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| **Contract** | | **Contract : ER11017** |
|  | **Missouri Department of Social Services**  **Division of Finance & Administrative Services**  **Purchasing Unit**  **P.O. Box 1643**  **Jefferson City, MO 65102** | ***Title:* Low Income Home Energy Assistance Program**  ***Contract Period****:*  October 1, 2016 through September 30, 2017 |

*The Department of Social Services desires to contract for the services described herein. All terms, conditions, and prices contained herein shall govern the performance of this contract.*

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| --- |
| **Contractor Information:** |

Contractor Name:

Mailing Address:

City, State Zip:

|  |  |  |  |
| --- | --- | --- | --- |
| *Contact Person Name and Title:* |  | |  |
| *Contact Person E-Mail Address:* |  | |  |
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*The undersigned hereby agrees to provide the services and/or items, at the prices stated, pursuant to the requirements of this document and further agrees that when this document is countersigned by an authorized official of the Missouri Department of Social Services, a binding contract shall exist between the contractor and the Department of Social Services.*

*The authorized signer of this document certifies that the contractor (named below) and each of its principals (as defined by 45 CFR 76) are not suspended or debarred by the federal government.*

***In witness thereof, the parties below hereby execute this agreement.***

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Authorized Signature for the Contractor: Name and Title: Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature for the Date

Department of Social Services

## 1 Introduction and Background Information

1.1 The Missouri Department of Social Services (Department) hereby enters into this contract with the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(contractor) for the purchase of Low Income Home Energy Assistance Program (LIHEAP) services, in accordance with requirements stated herein.

1.2 The Department issues contracts for these services under the authority of an Expenditure Registration System (ERS110) issued to the Department by the State Office of Administration.

1.3 The Department provides funding under this agreement as authorized under the Low Income Home Energy Assistance Act of 1981 administered through the U.S. Department of Health and Human Services. The program distributes funding to states to assist low income individuals, particularly those with the lowest income, who pay a high proportion of household income for home energy in meeting their immediate energy needs. The legal authority to implement the Low Income Home Energy Assistance Program (LIHEAP) is vested in the Missouri Department of Social Services (DSS) under Omnibus Budget Reconciliation Act of 1981 (Public Law (P.L.) 97-35) as amended by the Human Services Reauthorization Acts of 1984 (P.L. 98-558), 1986 (P.L. 99-425), 1990 (P.L. 101-502), 1994 (P.L. 103-252), 1998 (P.L. 105-285), and Subtitle B of the Energy Policy Act of 2005 (Public Law 109-58).

1.4 LIHEAP is designed to provide help to low income households targeting the elderly, disabled and households with young children, as insufficient heating and cooling can cause health and safety issues for those living in these homes.

1.5 The contract period shall be from October 1, 2016 through September 30, 2017.

**2 General Performance Requirements**

2.1The contractor shall provide services in accordance with the provisions and requirements stated herein. Services funded by the Department shall consist only of those services described herein.

2.2 The contractor shall coordinate all agreement activities with designated representatives of the Department.

2.3 Within five (5) business days of agreement award, the contractor shall provide the Department with the name, address, e-mail address, and telephone number of the contractor’s representative servicing the agreement.

a. The contractor understands that electronic mail (e-mail) will be used to transmit documents and other correspondence from the Department to the contractor. It shall be the responsibility of the contractor to ensure the timely review and response to e-mailed documents.

2.4 **Contractor’s Personnel**

2.4.1 The Contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), P.L. 104-208, 110 Stat. 3009, and INA Section 274A (8 U.S.C. §1324a).

a. If the Contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the Contractor from doing business with the state. The state may also withhold up to twenty-five percent (25%) of the total amount due to the Contractor.

b. The Contractor shall fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

2.4.2 If the Contractor meets the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo the Contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the Contractor’s business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then the contractor shall, prior to the performance of any services as a business entity under the contract:

a. Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; and

b. Provide to the Department the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company’s/individual’s enrollment and participation in the E-Verify federal work authorization program; and

c. Submit to the Department a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

2.5 **Subcontractors:** Pursuant to subsection 1 of section 285.530, RSMo no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with sections 285.525 to 285.550, RSMo a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor agreements with its direct subcontractor who violates subsection 1 of section 285.530, RSMo if the agreement binding the contractor and subcontractor affirmatively states that:

a. the direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo and

b. shall not henceforth be in such violation, and

c. the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor’s employees are lawfully present in the United States.

2.6 **Affidavit of Work Authorization and Documentation:** Pursuant to section 285.530, RSMo, if the contractor meets the section 285.525, RSMo definition of a “business entity” (<http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex285.html>), the contractor must affirm the contractor’s enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein. The contractor shall complete applicable portions of Exhibit # 2, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of Exhibit # 2 must be submitted prior to an award of an agreement.

2.7 **Debarment Certification:**

2.7.1 The contractor certifies by signing the signature page of this original document and any amendment signature page(s) that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation, or otherwise excluded from or ineligible for participation under federal assistance programs.

2.7.2 The contractor must complete and submit Exhibit #3, Certification Regarding Debarment, prior to award of agreement.

2.8 **Business Associate Provisions:** The Department is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. Therefore, the contractor shall be a “Business Associate” of the Department as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103 and the contractor shall comply with the provisions of the Business Associate Agreement attached hereto as Attachment A. For purposes of the Business Associates Agreement, the term "contractor" shall refer to the contractor.

2.9 **Subrecipient of Federal Funds:**

2.9.1 For the purposes of this contract, the Contractor has been determined to be a subrecipient of federal funds.

2.9.2 The Contractor shall comply with the Federal Funds Subrecipient Requirements, attached hereto as Attachment B.

2.9.3 As used in Attachment B, the term “subrecipient” shall refer to the contractor and the term “state agency” shall refer to the Department.

**3 Specific Performance Requirements**

3.1 **Definitions and Program Requirements:** For purposes of this agreement, the definitions listed below shall apply:

a. Administrative Services: Funding expended by the contractor under the terms of this contract shall be used for, but not limited to, salaries, fringe benefits, travel, rent, equipment, supplies, and utility costs incurred on behalf of staff members engaged in the activities listed below and contained in the LIHEAP Policy and Procedures Manual:

1. The cost of program planning activities;
2. The cost of taking an application for assistance;
3. The cost of determining an applicant’s eligibility for assistance;
4. The cost of issuing payment to home energy suppliers on behalf of eligible program recipients; and
5. The cost of outreach activities to educate the general public about availability of and need for assistance.

b. Crisis**:** *(for determination of* Energy Crisis Intervention Program *(ECIP) Eligibility)*

1. The receipt of a termination or disconnect notice indicating a specific disconnect date;

2. The issuance of a final billing statement advising the account has been terminated;

3. A situation in which a propane tank is filled at less than twenty-percent (20%) capacity;

4. A situation in which the customer is a cash on delivery (COD) customer; or

5. A situation in which a pre-paid electric customer indicates their pre-paid usage is about to run out.

c. Emergency Services:Services available through ECIP funds for emergency repairs or purchases needed to maintain or restore eligible customer’s heating and/or cooling. Services include central air replacement/repair, furnace replacement/repair, blankets, emergency lodging, air conditioners – window and portable units, purchasing wood stoves and weatherization materials not covered under the Low Income Weatherization Assistance Program (LIWAP) which include repairing broken windows, and purchasing caulking and weather stripping.

d. Energy Assistance (EA): Provides a direct one (1) time lump sum payment of utility costs incurred for home heating by qualified Missouri residents continuing so long as funds remain available for this purpose. EA may include additional supplemental payments as determined necessary by the department.

e. Energy Crisis Intervention Program (ECIP):Provides direct payment of utility costs incurred for home heating and cooling by qualified Missouri residents experiencing a crisis, as defined in the Code of State Regulations, so long as funds remain available for this purpose.

f. Family Automated Management Information System (FAMIS): The Family Support Division’s eligibility/case management system for families in need of assistance.

g. Federal Fiscal Year (FFY):The time period from October 1st through September 30th, in which the program operates.

h. Non-Participating Supplier: Utility Company that does not have an agreement with the Department to accept utility assistance payments.

i. Outreach and Education:Activities conducted by contractor to educate the general public about the availability of, and need for utility assistance. Services include, Energy Workshops and Seminars, materials for such, Public Service Announcement development, and brochures. Ineligible services include stipends to attend workshops or seminars, space heaters, fans, air conditioners, hats or gloves.

j. Participating Supplier: Shall be defined as suppliers that sign an agreement with the Department.

k. Summer ECIP: Financial assistance to restore or prevent disconnection of LIHEAP eligible customer’s service of a cooling energy source for at least thirty (30) calendar days during the summer months. Summer ECIP is available from June through September, based on funding. Benefit amount is the amount required to resolve crisis, with a maximum benefit of $300.

l. Supplier: A public or private business public or private investor-owned utilities, municipally-owned utilities, rural electric cooperatives and privately-owned distributorships engaged primarily in the retail sale of home heating and cooling fuel, to the general public within a given geographic area.

m. Supplemental Payment: An additional EA payment made to identified applicants during a program year pending Department receipt of additional funding.

n. Low Income Weatherization Assistance Program (LIWAP): The program, administered through the Department of Economic Development, provides cost-effective energy-efficient home improvements to Missouri's low income households, especially the elderly, children, individuals with physical disadvantages, and others hit hardest by high utility costs. The program aims to lower utility bills and improve comfort while ensuring health and safety.

o. Winter ECIP: Financial assistance to restore or prevent disconnection of LIHEAP eligible customer’s service for at least thirty (30) calendar days when the amount of assistance available through EA and any other state or local program is not adequate to secure this commitment from the supplier. Winter ECIP is available from November through May, based on funding. Benefit amount is the amount required to resolve crisis, with a maximum benefit of $800.

3.2 **Objectives/Outcomes**

3.2.1 LIHEAP is made up of Energy Assistance (EA) and the Energy Crisis InterventionProgram (ECIP). Eligibility requirements are based on income, householdsize, available resources and responsibility for payment of home energy costs.

3.3 **Work Plan Requirements**

3.3.1 The grantee shall implement the provisions of this agreement in accordance with the LIHEAP Work Plan attached hereto as Attachment 1 that shall become a part of this agreement as if fully set forth herein and said funding shall be expended pursuant to the established budget included in the same attachment.

3.3.2 On an annual basis, prior to any contract renewal, the contractor shall submit a draft work plan for Department approval. The due date for the draft work plan shall be specified by the Department in writing and that due date shall be incorporated into this contract as if the same were set out at length herein.

3.3.3 The Department may require the contractor to develop and submit a new or revised work plan at other times throughout the life of this contract. The contractor shall prepare and submit all such future work plans as requested by the Department, within the timeframes specified by the Department in writing and that writing shall be incorporated into this contract as if the same were set out at length herein.

3.3.4 No funding shall be released to the contractor until the contractor's work plan has received final, written approval by the Department.

3.4 **Program Services: General**

3.4.1 The contractor shall provide services in accordance with Department approved work plan.

3.4.2 The contractor shall provide services in a manner consistent with the provisions of the FFY LIHEAP Detailed Model State Plan These documents can be found at the following website: http://dss.mo.gov/fsd/liheap.htm.

3.4.3 The contractor shallnotify the Department in writing at least thirty (30) calendar days in advance of any proposed changes in the program which will affect the program scope, objectives, method, activities, services, or frequency of service delivery. The contractor shall not implement proposed changes without the prior, written consent of the Department.

3.4.4 The contractor shall notify the Department in writing of any changes in the executive staff and LIHEAP staff within fifteen (15) calendar days of such change and include the reason for the change.

3.4.5 The contractor shall keep an accurate inventory and depreciation schedule for all assets, equipment, computer equipment, software and other real and personal property purchased that costs $5,000 or more that is purchased with any portion of LIHEAP funds. The inventory shall also include specific information as to the disposition of all assets that have been transferred, sold or otherwise disposed of, the manner of the disposition, the consideration received for the disposal of the assets and the reason therefore.

3.4.6 All LIHEAP purchased assets shall only be utilized for carrying out the business of LIHEAP.

3.5 **Program Services: Eligibility**

3.5.1 The contractor shall provide eligibility determination for program participation in accordance with applicable state statutes, federal regulations and the Department’s current FFY LIHEAP Policy and Procedures Manual found at the following website: <http://dss.mo.gov/fsd/liheap.htm>

3.5.2 The Contractor shall provide LIHEAP training, in accordance with the current FFY LIHEAP Policy and Procedures Manual, for all staff and provide the Family Support Division (FSD) with documentation that staff attended this training.

3.5.3 The contractor shall require each of the contractor's personnel who will be determining eligibility to complete and submit the following to the Department prior to providing services:

a. Security Access form;

b. Forms FA701, and FA702 to request access to FAMIS information; and

c. Confidentiality agreement.

3.5.4 The Department shall make available to the contractor the Department's agreement with the Social Security Administration (SSA) to obtain information for determination of eligibility of LIHEAP. The contractor shall comply with all terms and requirements of the agreement, including management oversight of online access to information.

1. The contractor shall utilize SSA information only for LIHEAP eligibility determination and no other purpose.

3.5.5 Information Security Management: The Contractor will protect the integrity, confidentiality and availability of its computer information system, application and data by September 30, 2017.

a. The Contractor will ensure appropriate physical security measures and access controls are implemented to safeguard information systems and data from unauthorized physical access including the following:

1. Workstations, printers, removable storage devices and file cabinets should be secure and protected from unauthorized access.
2. Rooms containing servers, shared drives, connector panels and modems should be kept in a temperature controlled and locked room. Access to this room will be restricted to limited personnel only, to prevent unauthorized access.
3. Technical procedures must be implemented for the nightly back-up and restoration of LIHEAP information which includes encryption before transferring information off site. Storage of back-up data is to be secured in a location at least thirty (30) miles from original server, shared drive, connector panel or modem.

b. The contractor will ensure appropriate security measure and access controls be implemented to safeguard information systems and data from unauthorized software access including the following:

1. Desktops and personal laptops will be password protected and, prompt users through system administration capabilities, to update passwords at least once every 90 days.

2. Users will create their own passwords and not disclose their passwords to anyone, regardless of position title, under any circumstance.

3. Users will not be allowed to use their previous five (5) passwords when changing their password.

4. User identification (ID) will revoke after five (5) incorrect password attempts and will require the password be reset by system administrator.

5. After fifteen (15) minutes of inactivity, desktops should be set to log off and require the users to re-enter passwords before access is re-established. Extended periods of user ID inactivity will result in termination of access.

6. Upon employee termination from the agency, users will be identified and authenticated to prevent unauthorized access or use of agency systems and information. In addition, the agency will notify the Department’s FSD LIHEAP staff by completing and submitting the access request denial forms as soon as possible and no later than date of termination by close of business.

c. The contractor will develop written policies and procedures covering IT security and the future IT needs of the agency, the back-up process, proper use of passwords and other issues involving the procedures implemented to protect the security of all agency electronic data.

3.5.6 Appeal of Determination: Pursuant to §208.080 RSMo, all applicants who are denied LIHEAP benefits shall have the right to appeal the decision to deny benefit eligibility.

a. The contractor shall assist applicants in completing an application form for an appeal hearing.

b. The contractor shall forward the request for hearing application to FSD, along with additional information as outlined in the current FFY LIHEAP Policy and Procedures Manual.

c. The Department’s FSD staff will forward the appropriate information to the Department’s Division of Legal Services (DLS) Hearing unit. DLS will schedule a hearing and provide notice to all parties of the hearing date and time.

d. The contractor shall have a representative at the hearing that has personal knowledge about the case and shall provide to the Department hearing officer all applicable documents that relate to the case at the request of the Department or hearing officer. The final decision regarding an applicant’s eligibility for LIHEAP benefits shall rest with the Department.

3.5.7 The contractor shall maintain client records for the determination of eligibility of recipients.

1. Client records for ECIP must also contain documentation to support that the applicant household is experiencing an energy crisis that can be ameliorated by delivery of the services contained in the current FFY LIHEAP Policy and Procedures Manual.
2. The contractor may maintain its client records in an electronic format or files. In the event the contractor desires to maintain electronic records, the contractor shall submit a detailed plan to the Department outlining the equipment, processes, tagging, security and encryption that will be utilized. The plan shall be subject to written Department approval prior to the use of any electronic storage by the contractor. The contractor shall not shred/destroy any original documentation that is electronically stored until an onsite review is conducted by the Department and written approval is received.

3.5.8 The contractor shall conduct a self-monitoring review for a minimum of thirty (30) LIHEAP customer cases selected by FSD during the FFY program year utilizing the Missouri Department of Social Services, Family Support Division LIHEAP Review form included in Appendix J of the current FFY LIHEAP Policy and Procedures Manual.

3.6 **Program Services: Outreach and Education**

3.6.1 The contractor may provide outreach and education services to promote the availability of the program.

3.6.2 Outreach and Education activities should be provided in a manner that incorporates activities that access other educational funding sources from state and federal agencies and/or private energy suppliers.

3.7 **Budget**

3.7.1 Funding shall be expended pursuant to the established budget included in the Department-approved work plan.

3.7.2 The Contractor may not transfer federal funds, including any Community Services Block Grant (CSBG) funds, for LIHEAP administrative and planning costs per LIHEAP Statute, Section 2605(b) (9), 42 USC 8624(b); 45 CFR section 96.88(a), which requires any administrative and planning costs in excess of ten percent (10%) of a state’s total allocation be paid from non-federal sources.

3.7.3 The contractor may transfer funding between Administrative Services budget categories provided such transfers do not exceed fifteen (15) percent of the total amount awarded without approval, and

#### 3.7.4 Any budget transfer over 15% shall require a formal amendment to this contract before the transfer can occur.

3.7.5 During the contract period, the contractor may submit a budget revision request for Department approval to transfer Administrative Services funding to the Direct Services category. The transfer may not occur until approved by the Department. Budget transfers from the Direct Services budget category shall not be permitted.

#### 3.7.6 The contractor shall provide a written copy of revised budget to the Department prior to implementation when any transfer occurs, including those transfers that do not require prior Department approval.

3.7.7 The contractor shall credit any ECIP Direct Services funds returned to the contractor by a supplier back to the ECIP Direct Services fund budget category.

a. In the event any such funds are received from a supplier outside of the contracted period in which the expenditure occurred, the contractor shall reflect such funds as carryover and shall report such on the required Monthly Expenditure Report, required herein.

3.8 **Reporting**

3.8.1 The contractor shall submit an expenditure report to the Department no later than fifteen (15) calendar days following the end of each calendar month. The contractor shall submit the expenditure report in the form and format specified by the Department,

3.8.2 The contractor shall submit with the monthly expenditure report, the Exhibit B Direct Services form from the Missouri Community Action Network (Missouri CAN) managed and Department funded Management Information System (MIS), for the period, and year-to-date.

3.8.3 The contractor shall submit an unduplicated alpha listing of households served, the MIS Exhibit C report, no later than forty-five (45) calendar days following the end of the program year.

3.8.4 The contractor shall submit a revised expenditure report to the Department indicating the unexpended ECIP Administrative and Direct Services.

3.9 **Monitoring**

3.9.1 The Department reserves the right to monitor the contractor to ensure financial and contractual compliance. Monitoring may include on-site visits of the contractor or desk reviews, as determined by the Department.

3.9.2 The Department will conduct a full onsite review at least once every three (3) years using a standardized LIHEAP monitoring tool made available to contractor prior to the scheduled review.

3.9.3 Monitoring will include, but is not limited to:

1. a review of external financial audit;
2. a review of the contractor’s governance structure;
3. a discussion of challenges/barriers to the work of the contractor;
4. a review of grant compliance; and
5. a review of the contractor’s inventory.

3.9.4 The Department will document any findings which require follow-up in the monitoring report.

3.9.5 Corrective Action Plan: In the event the Department determines the contractor does not meet the requirements of contract, the Department may require the contractor to develop a corrective action plan to address problems identified.

a. The contractor shall submit a written corrective action plan to the Department within sixty (60) calendar days of the date of receipt of the Department's request.

1) The corrective action plan must include the actions the contractor proposes to take to remedy concerns, timeframes for achieving such, the person(s) responsible for the necessary action, the improvement that is expected and a description of how progress will be measured.

b. Within thirty (30) calendar days of receipt of the corrective action plan, the Department will notify the contractor in writing if the corrective action plan is approved.

1) In the event the Department notifies the contractor that the corrective action plan is not approved, the contractor shall submit a revised corrective action plan to the Department within ten (10) working days.

c. Failure of the contractor to submit a corrective action plan that is approved by the Department or improve performance within one hundred and twenty (120) calendar days as indicated in the approved corrective action plan, the Department reserves the right to:

1) extend the corrective action plan;

2) reduce funding to the contractor; or

3) pursue other remedies available under this contract, up to and including termination or cancellation of this contract.

3.10 **Additional Funding Requirements**

3.10.1 Funds made available to the contractor under this contract shall be utilized only for the purposes set forth herein. Funding provided under this contract shall not be utilized to supplant funds the contractor may have available from other funding sources.

3.10.2 The contractor may utilize up to two percent (2%) of the Direct Services funding allocation for Emergency Services. Emergency services shall not include direct services for energy payments to utility vendors.

3.10.3 The contractor shall provide services only in amounts necessary to alleviate an eligible household's energy related crisis as described in the current FFY LIHEAP Policy and Procedures Manual.

3.10.4 The contractor shall comply with the Consolidated Appropriations Act, 2012 (Pub.L. 112-74), enacted December 23, 2011, that limits the salary amount that may be awarded and charged to the US Department of Health and Human Services, Administration for Children and Families (ACF) grants and cooperative agreements. Award funds issued under this contract may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the Federal Executive Pay scale is $179,700 (<http://www.opm.gov/oca/12tables/html/ex.asp>). This amount reflects an individual’s base salary exclusive of fringe and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an ACF grant or cooperative agreement.

3.10.5 The contractor shall include an audited LIHEAP supplemental schedule including verification of reported performance and supplemental schedule disclosures for the LIHEAP Program Year (October-September) with the submission of annual audit reports required herein.

a. The contractor shall submit any management letter issued by the auditor, with each annual audit report.

b. The contractor shall submit a copy of Federal Form 990 upon completion of filing.

3.10.6 The contractor shall comply with the Low Income Home Energy Assistance Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35 as amended) Section 2609, which prohibits the use of grant funds for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

3.10.7 The contractor shall comply with the requirements of RSMo Chapter 610 Governmental Bodies and Records (The Sunshine Law), relating to meetings of contractor’s governing board and provide access to public records.

1. The contractor must have and enforce written policies that outline how access to customer hard copy and electronic information by unauthorized persons will be prevented.

3.10.8 The contractor shall use the following language to satisfy the requirements of "Steven’s Amendment". The contractor shall submit all requests requiring Steven’s Amendment approval to LIHEAP Manager.

a. If funded wholly by federal funds:

*This project/program is funded 100% at $\_\_\_\_\_\_\_\_\_\_\_\_\_\_with federal funds received from the U.S. Department of Health and Human Services (HHS) provided by the Missouri Department of Social Services, Family Support Division.*

b. If funded partly by federal & partly by nongovernmental sources:

*This project/program is funded \_\_\_\_% at $\_\_\_\_\_\_\_\_by federal funds and \_\_\_% at $\_\_\_\_\_\_\_\_ by nongovernmental sources for a total amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_.  The federal funds are received from the U.S. Department of Health and Human Services (HHS) provided by the Missouri Department of Social Services, Family Support Division.*

3.11 **Fraud and/or Abuse:**

* + 1. The contractor is required to conduct a background check on all potential and current employees (if not previously conducted) prior to beginning employment.
    2. The contractorshall not allow individuals to perform the duties described herein when the Family Care Safety Registry (FCSR) or other background investigation reveals that the individual has been found guilty, pled guilty, or has been convicted of a civil judgment, felony or misdemeanor conviction for:

1. Child abuse or neglect, or domestic abuse;
2. Any crime in which a child was a victim or a crime against children, to include, but not limited to, any offense involving child pornography;
   * 1. The contractorshall not allow individuals to perform the duties described herein when background investigation reveals that the individual has been found guilty, pled guilty, or has been convicted of a civil judgment or felony conviction for:
   1. Perjury, false statements or any type of fraudulent activity.
      1. The contractor may allow individuals to perform the duties described herein when other background investigation reveals that the individual has been found guilty, pled guilty, or has been convicted of a civil judgment, misdemeanor for perjury, false statements or any type of fraudulent activity if:
   2. The contractor in good faith finds there are significant mitigating factors which indicate the person would not be a risk to the agency or the agency’s participants, and;
   3. The contractor fully documents such a finding and reports such findings to the Department for review; and;
   4. The contractor assumes responsibilities for any financial fraud or abuse misconduct by the individual(s) in the administration of ­­­­­­ LIHEAP.

3.11.5 The contractor shall report to the Department of Social Services (DSS), Division of Legal Services (DLS) any financial fraud or abuse misconduct in the administration of LIHEAP no later than 48 hours from the time the contractor determines that there are reasonable grounds to believe that financial fraud or abuse or misconduct has occurred by calling 877-770-8055 or by email at [DLS.ReportFraud@dss.mo.gov](mailto:DLS.ReportFraud@dss.mo.gov). The contractors will fully cooperate with all DLS investigations of suspected fraud and abuse or misconduct.

3.11.6 The contractor may be prosecuted under applicable federal and/or state law for false claims, statements or documents or concealment of material fact.

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**4 General Contractual Requirements**

4.1 **General:**

4.1.1 The contract shall consist of the original contract document and any subsequent amendments to the contract.

4.1.2 This contract shall be construed according to the laws of the State of Missouri and shall govern the terms and conditions of the contracted services provided by the contractor. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, such provision(s) shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the state.

4.1.3 The exclusive venue for any legal proceeding relating to or arising out of the contract shall be in the Circuit Court of Cole County, Missouri.

4.1.4 The contractor shall comply with all local, state and federal laws and regulations related to the performance of the contract.

4.1.5 The contractor certifies that the contractor and each of its principals (owners, director and others as defined by 45 CFR Part 76) are not suspended or debarred from contracting with the federal government. In the event the contractor or any of its principals become suspended or debarred during the contract period, the contractor shall immediately send written notification to the Department.

a. Suspension or debarment of the contractor, or failure by the contractor to provide written notification of suspension or debarment to the Department, may result in immediate termination of the contract.

4.1.6 The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the Department.

4.1.7 As authorized under sections 432.230 and 432.255 RSMo, the use of electronic signatures shall be permitted for contract documents. Additionally, contract documents maintained in electronic format shall be considered to be the official, legal record and shall have the same force and effect as would a paper document.

4.2 **Amendment, Termination and Renewal:**

4.2.1 The contract shall not bind, nor purport to bind, the Department for any commitment in excess of the original contract period.

4.2.2 Any change to the contract, whether by modification and/or supplementation, shall be accomplished by a formal, written contract amendment. Oral agreements or agreements confirmed by e-mail or otherwise to modify the contract shall not be enforceable.

4.2.3 The Department shall have the right, at its sole option, to renew the contract by written notice to the contractor. In the event the Department exercises its renewal option, all terms, conditions and provisions of the original contract and any subsequent amendments shall remain in effect and shall apply during the renewal period.

4.2.4 The contract may be terminated by either party, with or without cause, by giving sixty (60) days advance written notice to the other party. The termination shall be effective sixty (60) days from the date of notice or the date specified in the notice. The Department reserves the right to withdraw any or all of its clients before the end of the sixty (60) day period, if applicable.

4.2.5 Breach: The Department may terminate the contract for breach of contract by providing the contractor with written notice of termination.

a. The termination shall become effective on the date specified in the notice.

b. At its sole discretion, the Department may give the contractor an opportunity to cure the breach.

c. The Department shall not be required to pay for services rendered or goods provided after the effective date of the termination of the contract.

4.2.6 Any written notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, electronic mail, or otherwise delivered to an authorized employee of the contractor or the contractor's address of record.

a. The contractor shall notify the Department within ten (10) business days of any change to the contractor's address of records and/or mailing address.

4.2.7 In the event of termination all client records, documentation, data, reports, supplies, equipment and accomplishments prepared, furnished, acquired or developed by the contractor as a direct requirement specified in the contract shall become the property of the Department.

a. Upon termination of the contract, the contractor shall maintain, store, transfer, dispose and provide for the authorized release of all client records, documentation, data, reports, supplies, equipment and accomplishments developed by the contractor as a requirement of the contract, as directed by the Department. The contractor shall not destroy or dispose of any such records, documentation, data, reports, supplies, equipment and accomplishments without the prior, written permission of the Department.

b. Upon termination of the contract the Department shall have access to all client records pertaining to the performance of the contract and, as requested by the Department, the contractor shall make available to the Department all client records and documents prepared or developed as a result of the contract.

4.2.8 Transition of Services: Upon expiration, termination, or cancellation of the contract, the contractor shall assist the Department to ensure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to an individual or organization designated by the Department, if requested in writing. The contractor shall provide and/or perform any or all of the following responsibilities:

a. The contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were required to be produced under the terms of the contract to the Department and/or to the Department's designee within seven (7) days after receipt of the written request, or other such time as directed by the Department.

b. The contractor shall continue to provide any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed thirty (30) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract, if requested by the Department through a formal amendment to the contract.

c. The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the Department, in order to ensure the completion of such service prior to the expiration of the contract.

4.3 **Subcontracting:**

4.3.1   The Department reserves the right to approve any subcontractor utilized by the contractor for the services/products required herein.  The Department, at its sole discretion, may require such approval prior to the utilization of any subcontractor.  In the event the Department requires prior approval to subcontract, the contractor shall provide notification of its intent to subcontract within the timeframe specified by the Department.

4.3.2 The utilization of a sub-contractor shall in no way relieve the contractor of the responsibility for providing the services required herein.

4.3.3 Any subcontracts for the services/products described herein shall be in writing and shall include any and all provisions and contractual obligations, including all requirements of the contract’s General Contractual Requirements, that are necessary to ensure the successful fulfillment of all obligations under the contract that are performed by a subcontractor.

4.3.4 Any subcontracts must ensure that the Department and the State of Missouri is indemnified, saved and, held harmless from and against any and all claims of damage, loss, and costs (including attorney fees and litigation expenses) of any kind related to a subcontract in those matters described in the contract between the Department and the contractor.

4.3.5 The contractor shall be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.

4.4 **Conflict of Interest:**

4.4.1 The contractor certifies that the contractor has no other contractual or other relationships which create any actual or appearance of conflict of interest. During the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which would create such a conflict.

a. In the event the contractor becomes aware of any circumstances that may create a conflict of interest the contractor shall immediately take such actions to mitigate or eliminate the risk of harm caused by the conflict or appearance of conflict.

b. The contractor shall promptly, fully disclose and notify the Department of any circumstances that may arise that may create a conflict of interest or an appearance of conflict of interest. Such notification shall be submitted to the Department in writing within seven (7) business days after the conflict or appearance of a conflict is discovered.

c. In the event that the Department determines that a conflict or an appearance of a conflict exists, the Department may take any action that the Department determines is necessary to mitigate or eliminate the conflict or appearance of a conflict. Such actions may include, but are not limited to:

1) Exercising any or all of the Department’s rights and remedies under the contract, up to and including terminating the contract with or without cause; or

2) Directing the contractor to implement a corrective action plan within a specified time frame to mitigate, remedy and/or eliminate the circumstances which constitute the conflict of interest or appearance of conflict of interest; or

3) Taking any other action that the Department determines is necessary and appropriate to ensure the integrity of the contractual relationship and the public interest.

4.4.2 In accordance with state and federal laws and regulations, state executive order or regulations, the contractor certifies that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with their performance of the contracted services. No person having such interest shall be employed or conveyed an interest, directly or indirectly, in the contract.

4.4.3 The contractor certifies that:

a. no State of Missouri employee assisted the contractor in obtaining this contract or will participate in the performance of this contract if such involvement constitutes a conflict of interest;

b. no State of Missouri employee shall be compensated under this contract for duties performed in the course of his/her state employment; and

c. before any State of Missouri employee may be involved in the performance of this contract written approval shall be obtained from the Director of the Department.

4.4.4 In the event the contractor is a not-for-profit agency, contractor board members must abstain from voting on any funding proposal relating to this contract, in which they have administrative control or a monetary interest. Board members who have such an interest and participate in discussion prior to a vote must disclose such interest in a meeting of the board prior to such discussion.

4.4.5 No monies provided by the Department under this contract shall be used to promote or further nepotism.

4.4.6 The contractor shall not represent itself, its employees, or its subcontractor's, as employees of the Department or the State of Missouri.

4.5 **Business Compliance:**

4.5.1 The contractor must be in compliance with applicable laws regarding conducting business in the State of Missouri and certifies by signing this contract that it and any subcontractors are presently, and will remain, in compliance with such laws.

4.5.2 The contractor shall have and maintain current and in good standing, any and all licenses and/or certifications which are required by law, rule or regulation for the duration of the contract.

a. The contractor shall notify the Department if the contractor’s license(s) and/or certification(s) have or may be terminated, revoked, modified or qualified within seven (7) business days.

b. The contractor shall notify the Department within seven (7) business days if the Contractor becomes aware that the contractor or its agents, officers or employees are under any investigation by law enforcement governmental agency or other entity with authority to investigate, revoke, suspend or take action against any license or certification that the contractor, its agents employees or officers, may have to conduct business.

4.5.3 If required by state law, the contractor shall be registered and in good standing with the State’s Secretary of State and shall submit their State Certificate of Good Standing to the Department upon request.

4.5.4 The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.

4.6 **Personnel and Staffing:**

4.6.1 The contractor shall comply with the Fair Labor Standard Act, Equal Employment Opportunity Act, any other federal and state laws, rules, regulations and executive orders to the extent that these may be applicable and shall insert the foregoing provision in all subcontracts awarded.

4.6.2 The contract is predicated, in part, on the utilization of the specific resources, individuals and/or personnel qualifications as identified and/or described in the contractor's proposal/bid, when applicable, or in the contractual requirements stated herein. Therefore, the contractor shall only utilize personnel and/or individuals in the performance of this contract who meet specific qualifications required for services to be provided.

a. No substitution of personnel shall be made by the contractor without written approval of the Department and such substitutions made pursuant to this paragraph shall be equal to or better than those originally proposed, offered, identified or required.

4.6.3 The contractor shall only utilize personnel including those of any subcontractor(s), who are appropriately qualified and licensed or certified, as required by state, federal or local law, statute or regulation, respective to the services to be provided through this contract, and shall provide documentation of such licensure or certification upon request.

4.7 **Federal Funds Requirements:**

4.7.1 The contract may involve the expenditure of federal funds. Therefore, for any federal funds used, the contractor shall comply with the requirements listed in the following subparagraphs, as applicable.

4.7.2 In accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, "Steven's Amendment", the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money without the prior approval of the Department. Any statements, press releases, and other documents issued with Department approval must clearly state the following, as provided by the Department:

a. the percentage of the total costs of the program or project which will be financed with Federal money;

b. the dollar amount of Federal funds for the project or program; and

c. the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

4.7.3 The contractor shall comply with all requirements of 31 U.S.C. §1352 relating to limitations on use of appropriated funds to influence certain federal contracting and financial transactions. No funds under the contract shall be used to pay the salary or expenses of the Contractor, or agent acting for the contractor, to engage in any activity designed to influence legislation or appropriations pending before the United States Congress or Missouri General Assembly. The contractor shall submit to the Department, when applicable, Disclosure of Lobbying Activities reporting forms.

4.7.4 In the event Federal funding for the contract becomes unavailable or interrupted, the contractor shall, upon written notification from the Department, suspend work activities and incur no further costs under the contract, until such time as the Department notifies the contractor, in writing, that funding has been restored and work activities may resume.

4.8 **Financial Requirements:**

4.8.1 Availability of funding for this contract shall be determined solely by the Department and such determination shall be final and without recourse by the contractor.

4.8.2 Funding forthe contract must be appropriated by the MissouriGeneral Assembly for each fiscal year included within the contract period. Therefore, the contract shall not be binding upon the Department for any period in which funds have not been appropriated, and the Department shall not be liable for any damages or costs, including attorney's fees, associated with termination caused by lack of appropriations.

a. The Department reserves the right to terminate the contract, without penalty or termination costs, if such funds are not appropriated or available.

b. In the event funds are not appropriated or available for the contract, the Department shall provide prompt notification to the contractor.

c. In the event funding for the contract becomes unavailable or interrupted, the contractor shall, upon written notification from the Department, suspend work activities and incur no further costs under the contract, until such time as the Department notifies the contractor, in writing, that funding has been restored and work activities may resume.

d. In the event funds are not appropriated or available for the contract, the contractor shall not prohibit or limit the Department's right to pursue alternate contracts, as necessary, to conduct state governmental affairs.

e. The provisions of the above paragraphs shall apply to any amendment or the execution of any option to extend the contract.

4.8.3 Payments due under the terms of the contract shall be made by the Department upon receipt and approval of a properly itemized invoice, as set forth herein.

a. The contractor shall submit invoices in accordance with the requirements stated in the contract and no later than the time period specified in § 33.120 RSMo, unless more restrictive requirements are established by state or federal law or regulation.

b. The contractor shall not invoice federal or state tax.

4.9 **Contractor Liability:**

4.9.1 The contractor shall be responsible for any and all personal injury, including death, or property damage as a result of the contractor’s actions, or inactions, including but not limited to, misconduct, negligence, or any future negligent act, involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract.

a. In addition to the liability imposed upon the contractor on account of personal injury, bodily injury (including death), or property damage suffered as a result of the contractor’s negligence, the contractor shall pay, indemnify, save and hold harmless the State of Missouri, including its agencies, employees, and assigns, from every expense, liability, or payment arising out of such misconduct or negligent act.

4.9.2 The contractor shall hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent or intentional act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

4.10 **Insurance:**

4.10.1 The Department and the State of Missouri is and shall not be required to save and hold harmless and/or indemnify the contractor, its employees, agents or subcontractors against any liability incurred or arising as a result of any activity of the Contractor or any activity of the contractor’s employees related to the contractor’s performance under the contract. Therefore, the contractor shall acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its clients, its employees and the general public against any loss, damage and/or expense related to the contractor's performance under the contract.

4.10.2 The contractor shall maintain adequate automobile liability insurance for the operation of any motor vehicle used to provide any form of transportation service related to the services of this contract.

4.10.3 If the contract involves the performance of medical services of any type, the contractor shall maintain adequate liability insurance to cover all medical services rendered.

4.10.4 Proof of insurance coverage shall be submitted to the Department as requested. Proof of the insurance coverage shall include, but not be limited to, effective dates of coverage, limits of liability, insurers' names, policy numbers, company, etc. Proof of self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable.

4.11 **Human Rights:**

4.11.1 The contractor shall comply with all federal and state statutes, regulations and executive orders relating to nondiscrimination and equal employment opportunity to the extent applicable to the contract, including, but not limited to:

a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. § 2000e) which prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act which prohibits, unless otherwise provided by law, discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;

b. Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. § 206 (d));

c. Title IX of the Education Amendments of 1972, as amended (20 U.S.C §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;

d. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) which prohibit discrimination on the basis of disabilities;

e. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101-6107) which prohibits discrimination on the basis of age;

f. Equal Employment Opportunity - E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity";

g. The Pro-Children Act of 1994 (PL 103-227) regarding environmental tobacco smoke;

h. Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Requirements; and

i. The requirements of any other federal and state nondiscrimination statutes, regulations and executive orders that may apply to the services provided under the contract.

4.11.2 If the contractor uses any funds of this contract in a subcontract, then the contractor shall require such a subcontractor to comply with the applicable human rights clauses above.

4.11.3 Disclosure of information, by either party to the contract, concerning a client for any purpose not directly related to the performance of this contract is prohibited except as specified by applicable state and federal laws and regulations.

4.11.4 The Department shall have the right to enforce all applicable clauses by appropriate procedures, including but not limited to, requests, reports, site visits and inspection of relevant documentation of the contractor.

4.12 **Recordkeeping and Reporting Requirements:**

4.12.1 The contractor shall submit itemized reports, records and information at the request of the Department.

4.12.2 The contractor shall maintain auditable records for all activities performed under this contract. Financial records shall conform to Generally Accepted Accounting Principles (GAAP). Such records shall include the following, as applicable:

a. the specific number and type of service units provided;

b. itemized revenues and expenditures related to the performance of the contract;

c. the number and type of clients served;

d. detailed documentation of services provided to each client, included progress notes;

e. any and all records necessary for performing a full audit of the contractor's performance under the contract; and

f. other relevant records.

4.12.3 The contractor shall have in place management and fiscal controls that are adequate to assure full performance of the contractor’s obligations under this contract. The contractor shall maintain sufficient cash flow to perform its obligations under the contract for the duration of the contract. The contractor shall immediately notify the Department of any cash flow issues where the contractor's obligations required under this agreement would be in jeopardy.

4.12.4 The contractor shall allow the Department or its authorized representative to inspect and examine the contractor's premises and/or records which relate to the performance of the contract at any time during the period of the contract and thereafter within the period specified herein for the contractor’s retention of records.

4.12.5 The contractor shall promptly provide the Department with access to Department clients and records of the Department clients without limitation.

a. The contractor shall promptly produce all e-mails and correspondence related to Department clients, as requested by the Department.

4.12.6 The contractor shall retain all records pertaining to the contract for five (5) years after the close of the contract year unless audit questions have arisen or any legal action is contemplated or filed within the five year (5) limitation and have not been resolved. All records shall be retained until all audit questions and/or legal actions have been resolved. The contractor shall safeguard and keep such records for such additional time as directed by the Department. The obligation of the contractor to retain and produce records shall continue even after the contract expires or is otherwise terminated by either party.

4.12.7 The contractor shall provide written notification to the Department when there is any change in the contractor's licensure or certification/accreditation status, official name, address of record, Executive Director, or change in ownership and/or control of the contractor’s organization.

4.12.8 Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor shall notify the Department immediately. Upon learning of any such actions the Department reserves the right, at its sole discretion, to either cancel or affirm the contract and hold the contractor responsible for damages, to the extent authorized by law.

4.13 **Confidentiality:**

4.13.1 All discussions with the contractor and all information gained by the contractor as a result of the contractor’s performance under the contract shall be confidential, to the extent required by law.

4.13.2 The contractor shall release no reports, documentation or material prepared pursuant to the contract to the public without the prior written consent of the Department, unless such disclosure is required by law.

4.13.3 If required by the Department, the contractor and any required contractor personnel shall sign specific documents regarding confidentiality, security, or other similar documents.

4.13.4 The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of any information confidential by law that it creates, receives, maintains, or transmits on behalf of the Department other than as provided for by the contract.  Such safeguards shall include, but not be limited to:

a. Encryption of any portable device used to access or maintain confidential information or use of equivalent safeguard;

b. Encryption of any transmission of electronic communication containing confidential information or use of equivalent safeguard;

c. Workforce training on the appropriate uses and disclosures of confidential information pursuant to the terms of the contract;

d. Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of confidential information by its workforce and subcontractors, if applicable; and

e. Any other safeguards necessary to prevent the inappropriate use or disclosure of confidential information.

4.14 **Property of State:**

4.14.1 All documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of the State of Missouri.

a. Upon expiration, termination, or cancellation of the contract, all such items shall become the property of the State of Missouri, which shall include all rights and interests for present and future use or sale as deemed appropriate by the Department.

4.14.2 Any ancillary software tools or pre-printed materials (e.g., project management software tools or training software tools, etc.) developed or acquired by the contractor that may be necessary to perform a particular service required herein, but not required as a specific deliverable of the contract, shall remain the property of the contractor. The contractor shall be responsible for ensuring that such tools and materials are being used in accordance with applicable intellectual property rights and copyrights.

4.14.3 In the event any copyrighted material is developed as a result of the contract, the Department shall have a royalty-free, nonexclusive and irrevocable right to publish, use, and/or authorize other to use, the work/materials for Department and/or State of Missouri purposes.

4.15 **Notification Requirements:**

4.15.1 The contractor shall immediately notify the Department of the death of a Department client receiving services under the contract.

4.15.2 The contractor shall immediately notify the Department and make the required hotline report, when there are allegations of physical abuse, sexual abuse, verbal abuse or neglect of a client.

4.15.3 In the event the conduct of a client is jeopardizing the safety of him/herself or others in the community, the contractor shall immediately notify the Department. If an immediate response is needed to ensure the health and/or safety of the client or others, the Contractor shall also notify local law enforcement officials.

4.15.4 The contractor shall immediately notify the Department, in writing, if the Contractor becomes aware of any circumstances which may render the contractor unable to perform any of its obligations under the contract.

a. The Department shall have the right, at any time, to require the contractor to provide written assurances that it can meet its obligations under the contract and to provide satisfactory documentation to support its assurances. If the contractor is unable to provide adequate assurances that it will be able to perform its obligations under this contract, the Department shall have the right to exercise any of its remedies under this contract or under law.

4.16 **Miscellaneous:**

4.16.1 Unless otherwise specified, the contractor shall be responsible for furnishing all material, labor, facilities, equipment and supplies necessary to perform the services required.

4.16.2 The contractor shall only perform the specific, professional services set forth in the contract.  The contractor shall provide all services in a manner consistent with generally accepted practices in the applicable professional field.

4.16.3 The contractor shall only utilize such testing, techniques and procedures as are necessary to accomplish the specified service(s).

4.16.4 The contractor shall not utilize any data, information or conclusions obtained directly or indirectly from work performed under the contract for any other purpose, including, but not limited to research, marketing or commercial purposes without the:

a.    Prior, written consent of the Department; and

b.    Full, written, prior, informed consent of the individuals involved, or their legal guardian or legal custodian; and

c.     Permission of the court, when applicable, in cases where the subject is a juvenile under the jurisdiction of a court of competent jurisdiction.

4.16.5 The Department may require the attendance of the contractor's personnel at training activities and may require the cooperation of the contractor's personnel where the Department provides technical assistance.

4.16.6 The contractor shall fully cooperate with all investigations conducted by the Department, or its agents, which relate, directly or indirectly, with the performance of this contract.

4.16.7 The Department endorses a drug free environment and the absence of substance abuse. The contractor shall support and enforce these philosophies in their performance of the contract.

4.16.8 The contractor shall maintain appropriate documentation that it has appropriate systems and controls in place to ensure that any and all information software systems used in relationship to the contractual responsibilities with the Department have been acquired, operated and maintained consistently with U.S. copyright law or applicable licensing restrictions. The contractor shall make documentation of such compliance and any such license immediately available upon request by the Department.

4.17 **Contract Monitoring/Compliance**

4.17.1 The Department has the right to monitor the contract throughout the effective period of the contract to ensure compliance with contractual requirements. Additionally, the Department reserves the right to audit all records related to the contractor's performance under the contract for a period of five (5) years from the expiration date of the contract.

a. The contractor shall cooperate with any Department review of records and other documentation related to the contractor's performance under the contract.

4.17.2 In the event the Department determines the contractor to be non-compliant, or at risk for non-compliance with contractual requirements, the Department shall have the right to impose special conditions or restrictions on the contractor to bring the contractor into compliance or to mitigate the risk of non-compliance.

a. The Department shall provide written notification to the contractor of the determination of non-compliance or the risk of non-compliance, identifying any special conditions or restrictions to be imposed by the Department.

b. Special conditions or restrictions may include, but are not limited to:

1) Requiring the contractor to obtain additional technical assistance;

2) Requiring additional levels of prior approval from the Department for contract activities;

3) Requiring additional or more detailed financial reports and/or other documentation;

4) Additional, ongoing contract monitoring/oversight by the Department; and/or

5) Requiring the submission and implementation of a corrective action plan.

4.17.3 In the event the Department requires the contractor to submit and implement a corrective action plan, the Department shall provide written notification to the contractor, identifying the specific performance or other contractual requirements that are not being met and the expected corrective resolution.

a. The contractor shall submit a written corrective action plan to the Department within the timeframes specified in the Department notification.

b. The corrective action plan must include the actions the contractor proposes to take to remedy concerns, timeframes for achieving such, the person(s) responsible for the necessary action, the improvement that is expected, a description of how progress will be measured and a description of the actions to be taken to prevent the situation from recurring.

c. The Department will notify the contractor in writing if the corrective action plan is approved or if modifications are required.

1) In the event the Department requires changes to the corrective action plan, the contractor shall submit a revised corrective action plan within five (5) working days of receipt of the Department's notification that changes are required.

d. Failure of the contractor to improve performance within the timeframes required in the approved corrective action plan may result in termination of the contract and/or other remedies available to the Department.

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**5 Payments to the contractor**

5.1 **Allocations**

5.1.1 The contractor shall be allocated funding for the provision of services as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| EA Admin. Allocation | **$** |  |  |  |
| ECIP Winter Admin. Allocation: | **$** |  |  |  |  |  |
| ECIP Summer Admin. Allocation: | **$** |  |  |  |  |  |
| **Total Administrative Services Allocation**: | | | **$** |  |  |  |
| Winter ECIP Direct Allocation: | **$** |  |  |  |  |  |
| Summer ECIP Direct Allocation: | **$** |  |  |  |  |  |
| **Direct Crisis Services Allocation**: | | | **$** |  |  |  |
|  | | |  |  |  |  |
| **Total FFY 17 Allocations** | | |  |  | **$** |  |

5.2 **Payments for Administrative Services:**

5.2.1 Upon execution of this contract by both parties, the contractor may invoice the Department twenty-five percent (25%) of the EA Administrative Allocation.

5.2.2 The contractor may invoice the Department for the remaining EA and ECIP Winter Administrative Services allocations upon notification by the Department that federal LIHEAP funding has been made available to the Department.

5.2.3 The contractor may invoice the Department for 100% of costs of the Summer Administrative Services allocation beginning May 1, 2017, upon notification by the Department that federal LIHEAP funding has been made available to the Department.

5.2.4 The contractor shall refund any unexpended Administrative Services allocations to the Department no later than thirty (30) calendar days after the end of the contract Federal Fiscal Year (FFY).

5.3 **Payments for Direct Services:**

5.3.1 The contractor may invoice the Department for the Winter Direct Services allocation upon notification by the Department that federal LIHEAP funding has been made available to the Department.

5.3.2 The contractor shall refund any unexpended or unobligated Winter Direct Services Allocations to the Department no later than June 30th of each FFY.

5.3.3 The contractor may invoice the Department one hundred percent (100%) of the Summer Direct Services allocation on May 1, 2017, upon notification by the Department that federal LIHEAP funding has been made available to the Department.

5.3.4 The contractor shall refund any unexpended or unobligated Summer Direct Service Allocations to the Department no later than thirty (30) calendar days after the end of the contract FFY.

5.4 **Invoicing and Payment Schedule:**

5.4.1 The contractor shall submit an invoice using the form and format provided by the Department, for the initial allocation of Administrative Services upon execution of this contract agreement.

5.4.2 The contractor shall submit an itemized monthly expenditure report using the form and format provided by the Department, identifying line item expenditures related to the provision of services identified herein.

5.4.3 The contractor shall submit its invoice and expenditure reports by hard copy with original signature or scanned electronic copy to the address listed below (faxed copies will not be accepted):

Department of Social Services

Family Support Division

P.O. Box 2320

Jefferson City, MO 65102

1. Invoices and expenditure reports must be readable.  Non-readable copies will be returned and required to be replaced with originals within 10 calendar days of the request by the Department.
2. The Department shall make payments for invoices received within sixty (60) calendar days of the end of the month in which services were provided, with the exception that all invoices must be received within thirty (30) calendar days after the end of the grant period.
3. The Department is not required to make payment for expenses billed on invoices not submitted within timeframes required by this contract.

5.4.4 Failure of the contractor to submit required reports when due, may result in withholding or rejection of payment under this contract. The Department may reject payment due to the contractor’s failure to perform or deliver the required work or services.

5.5 **Verification of Expenditures**

5.5.1 Receipt of payments by the contractor does not constitute earning of these funds and are subject to verification provisions stated herein.

5.5.2 The Department shall have the right to recover from the contractor all funds for which adequate verification and full documentation of expenditures is not maintained. Adequate verification and full documentation shall be defined as maintaining records in such a manner that an orderly examination by a reasonable person:

a. is possible;

b. can be conducted without the use of information extrinsic to the records;

c. can readily determine whether the goods or services were in fact provided; and

d. can readily determine whether the goods/services were provided in accordance with the terms of this agreement and applicable federal and state regulations.

5.5.3 The contractor shall produce and make available all records necessary for adequate verification request by the Department.

5.5.4 Upon the expiration, cancellation, or termination of this contract, the contractor shall re-pay to the Department any unobligated and unexpended funding.

5.6 **EFT**

5.6.1 The contractor shall understand and agree that the Department reserves the right to make payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under this contract, the contractor should return a completed State Vendor ACH/EFT Application.The State Vendor ACH/EFT Application can be downloaded from the internet at: <http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>.

**Attachment A – Business Associate Agreement (rev 08-29-13)**

*(Health Insurance Portability and Accountability Act of 1996, as amended)*

1. Health Insurance Portability and Accountability Act of 1996, as amended - The Department and the contractor are both subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) (collectively, and hereinafter, HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a “Business Associate” of the Department. Therefore, the term, “contractor” as used in this section shall mean “Business Associate.”

2. The contractor agrees that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR Parts 160 and 164 and 42 U.S.C. §§ 17921 *et. seq.* including, but not limited to the following:

a. “Access”, “administrative safeguards”, “confidentiality”, “covered entity”, “data aggregation”, “designated record set”, “disclosure”, “hybrid entity”, “information system”, “physical safeguards”, “required by law”, “technical safeguards”, “use” and “workforce” shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.

b. “Breach” shall mean the unauthorized acquisition, access, use, or disclosure of Protected Health Information which compromises the security or privacy of such information, except as provided in 42 U.S.C. § 17921. This definition shall not apply to the term “breach of contract” as used within the contract.

c. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the contractor.

d. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Department.

e. “Electronic Protected Health Information” shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of Protected Health Information as specified below.

f. “Enforcement Rule” shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR Parts 160 and 164.

g. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

h. “Individual” shall have the same meaning as the term “individual” in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).

i. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

j. “Protected Health Information” as defined in 45 CFR 160.103, shall mean individually identifiable health information:

1) Except as provided in paragraph (2) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.

2) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity (Department) in its role as employer.

k. “Security Incident” shall be defined as set forth in the “Obligations of the Contractor” section of the Business Associate Provisions.

l. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C.

m. “Unsecured Protected Health Information” shall mean Protected Health Information that is not secured through the use of a technology or methodology determined in accordance with 42 U.S.C. § 17932 or as otherwise specified by the secretary of Health and Human Services.

3. The contractor agrees and understands that wherever in this document the term "Protected Health Information" is used, it shall also be deemed to include Electronic Protected Health Information.

4. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the Department. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein, as well as the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) and all regulations promulgated pursuant to authority granted therein.

5. The Department and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, Enforcement Rule, and other rules as later promulgated (hereinafter referenced as the regulations promulgated thereunder). Any ambiguity in the contract shall be interpreted to permit compliance with the HIPAA Rules.

6. **Permitted Uses and Disclosures of Protected Health Information by the Contractor**

6.1 The contractor may not use or disclose Protected Health Information in any manner that would violate Subpart E of 45 CFR Part 164 if done by the Department, except for the specific uses and disclosures in the contract.

6.2 The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Department as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.

6.3 The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the Department by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.

6.4 If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor’s business.

6.5 If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.

6.6 If applicable, the contractor may use Protected Health Information to provide Data Aggregation services to the Department as permitted by 45 CFR 164.504(e)(2)(i)(B).

6.7 The contractor may not use Protected Health Information to de-identify or re-identify the information in accordance with 45 CFR 164.514(a)-(c) without specific written permission from the Department to do so.

6.8 The contractor agrees to make uses and disclosures and requests for Protected Health Information consistent with the Department’s minimum necessary policies and procedures.

7. **Obligations and Activities of the Contractor**

7.1 The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law, and shall comply with the minimum necessary disclosure requirements set forth in 45 CFR § 164.502(b).

7.2 The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards shall include, but not be limited to:

a. Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract;

b. Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce and subcontractors, if applicable;

c. Encryption of any portable device used to access or maintain Protected Health Information or use of equivalent safeguard;

d. Encryption of any transmission of electronic communication containing Protected Health Information or use of equivalent safeguard; and

e. Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.

7.3 With respect to Electronic Protected Health Information, the contractor shall use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the Department and comply with Subpart C of 45 CFR Part 164, to prevent use or disclosure of Protected Health Information other than as provided for by the contract.

7.4 In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), the contractor shall require that any agent or subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of the contractor agrees to the same restrictions, conditions, and requirements that apply to the contractor with respect to such information.

7.5 By no later than ten (10) calendar days after receipt of a written request from the Department, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the Department, the contractor shall make the contractor’s internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the Department available to the Department and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules and the contract.

7.6 The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the Department to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 42 USCA §17932 and 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the Department, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the Department, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the Department. If requested by the Department or the individual, the contractor shall provide an accounting of disclosures directly to the individual. The contractor shall maintain a record of any accounting made directly to an individual at the individual’s request and shall provide such record to the Department upon request.

7.7 In order to meet the requirements under 45 CFR 164.524, regarding an individual’s right of access, the contractor shall, within five (5) calendar days following a Department request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the Department, provide the Department access to the Protected Health Information in an individual’s designated record set. However, if requested by the Department, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.

7.8 At the direction of the Department, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.

7.9 The contractor shall report to the Department’s Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans, “pings,” or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the Department’s Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.

7.10 The contractor shall report to the Department’s Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of any such use or disclosure, the contractor shall provide the Department’s Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.

7.11 The contractor shall report to the Department’s Security Officer any breach immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the Department’s Security Officer with a description of the breach, the information compromised by the breach, and any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan for approval that describes plans for preventing any such future incidents.

7.12 The contractor’s reports required in the preceding paragraphs shall include the following information regarding the security incident, improper disclosure/use, or breach, (hereinafter “incident”):

a. The name, address, and telephone number of each individual whose information was involved if such information is maintained by the contractor;

b. The electronic address of any individual who has specified a preference of contact by electronic mail;

c. A brief description of what happened, including the date(s) of the incident and the date(s) of the discovery of the incident;

d. A description of the types of Protected Health Information involved in the incident (such as full name, Social Security Number, date of birth, home address, account number, or disability code) and whether the incident involved Unsecured Protected Health Information; and

e. The recommended steps individuals should take to protect themselves from potential harm resulting from the incident.

7.13 Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR Part 164.

7.14 The contractor shall not directly or indirectly receive remuneration in exchange for any Protected Health Information without a valid authorization.

7.15 If the contractor becomes aware of a pattern of activity or practice of the Department that constitutes a material breach of contract regarding the Department's obligations under the Business Associate Provisions of the contract, the contractor shall notify the Department’s Security Officer of the activity or practice and work with the Department to correct the breach of contract.

7.16 The contractor shall indemnify the Department from any liability resulting from any violation of the Privacy Rule or Security Rule or Breach arising from the conduct or omission of the contractor or its employee(s), agent(s) or subcontractor(s). The contractor shall reimburse the Department for any and all actual and direct costs and/or losses, including those incurred under the civil penalties implemented by legal requirements, including but not limited to HIPAA as amended by the Health Information Technology for Economic and Clinical Health Act, and including reasonable attorney’s fees, which may be imposed upon the Department under legal requirements, including but not limited to HIPAA’s Administrative Simplification Rules, arising from or in connection with the contractor’s negligent or wrongful actions or inactions or violations of this Agreement.

8. **Obligations of the Department**

8.1 The Department shall notify the contractor of limitation(s) that may affect the contractor’s use or disclosure of Protected Health Information, by providing the contractor with the Department’s notice of privacy practices in accordance with 45 CFR 164.520.

8.2 The Department shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.

8.3 The Department shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the Department has agreed to in accordance with 45 CFR 164.522.

8.4 The Department shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.

9. **Expiration/Termination/Cancellation:** Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the Department, either return to the Department or destroy all Protected Health Information received by the contractor from the Department, or created or received by the contractor on behalf of the Department, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractor or agents of the contractor.

a. In the event the Department determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the Department and obtain instructions from the Department for either the return or destruction of the Protected Health Information.

10. **Breach of Contract**: In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees that in addition to the requirements of the contract related to cancellation of contract, if the Department determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the Department shall report the breach of contract to the Secretary of the Department of Health and Human Services.

## Attachment B: Federal Funds Subrecipient Requirements

### 1. In performing its responsibilities under the contract, the subrecipient shall fully comply with:

### a. 2 CFR Chapter 1, Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b. All applicable terms and conditions of the award.

c. All other applicable laws, regulations and policies authorizing or governing the use of any federal funds paid to the subrecipient under the contract.

2. The subrecipient shall not utilize federal funds, or any required matching funds, provided under the contract as matching funds for any other federal award, unless specifically allowed under that award.

3. Allowable Costs: Unless otherwise stated in this RFP, the subrecipient shall invoice the state agency based on actual, allowable costs incurred.

a. The subrecipient shall ensure all expenditures invoiced, claimed and/or reported satisfy the General provisions for allowable costs, as defined in the 2 CFR Chapter 1, Chapter II, Part 200, Subpart E- Cost Principles; and Specific provisions for allowable costs, as defined in applicable Federal program rules.

4. Indirect Cost Rates and Administrative Rates: In the event indirect costs and/or administrative rates are included as part of the cost reimbursement under the contract, the following will apply:

a. If a subrecipient has an approved federally negotiated indirect cost rate, the state agency will accept the approved indirect cost rate, unless doing so would conflict with federal statutes or an exception has been approved by the federal agency, based on documented justification. (2 CFR **§** 200.414) If a federal agency has approved a new or different rate subsequent to the beginning of a contract period and the effective date is retroactive, the change (increase or decrease) will not be recognized and accepted until the following contract period.

b. A rate of 10% of Modified Total Direct Costs (MTDC) will be used for those subrecipients that do not have a federally negotiated indirect rate (2 CFR **§** 200.414).

c. Administrative costs are defined as general administration and general expenses such as the director’s office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories of “Facilities”, (including cross allocations from other pools, where applicable). (US Dept. of Labor – Guide for Indirect Cost Rate Determination). Administrative costs can be categorized as both direct and indirect costs.

Administrative rates will vary by award, will be determined by the state agency, and will not exceed limits set forth by statute or regulations pertaining to each award. For example, some federal programs have statutory limitations on the % of dollars which may be expended for administrative costs. The state agency must abide by those statutory limits. Consequently, in contracts which include federal dollars with statutory limitations on administrative costs, the state agency will limit the use of award funds for administrative costs in accordance with the statutory requirements. In such instances, the state agency award will deem administrative costs (including administrative costs included in the indirect rate) unallowable to the extent that the costs exceed the statutory limits.

d. With regard to indirect cost rates and administrative rates, guidance and requirements noted in Part 2 CFR § 200, “does not change or modify any existing statute or guidance otherwise based on any existing statute…and does not supersede any existing or future authority under law or by executive order of the Federal Acquisition Regulation.” Thus, for state agency programs where the specific federal award requirements define Administrative costs in such a manner that all Indirect costs are Administrative costs, the state agency cannot accept an indirect rate (regardless of whether it is federally negotiated or not) that exceeds the Administrative rate cap designated by the specific federal award.

5. Record/Document Requirements and Retention:

a. The subrecipient shall have written policies and procedures in place to ensure compliance with the terms, conditions, laws, and regulations in 2 CFR Chapter 1, Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, and shall make its policies and procedures available to the state agency, upon request.

b. The subrecipient shall maintain an accounting system that, at a minimum, records expenditures in a manner that readily identifies the expenditure as an activity allowable under the award and allows required federal financial reports to be easily prepared.

c. In accordance with 2 CFR § 200.333 the subrecipient shall retain, for a period of three years from the date of submission of the final expenditure report, or from the date of the submission of the final quarterly or annual financial report to the state agency, all financial records, supporting documents, statistical records, and all other records pertinent to the federal award.

6. Subrecipient Monitoring: The state agency reserves the right to conduct monitoring reviews to ensure the subrecipient administers the federal award in compliance with applicable laws, regulations, contractual obligations, and performance goal measures.

### a. When deemed appropriate by the state agency, a monitoring report based on the results of the monitoring review will be issued to the subrecipient.

### b. The subrecipient shall submit a written corrective action plan for any findings and recommendations in the monitoring report as directed by the state agency.

### 1) The corrective action plan should include the actions the contractor proposes to take to remedy concerns, timeframes for achieving such remedies, and the person(s) responsible for the necessary action.

c. The state agency will respond in writing by accepting the corrective action plan submitted and/or requiring further action, including, but not limited to:

1) More detailed financial reports or other documentation;

2) Additional monitoring;

3) Requiring the subrecipient to obtain technical or management assistance; and/or

4) Establishing additional prior approvals from the state agency.

7. Audits: If required, the subrecipient shall have a single or program-specific audit conducted in accordance with provisions of the Single Audit Act of 1984 (with amendment in 1996) and 2 CFR Chapter 1, Chapter II, Part 200, Subpart F, et al., Audit Requirements.

a. In accordance with the provisions of 2 CFR Chapter 1, Chapter II, Part 200, Subpart F, et al., Audit Requirements, the subrecipient shall consider all sources of federal awards, including federal resources received from the state agency, in determining the federal awards expended in its fiscal year.

b. In the event the subrecipient is required to obtain an audit pursuant to 2 CFR Chapter 1, Chapter II, Part 200, Subpart F, et al., Audit Requirements, the subrecipient shall submit the reporting package to the Federal Audit Clearinghouse (FAC) as required by 2 CFR § 200.512. The subrecipient shall notify the state agency of the acceptance of the audit by the FAC within 7 calendar days of the acceptance. The subrecipient shall also notify the state agency in the event the subrecipient is not required to obtain and submit a single audit. These notifications shall be submitted to the:

Department of Social Services

Division of Finance and Administrative Services

Attn: Single Audit

P.O. Box 1082

Jefferson City, MO 65102

Or [DFAS.ComplianceUnit@dss.mo.gov](mailto:DFAS.ComplianceUnit@dss.mo.gov)

c. The subrecipient shall cooperate with the state agency in resolving questions that the state agency may have concerning the auditors’ report and plans for corrective action(s) pursuant to 2 CFR § 200.521.

8. The subrecipient shall be responsible for any deferrals, disallowances, questioned costs, or other items not allowed for federal financial participation claimed by the state agency on behalf of the subrecipient. The subrecipient shall return any funds disallowed, either to the state agency or directly to the applicable federal agency, as instructed by the state agency and within the timeframe designated.

9. Transparency Reporting**:** In order to assist the state agency in complying with its reporting requirements under the Federal Funding Accountability and Transparency Act (FFATA), the subrecipient must fully complete and submit the FFATA Data Form, attached hereto as Exhibit 1, to the state agency prior to the award of the contract.

a. The subrecipient should register in the federal government System for Award Management (SAM) available at [www.sam.gov](http://www.sam.gov), to record information about the subrecipient's organization, including executive compensation data. SAM is a secure, single repository of data and the subrecipient should only need to register once and renew annually thereafter and update information as necessary.

### b. The state agency will provide the subrecipient with applicable federal funding source information in accordance with 2 CFR § 200.331.

**Exhibit #1: Federal Funding Accountability and Transparency Act (FFATA) Data Form**

*\*See instructions for additional information*

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Legal Business Name of Entity | | |  | | | | | | | | | |
| Doing Business As (if different) | | |  | | | | | | | | | |
| Street Address | | |  | | | | | | | | | |
| City | |  | | | State | | |  | Zip Code + 4\* |  | | |
| DUNS Number\* | | | |  | | | | | | | | |
| Parent Organization’s DUNS Number\* | | | |  | | | | | | | | |
| Principal Place of Performance\* | | |  | | | | | | | | | |
| Contact Person’s Name / Title | | |  | | | | | | | | | |
| Contact Person Phone Number | | |  | | | | | | | | | |
| Contact Person E-Mail | | |  | | | | | | | | | |
| **Executive Compensation Information\***  **\****Complete this section if required. See instructions for additional information before completing.*  List the organization’s top five most highly compensated executives for the preceding contractor fiscal year.   |  |  | | --- | --- | | Name | Amount | | 1. |  | | 2. |  | | 3. |  | | 4. |  | | 5. |  | | | | | | | | | | | | | |
| **Certification:**  I attest the facts stated above are true and correct.  I understand the information provided will be reported by the Department of Social Services to the FFATA Subaward Reporting System (FSRS) and the information will be accessible to the public. | | | | | | | | | | | | |
|  |  | | | | |  |  | | | | |  | |
|  | Authorized Representative’s Signature | | | | |  | Printed Name | | | | |  | |
|  |  | | | | |  |  | | | |  | | |
|  | Title | | | | |  | Date | | | |  | | |

**Instructions for Completing the FFATA Data Form**

**Zip Code + 4**

This is the four digit zip code extension available at <http://zip4.usps.com/zip4/welcome.jsp>

**DUNS Number**

Dun & Bradstreet (D&B) provides a D-U-N-S Number, a unique nine digit identification number, for each physical location of your business.

DUNS Number assignment is FREE for all businesses required to register with the US Federal government for contracts or grants. See <http://fedgov.dnb.com/webform>

**Parent Organization’s DUNS Number**

Complete if applicable. This is typically used by large organizations with multiple facilities in several locations. The parent organization’s number is number assigned to the headquarters for the operation.

**Principal Place of Performance**

Complete if the primary place of performance is different than the address listed above.

**Executive Compensation Information**

*Review the following questions to determine whether you are required to report executive compensation information.*

1. In your preceding completed fiscal year, did your business or organization receive:

1. 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act, as defined in 2 CFR 170.320; and
2. $25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act?

Yes  No

*Note: If the answer to either Question 1a or 1b is “No”, your organization’s compensation information is not required. Do not complete the Executive Compensation Information section of the FFATA Data Form.*

***Note: If the answer to both 1a and 1b is “Yes”, proceed to Question 2.***

2. Does the public have access to the information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78M(a), 78o(d)] or section 6104 of the Internal Revenue Code of 1986? (*To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission’s total compensation filings at* [*http://www.sec.gov/answers/execomp.htm*](http://www.sec.gov/answers/execomp.htm)

Yes  No

*Note: If the answer to Question # 2 is “Yes”, your organization’s executive compensation information is not required.*

***Note: If the answer to Question #2 is “No”, you are required to complete the Executive Compensation Information section of the FFATA Data Form.***

Definitions

"Executive" means officers, managing partners, or any other employees in management positions.

"Total compensation" means the cash and non-cash dollar value earned by the executives during the preceding fiscal year and includes items such as salary, bonuses, stock awards, incentive plans, pension plans, deferred compensation, etc.

Additional information about reporting compensation is available at: <https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf>

**Exhibit # 2:**

**Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization**

**Business Entity Certification:**

**The contractor must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.**

|  |
| --- |
| BOX A: To be completed by a non-business entity as defined below.  BOX B: To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at <https://www.uscis.gov/e-verify> .  BOX C: To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management. |

**Business entity,** as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **BOX A – Currently Not a Business Entity** | | | | |
| I certify that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo as stated above, because: (check the applicable business status that applies below)   * I am a self-employed individual with no employees; **OR** * The company that I represent employs the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.   I certify that I am not an alien unlawfully present in the United States and if \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company/Individual Name) is awarded a contract for the services requested herein under \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Bid/SFS/Contract Number) and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then, prior to the performance of any services as a business entity, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the Department of Social Services with all documentation required in Box B of this exhibit. | | | | |
|  |  |  |  |  |
|  | Authorized Representative’s Name  (Please Print) |  | Authorized Representative’s Signature |  |
|  |  |  |  |  |
|  | Company Name (if applicable) |  | Date |  |

**Exhibit # 2 (continued)**

***(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Box B – Current Business Entity Status** | | | | |
| I certify that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530. | | | | |
|  |  |  |  |  |
|  | Authorized Business Entity Representative’s Name (Please Print) |  | Authorized Business Entity  Representative’s Signature |  |
|  |  |  |  |  |
|  | Business Entity Name |  | Date |  |
|  |  |  |  |  |
|  | E-Mail Address |  |  |  |
| As a business entity, the contractor must perform/provide each of the following. The contractor should check each to verify completion/submission of all of the following:   * Enroll and participate in the E-Verify federal work authorization program (Website: <https://www.uscis.gov/e-verify>; Phone: 888-464-4218 (ask for Tier 2); Email: [e-verify@dhs.gov](mailto:e-verify@dhs.gov)) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND * Provide documentation affirming said company’s/individual’s enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page listing the contractor’s name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor’s name and the MOU signature page completed and signed, at minimum, by the contractor and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the contractor’s name and company ID, then no additional pages of the MOU must be submitted; AND * Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit. | | | | |

**Exhibit # 2 (continued)**

**Affidavit of Work Authorization**

The contractor who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of Business Entity Authorized Representative) as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Position/Title) first being duly sworn on my oath, affirm \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Business Entity Name)does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

***In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)***

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| --- | --- | --- |
|  |  |  |
| Authorized Representative’s Signature |  | Printed Name |
|  |  |  |
|  |  |  |
| Title |  | Date |
| E-Mail Address |  | E-Verify Company ID Number |

Subscribed and sworn to before me this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. I am commissioned as a notary (DAY)(MONTH, YEAR)

public commissioned as a notary public within the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

(NAME OF COUNTY) (NAME OF STATE)

and my commission expires on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(DATE)

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature of Notary |  | *Date* |
|  |  |  |
| Signature of Notary |  | *Date* |

**Exhibit # 2 (continued)**

***(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **BOX C – Affidavit on File - Current Business Entity Status** | | | | |
| I certify that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, and have enrolled and currently participates in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.   * The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor’s name and the MOU signature page completed and signed by the contractor and the Department of Homeland Security – Verification Division * A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).   Name of **Missouri State Agency** or **Public University**\* to Which Previous E-Verify Documentation Submitted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.  **Date** of Previous E-Verify Documentation Submission: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (if known) | | | | |
|  |  |  |  |  |
|  | Authorized Business Entity Representative’s Name (Please Print) |  | Authorized Business Entity  Representative’s Signature |  |
|  |  |  |  |  |
|  | E-Verify MOU Company ID Number |  | E-Mail Address |  |
|  |  |  |  |  |
|  | Business Entity Name |  | Date |  |
| **FOR STATE USE ONLY** | |  |  |  |
| Documentation Verification Completed By: | |  |  |  |
|  |  |  |  |  |
|  | Buyer |  | Date |  |

**Exhibit # 3:**

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98 Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160-19211).

***(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS FOR CERTIFICATION)***

(1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Company Name |  | DUNS # |
|  |  |  |
|  |  |  |
| Authorized Representative’s Printed Name |  | Authorized Representative’s Title |
| Authorized Representative’s Signature |  | Date |

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.

3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds 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 rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective recipient of Federal assistance funds 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 DOL.

6. The prospective recipient of Federal assistance funds 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," 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 it 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 List of Parties Excluded from Procurement or Nonprocurement Programs.

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 a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 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 voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.