential information and indemnification, shall survive the expiration or termination of this Agreement.

**PAR. 44. ADDITIONAL APPROVALS**

The parties acknowledge that this Agreement requires issuance of a valid Purchase Order by the State of Rhode Island for this Agreement to remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have hereunder set their hands as of the date first above written and this Agreement made legally binding upon the issuance of a valid Purchase Order by the State of Rhode Island as follows:

**STATE OF RHODE ISLAND:**

**\*\*\*INSERT CONTRACTOR NAME\*\*\*:**

\_\_\_\_\_  
Courtney E. Hawkins, Director  
R.I. Department of Human Services

\_\_\_\_\_  
AUTHORIZED AGENT/SIGNATURE  
TITLE: \_\_\_\_\_

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

## ADDENDA

Attached hereto, incorporated into and made a part herein of this Agreement, are the following addenda:

<b><u>ADDENDUM I</u></b> -	<b>REQUEST FOR PROPOSAL AND/OR SCOPE OF WORK</b>
<b><u>ADDENDUM II</u></b> -	<b>BUDGET</b>
<b><u>ADDENDUM III</u></b> -	<b>PAYMENTS AND REPORTS SCHEDULE</b>
<b><u>ADDENDUM IV</u></b> -	<b>FISCAL ASSURANCES</b>
<b><u>ADDENDUM V</u></b> -	<b>NOTICE TO EXECUTIVE OF HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964</b>
<b><u>ADDENDUM VI</u></b> -	<b>NOTICE TO DEPARTMENT OF HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973</b>
<b><u>ADDENDUM VII</u></b> -	<b>DRUG-FREE WORKPLACE POLICY</b>
<b><u>ADDENDUM VIII</u></b> -	<b>DRUG FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE</b>
<b><u>ADDENDUM IX</u></b> -	<b>SUBCONTRACTOR COMPLIANCE</b>
<b><u>ADDENDUM X</u></b> -	<b>CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE</b>
<b><u>ADDENDUM XI</u></b> -	<b>INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS</b>
<b><u>ADDENDUM XII</u></b> -	<b>CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS</b>
<b><u>ADDENDUM XIII</u></b> -	<b>LIQUIDATED DAMAGES</b>
<b><u>ADDENDUM XIV</u></b> -	<b>EQUAL EMPLOYMENT OPPORTUNITY</b>
<b><u>ADDENDUM XV</u></b> -	<b>BYRD ANTI-LOBBYING AMENDMENT</b>
<b><u>ADDENDUM XVI</u></b> -	<b>BID PROPOSAL</b>
<b><u>ADDENDUM XVII</u></b> -	<b>CORE STAFF POSITIONS</b>
<b><u>ADDENDUM XVIII</u></b> -	<b>FEDERAL SUBAWARD REPORTING</b>

**ADDENDUM XIX -**

**BUSINESS ASSOCIATE AGREEMENT**

**ADDENDUM I**

**REQUEST FOR PROPOSAL /  
SCOPE OF WORK**

**ADDENDUM II**

**BUDGET**

**ADDENDUM III**  
**PAYMENTS AND REPORTS**  
**SCHEDULE**

**ADDENDUM IV  
FISCAL ASSURANCES**

1. The Contractor agrees to segregate all receipts and disbursements pertaining to this agreement from recipients and disbursements from all other sources, whether by separate accounts or by utilizing a fiscal code system.
2. The Contractor assures a system of adequate internal control will be implemented to ensure a separation of duties in all cash transactions.
3. The Contractor assures the existence of an audit trail which includes: cancelled checks, voucher authorization, invoices, receiving reports, and time distribution reports.
4. The Contractor assures a separate subsidiary ledger of equipment and property will be maintained.
5. The Contractor agrees any unexpended funds from this agreement are to be returned to the Department at the end of the time of performance unless the Department gives written consent for their retention.
6. The Contractor assures insurance coverage is in effect in the following categories: bonding, vehicles, fire and theft, and liability.
7. The following Federal requirements shall apply pursuant to OMB Guidance for Grants and Agreements. Where applicable:
  - Subpart A - Acronyms and Definitions (200.0 – 200.99)
  - Subpart B – General Provisions (200.100 – 200.113)
  - Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards (200.200 – 200.211)
  - Subpart D – Post Federal Award (200.300 – 200.345)
  - Subpart E – Cost Principles (200.400 – 200.475)
  - Subpart F – Audit Requirements(200.500 – 200.521)
  - All Subsequent Addenda
8. If the Contractor expends Federal awards during the Contractor's particular fiscal year of \$750,000 or more, then 2 CFR § 200.500 et. seq., audits of states, local governments and non-profit organizations shall also apply or if applicable, an audit shall be performed in accordance with "Government Auditing Standards" as published by the Comptroller General of the United States (see Paragraph 24).
9. This agreement may be funded in whole or in part with Federal funds. If so, the CFDA reference number is \_\_\_\_\_. The Contractor must review applicable Federal Statutes, regulations, terms and conditions of the Federal Award in accordance with 2 CFR § 200.331 (a)(2).

## **ADDENDUM V**

### **RHODE ISLAND DEPARTMENT OF HUMAN SERVICES**

#### **NOTICE TO DEPARTMENT OF HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the Rhode Island Department of Human Services (DHS) are subject to the provisions of Title VI of the Civil Rights Act of 1964 and the implementing regulations of the United States Department of Health And Human Services (DHHS), which is located at 45 CFR, Part 80, collectively referred to hereinafter as Title VI. DHS contracts with Contractors include a Contractor's assurance that in compliance with Title VI and the implementing regulations, no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in its programs and activities on the grounds of race, color, or national origin. Additional DHHS guidance is located at 68 FR 47311-02.

DHS reserves its right to at any time review Contractors to assure that they are complying with these requirements. Further, DHS reserves its right to at any time require from Contractors, Sub-Contractors and Vendors that they are also complying with Title VI.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Title VI. An electronic copy of the service providers written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to DHS upon request.

The Contractor's written compliance plan must address the following requirements:

- ❑ Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Title VI standards.
- ❑ Designation of a compliance officer who is accountable to the service provider's senior management.
- ❑ Effective training and education for the compliance officer and the organization's employees.
- ❑ Enforcement of standards through well-publicized guidelines.
- ❑ Provision for internal monitoring and auditing.
- ❑ Written complaint procedures
- ❑ Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- ❑ Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Title VI.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to it, DHHS or DHS on request full and complete information related to Title VI compliance.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS or DHS, full and complete information on Title VI compliance by the Contractor and/or any Sub-Contractor or Vendor of the Contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Title VI regulations. A copy of the regulations is available upon request from the **Department of Human Services**, 57 Howard Avenue, Cranston, RI 02920; telephone number: (401) 462-2121.

**THE REGULATIONS ADDRESS THE FOLLOWING TOPICS:**

**SECTION:**

80.1	PURPOSE
80.2	APPLICATION OF THIS REGULATION
80.3	DISCRIMINATION PROHIBITED
80.4	ASSURANCES REQUIRED
80.5	ILLUSTRATIVE APPLICATION
80.6	COMPLIANCE INFORMATION
80.7	CONDUCT OF INVESTIGATIONS
80.8	PROCEDURE FOR EFFECTING COMPLIANCE
80.9	HEARINGS
80.10	DECISIONS AND NOTICES
80.11	JUDICIAL REVIEW
80.12	EFFECT ON OTHER REGULATIONS; FORMS AND INSTRUCTIONS
80.13	DEFINITION

## ADDENDUM VI

### RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

#### NOTICE TO RHODE ISLAND DEPARTMENT OF HUMAN SERVICES' CONTRACTORS OF THEIR RESPONSIBILITIES UNDER SECTION USC 504 OF THE REHABILITATION ACT OF 1973

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the **Rhode Island Department of Human Services (DHS)** are subject to the provisions of Section 504 of the Rehabilitation Act of 1973 and the Implementing Regulations of the United States Department of Health And Human Services (DHHS), which are located at 45 CFR, part 84 hereinafter collectively referred to as Section 504. DHS contracts with service providers include the provider's assurance that it will comply with Section 504 of the regulations, which prohibits discrimination against handicapped persons in providing health, welfare, or other social services or benefits.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Section 504. An electronic copy of the Contractor's written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to DHS upon request.

The Contractor's written compliance plan must address the following requirements:

- ❑ Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Section 504 standards.
- ❑ Designation of a compliance officer who is accountable to the service provider's senior management.
- ❑ Effective training and education for the compliance officer and the organization's employees.
- ❑ Enforcement of standards through well-publicized guidelines.
- ❑ Provision for internal monitoring and auditing.
- ❑ Written complaint procedures
- ❑ Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- ❑ Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Section 504.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to the contractor, DHHS or DHS on request full and complete information related to Section 504 compliance.

The contractor must submit, within thirty-five (35) days of the date of a request by DHHS or DHS, full and complete information on Section 504 compliance by the Contractor and/or any Sub-Contractor or Vendor of the contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Section 504 regulations. A copy of the regulations, together with an August 14, 1978 Policy Interpretation of General Interest to Providers of Health, Welfare, or Other Social Services or Benefits, is available

upon request from the **Department of Human Services**, 57 Howard Avenue, Cranston, RI 02920; telephone number (401) 462-2121.

Contractors should pay particular attention to subparts A, B, C, and F of the regulations which pertain to the following:

#### **SUBPART A - GENERAL PROVISIONS**

##### **SECTION:**

- 84.1 PURPOSE
- 84.2 APPLICATION
- 84.3 DEFINITIONS
- 84.4 DISCRIMINATION PROHIBITED
- 84.5 ASSURANCE REQUIRED
- 84.6 REMEDIAL ACTION, VOLUNTARY ACTION, AND SELF-EVALUATION
- 84.7 DESIGNATION OF RESPONSIBLE EMPLOYEE AND ADOPTION OF GRIEVANCE PROCEDURES
- 84.8 NOTICE
- 84.9 ADMINISTRATIVE REQUIREMENTS FOR SMALL RECIPIENTS
- 84.10 EFFECT OF STATE OR LOCAL LAW OR OTHER REQUIREMENTS AND EFFECT OF EMPLOYMENT OPPORTUNITIES

#### **SUBPART B - EMPLOYMENT PRACTICES**

##### **SECTION:**

- 84.11 DISCRIMINATION PROHIBITED
- 84.12 REASONABLE ACCOMMODATION
- 84.13 EMPLOYMENT CRITERIA
- 84.14 PREEMPLOYMENT INQUIRIES
- 84.15 - 84.20 (RESERVED)

#### **SUBPART C - ACCESSIBILITY**

##### **SECTION:**

- 84.21 DISCRIMINATION PROHIBITED
- 84.22 EXISTING FACILITIES
- 84.23 NEW CONSTRUCTION
- 84.24 - 84.30 (RESERVED)

#### **SUBPART F - HEALTH, WELFARE, AND SOCIAL SERVICES**

##### **SECTION:**

- 84.51 APPLICATION OF THIS SUBPART
- 84.52 HEALTH, WELFARE, AND OTHER SOCIAL SERVICES
- 84.53 DRUG AND ALCOHOL ADDICTS
- 84.54 EDUCATION AND INSTITUTIONALIZED PERSONS
- 84.55 PROCEDURES RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS
- 84.56 – 84.60 (RESERVED)

## ADDENDUM VII

### DRUG-FREE WORKPLACE POLICY

Drug use and abuse at the workplace or while on duty are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. From a safety perspective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to property. Therefore, it is the policy of the state that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace. Any employee(s) violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for a conviction involving illicit drug use, regardless of whether the employee's conduct was detected within employment hours or whether his/her actions were connected in any way with his or her employment. The specifics of this policy are as follows:

1. Any unauthorized employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on duty, regardless of whether the employee is on or off the premises of the employer will be subject to discipline up to and including termination.
2. The term "controlled substance" means any drugs listed in 21 USC, Section 812 and other Federal regulations. Generally, all illegal drugs and substances are included, such as marijuana, heroin, morphine, cocaine, codeine or opium additives, LSD, DMT, STP, amphetamines, methamphetamines, and barbiturates.
3. Each employee is required by law to inform the agency within five (5) days after he/she is convicted for violation of any Federal or State criminal drug statute. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any Federal or State Court.
4. The employer (the hiring authority) will be responsible for reporting conviction(s) to the appropriate Federal granting source within ten (10) days after receiving notice from the employee or otherwise receives actual notice of such conviction(s). All conviction(s) must be reported in writing to the Office of Personnel Administration (OPA) within the same time frame.
5. If an employee is convicted of violating any criminal drug statute while on duty, he/ she will be subject to discipline up to and including termination. Conviction(s) while off duty may result in discipline or discharge.
6. The state encourages any employee with a drug abuse problem to seek assistance from the Rhode Island Employee Assistance Program (RIEAP). Your Personnel Officer has more information on RIEAP.
7. The law requires all employees to abide by this policy.

**ADDENDUM VIII  
DRUG-FREE WORKPLACE POLICY  
CONTRACTOR CERTIFICATE OF COMPLIANCE**

I, \_\_\_\_\_, (Name) \_\_\_\_\_ (Title) \_\_\_\_\_ (Contractor Name), a contractor doing business with the state of Rhode Island, hereby acknowledge that I have received a copy of the state's policy regarding the maintenance of a **Drug-Free Workplace**. I have been informed that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance (to include but not limited to such drugs as marijuana, heroin, cocaine, PCP, and crack, and may also include legal drugs which may be prescribed by a licensed physician if they are abused), is prohibited on the State's premises or while conducting State business. I acknowledge that my employees must report for work in a fit condition to perform their duties.

As a condition for contracting with the state, as a result of the Federal Omnibus Drug Act, I will require my employees to abide by the state's policy. Further, I recognize that any violation of this policy may result in termination of the contract.

**SIGNATURE:**

\_\_\_\_\_

**TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

**ADDENDUM IX**

**SUBCONTRACTOR COMPLIANCE**

I, \_\_\_\_\_ (Name), \_\_\_\_\_ (Title), \_\_\_\_\_ (Contractor Name), a contractor doing business with the state of Rhode Island, hereby certify that all approved subcontractors performing services pursuant to this agreement will have executed written contracts with (\*\*CONTRACTOR NAME\*\*). All such contracts shall contain language identical to the following provisions of this agreement as follows:

**PAR. 12. CONTRACTOR’S LIABILITY/INDEMNIFICATION**

**PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

**PAR. 18. FEDERAL FUNDING PROVISIONS**

**SIGNATURE:**

\_\_\_\_\_

**TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

**ADDENDUM X**

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, Part c - Environmental Tobacco Smoke (20 U.S.C.A. § 6081-6084), also known as the Pro-Children Act of 1994 (**Act**), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through state or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Director. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred.

By signing and submitting this application the applicant/contractor certifies that it will comply with the requirements of the Act. The applicant/contractor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-contractors shall certify accordingly.

**SIGNATURE:**

\_\_\_\_\_

**TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

## ADDENDUM XI

### INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

#### PRIMARY COVERED TRANSACTIONS

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Department. The Department may terminate this transaction for cause or default.
3. The prospective primary participant shall provide immediate written notice to the Department if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the definitions and coverage sections of the rules implementing Executive Order 12549.
5. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled certification regarding debarment, suspension, ineligibility and voluntary exclusion - lower tier covered transactions, provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the

certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement list (of excluded parties).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by as prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.

**ADDENDUM XII**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

The contractor, as the primary participant, certifies to the best of the contractor’s knowledge and belief, that the contractor and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three (3) year period preceding this proposal been convicted of 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 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. Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.

**SIGNATURE:**

\_\_\_\_\_

**TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

## ADDENDUM XIII

### LIQUIDATED DAMAGES

The prospective primary participant contractor agrees that time is of the essence in the performance of certain designated portions of this contract. The Department and the contractor agree that in the event of a failure to meet the milestones and project deliverable dates or any standard of performance within the time set forth in the Department 's bid proposal and the contractor's proposal response (Addendum XVI), damage shall be sustained by the Department and that it may be impractical and extremely difficult to ascertain and determine the actual damages which the Department will sustain by reason of such failure. It is therefore agreed that Department, at its sole option, may require the contractor to pay liquidated damages for such failures with the following provisions:

1. Where the failure is the sole and exclusive fault of the Department, no liquidated damages shall be imposed. To the extent that each party is responsible for the failure, liquidated damages shall be reduced by the apportioned share of such responsibility.
2. For any failure by the contractor to meet any performance standard, milestone or project deliverable, the Department may require the contractor to pay liquidated damages in the amount(s) and as set forth in the state's general conditions of purchase as described particularly in the LOI, RFP, RFQ, or scope of work, however, any liquidated damages assessed by the Department shall not exceed **10%** of the total amount of any such month's invoice in which the liquidated damages are assessed and shall not in the aggregate, over the life of the agreement, exceed the total contract value.

Written notification of failure to meet a performance requirement shall be given by the Department 's project officer to the contractor's project officer. The contractor shall have a reasonable period designated by the Department from the date of receipt of written notification. If the failure is not materially resolved within this period, liquidated damages may be imposed retroactively to the date of expected delivery.

In the event that liquidated damages have been imposed and retained by the Department, any such damages shall be refunded, provided that the entire system takeover has been accomplished and approved by the Department according to the original schedule detailed in the contractor's proposal response included in this contract (Addendum XVI) as modified by mutually agreed upon change orders.

To the extent liquidated damages have been assessed, such damages shall be the sole monetary remedy available to the Department for such failure. This does not preclude the state from taking other legal action.

## ADDENDUM XIV

### EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this agreement, the contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment relating to this agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated equally during employment, without regard to their race, color, religion, sex, age, national origin, or physical or mental disability.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

2. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the contractor relating to this agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.
3. The Contractor shall inform the contracting Department's equal employment opportunity coordinator of any discrimination complaints brought to an external regulatory body (RI Ethics Commission, RI Department of Administration, US DHHS Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
4. The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
5. Contractors and subcontractors with agreements in excess of \$50,000 shall also pursue in good faith affirmative action programs.
6. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**ADDENDUM XV**

**BYRD ANTI-LOBBYING AMENDMENT**

No Federal or State appropriated funds shall be expended by the contractor for influencing or attempting to influence an officer or employee of any agency, a member of congress or State Legislature, an officer or employee of congress or state legislature, or an employee of a member of congress or state legislature in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this agreement fulfills the requirement that contractors receiving over \$100,000 in Federal or State funds file with the Department on this provision.

If any Non-Federal or State Funds have been or will be paid to any person in connection with any of the covered actions in this provision, the Contractor shall complete and submit a "Disclosure of Lobbying Activities" form.

The Contractor must certify compliance with all terms of the Byrd Anti-Lobbying Amendment (31 U.S.C 1352) as published in the Federal Register May 27, 2003, Volume 68, Number 101.

The Contractor hereby certifies that it will comply with Byrd Anti-Lobbying Amendment provisions as defined in 45 CFR Part 93 and as amended from time to time.

**SIGNATURE:**

\_\_\_\_\_

**TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

**ADDENDUM XVI**

**BID PROPOSAL**

**ADDENDUM XVII**  
**CORE STAFF POSITIONS**

**Department's Project Officer:**

**Department's Financial Officer:**

**Contractor's Project Officer:**

**Contractor's Financial Officer:**

## ADDENDUM XVIII

### FEDERAL SUBAWARD REPORTING FFATA FORM

See Attached RI Office of Management and Budget, Sub-Award Reporting Worksheet

#### **Directions:**

For contracts awarding more than \$25,000 in FEDERAL funds, include Transparency Act Questionnaire for agency to complete and return.

If award is not for Federal funds, or is for less than \$25,000, enter “Reserved” under the above heading, and no questionnaire should be provided.

#### IMPORTANT ITEMS TO NOTE ABOUT NEW REQUIREMENT

The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282, as amended by section 6202(a) of P.L. 110-252) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains current information on all Federal spending awards. That site is at [www.USASpending.gov](http://www.USASpending.gov).

- Includes both mandatory and discretionary grants
- Do not include grants funded by the Recovery Act (ARRA)
- For more information about Federal Spending Transparency, refer to <http://www.whitehouse.gov/omb/open>
- If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award will be subject to the reporting requirements, as of the date the award exceeds \$25,000
- If the initial award equals or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency ACT and this Guidance

**Rhode Island Office of Management & Budget  
Sub-Award Reporting Worksheet**

Rev. 06-2014

Please type or print clearly in black or blue ink, answer all questions, and sign and date the form.

Section 1: State Agency and Federal Award Information													
Agency Contact Name				Agency Contact Telephone									
Sub-Award Program Name				Agency Contact Email									
Sub-Award Program Description													
Federal Award Information													
Federal Program Name				Federal Awarding Agency									
Federal Award Number				Date of Federal Award									
Award Type				CFDA Number									
Prime Agency DUNS +4				Amount Obligated from this Award									
Is sub-award funded by more than one federal award?										Yes *		No	

\* If yes, use Attachment 1-A to provide information on additional federal awards funding this sub-award.

Section 2: Sub-Awardee Information													
Sub-Awardee DUNS+4				System for Award Management Registration Expiration Date (if applicable)									
Sub-Awardee Name (as registered in DUNS)													
Sub-Awardee Address (as registered in DUNS)						Sub-Award Principal Place of Performance (where work performed)							
Number and Street			City			Number and Street			City				
State			ZIP+4			State			ZIP+4				
Executive Compensation† (to be completed by sub-awardee)													
In preceding fiscal year, did federal funds from all sources make up more than 80% of agency budget? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.										Yes		No	
In preceding fiscal year, did your agency receive more than \$25 million in federal funds? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.										Yes		No	
Is information about the compensation of the senior executives in the sub-recipient's organization (including parent organization, all branches, and all affiliates worldwide) publicly available? If no, report executive compensation for five highest paid officials below.										Yes		No	
Official Name				Compensation Amount									
Official Name				Compensation Amount									
Official Name				Compensation Amount									
Official Name				Compensation Amount									
Official Name				Compensation Amount									

† See Federal Register Volume 75, No. 177, Appendix A, Paragraph E5 for guidance on reporting executive compensation.

Sub-Awardee Certification											
I certify, to the best of my knowledge and belief, that the information provided is complete and accurate, and that I am authorized to sign contracts and other legally binding documents on behalf of the entity. I understand that my typed name below shall have the same force and effect as my written signature.											
_____				_____				_____			
Signature				Title of Signatory				Date			

Section 3: Sub-Award Information (for state agency administrative purposes only)											
Sub-Award Number				Sub-Award Date				FFATA Report Month			
Amendment 1 Obligation Amount				Amendment 1 Date				FFATA Report Month			
Amendment 2 Obligation Amount				Amendment 2 Date				FFATA Report Month			