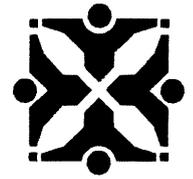


# City of Columbia

701 East Broadway, Columbia, Missouri 65201



**Agenda Item Number:** B 172-15

**Department Source:** Public Health & Human Services

**To:** City Council

**From:** City Manager & Staff

**Council Meeting Date:** 6/15/2015

**Re:** Missouri Department of Health and Senior Services

Participation Agreement for State Investment in Local Public Health Services

## Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Participation Agreement for State Investment in Local Public Health Services

**Supporting documentation includes:** None

## Executive Summary

An ordinance authorizing the City Manager to sign the Participation Agreement for State Investment in Local Public Health Services between the City of Columbia and the Missouri Department of Health and Senior Services in the amount of \$162,760. The agreement period is June 1, 2015 through May 31, 2018.

## Discussion

This is an annual agreement between the Columbia/Boone County Department of Health and Human Services (PHHS) and the Missouri Department of Health and Senior Services. This agreement provides funds to PHHS to offset the local cost of conducting public health disease surveillance, investigation, and control services, as well as certain environmental health activities. The contract also allows PHHS authority to implement certain public health state statutes and regulations on behalf of the Missouri Department of Health and Senior Services.

## Fiscal Impact

Short-Term Impact: none

Long-Term Impact: none

No appropriation of funds will be necessary to support the deliverables of this agreement. These funds will be used to offset program costs

## Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Health, Social Services and Affordable Housing

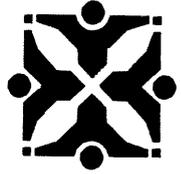
Strategic Plan Impact: Health, Safety and Wellbeing

Comprehensive Plan Impact: Not Applicable

## Suggested Council Action

# City of Columbia

701 East Broadway, Columbia, Missouri 65201



Should the Council agree with staff recommendations, an affirmative vote is in order.

## Legislative History

This agreement was formerly known as the Aid to Local Public Health Contract and the Core Functions Contract. This contract/agreement has been in place since the mid 1990's.

  
Department Approved

  
City Manager Approved

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Council Bill No. B 172-15

**AN ORDINANCE**

authorizing a participation agreement for state investment in local public health services with the Missouri Department of Health and Human Services; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a participation agreement for state investment in local public health services with the Missouri Department of Health and Human Services for the period of June 1, 2015 through May 31, 2018. The form and content of the participation agreement shall be substantially in the same form as set forth in "Exhibit A" attached hereto. Any actions taken by or on behalf of the City in connection with such agreement prior to the date of this ordinance are hereby approved and ratified.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**PARTICIPATION AGREEMENT FOR STATE  
 INVESTMENT IN LOCAL PUBLIC HEALTH SERVICES**

TRACKING NO. <b>41613</b>
AGREEMENT NO.

PROVIDER NAME Columbia/Boone County Dept of Public Health & Human Services	FEDERAL TAXPAYER ID NO. 4360008100 D
PROVIDER ADDRESS 1005 West Worley, P. O. Box 6015, Columbia, MO 65205	DUNS NO 071989024
AGREEMENT PERIOD <b>June 1, 2015 – May 31, 2018</b>	FUNDING SOURCE
	STATE 100%      FEDERAL 0%

1. This agreement is entered into by and between the State of Missouri, Department of Health and Senior Services (DHSS) and the above named local public health agency (LPHA) in order to provide an investment of state resources in the LPHA to support the delivery of public health services essential to the prevention of disease, promotion of healthy families, lifestyles and environments, and for protection from disease and disaster through an integrated and cooperative public health system in Missouri.
  - 1.1 The authority of the LPHA to perform public health services derives directly from this agreement entered into between the LPHA and DHSS and the Missouri Revised Statute 192.290.
2. This agreement shall consist of this form, the attached Exhibit 1 – Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization; and the attached Terms and Conditions document which are incorporated herein by reference.
3. The DHSS shall support the LPHA in the delivery of public health services by the following:
  - 3.1 Provide subject to availability, annual investment for each budget period (June 1 through May 30) of the agreement period.
    - a. The investment includes federal reimbursements of qualifying LPHA expenditures through the Children’s Health Insurance Program (CHIP), Health Services Initiative (H.S.I.).
    - b. The investment is subject to the annual appropriated amount available to the DHSS for state investment in local public health services.
    - c. The amount available to the LPHA is posted at <http://clphs.health.mo.gov/LPHS/> under State Investment In Local Public Health Services-State and Children’s Health Insurance Program (CHIP), Health Services Initiative (H.S.I.).
    - d. The DHSS will notify the LPHA in writing when the amount available changes during the agreement period.
  - 3.2 Provide a statewide communicable disease reporting system to facilitate compliance with 19 CSR 20 Chapter 20 - Communicable Diseases.
    - a. The reporting system will also assist with the identification of cases for implementation of control measures identified in 19 CSR 20-20.040.
    - b. The reporting system will provide health information, if populated, on specific risk-factors associated with disease transmission.
  - 3.3 Provide, at the LPHA’s request, on-site technical assistance and evaluation of communicable disease control activities.



**PARTICIPATION AGREEMENT FOR STATE  
INVESTMENT IN LOCAL PUBLIC HEALTH SERVICES**

TRACKING NO. <b>41613</b>
AGREEMENT NO.

- 3.4 Provide all available public health and health related data and epidemiological support, including that data and support identified by the LPHA as needed to provide or evaluate public health services in the local jurisdiction.
- 3.5 Provide opportunities for funding and technical assistance related to the DHSS public health priorities, including but not limited to:
  - a. Chronic Disease Control and Prevention,
  - b. Maternal and Child Health Promotion, and
  - c. Public Health Emergency Preparedness.
- 3.6 Provide staff and technical assistance as available, at the request of the LPHA in response to:
  - a. communicable disease outbreaks,
  - b. food borne outbreaks,
  - c. environmental contamination situations or events, e.g., adulterated foods, sewage releases, hazardous waste releases, etc.,
  - d. public health assessments,
  - e. community meetings or planning processes,
  - f. public health emergency events, or
  - g. shortages of local manpower or resources to address applicable communities' public health needs.
- 3.7 Provide local, regional and state level data to facilitate evaluation of public health performance statewide.
  - a. The LPHA may, at their discretion, provide feedback to the DHSS regarding the inclusion or exclusion of data elements used as performance measures.
  - b. The LPHA may, at their discretion, advise the DHSS regarding local determinants that impact the data elements used as performance measures.
- 3.8 Coordinate and provide regional meetings of local public health administrators or their designees to act as forums for discussing local, state and federal public health issues.
  - a. Participation in regional meetings is not mandatory and is understood to be at the LPHA's discretion.
- 3.9 Provide annually or as needed, the following communicable disease training to support the LPHA with their delivery of public health services:
  - a. Principles of Epidemiology,
  - b. Health Assessment Training (HAT),
  - c. Epi Ready Training,
  - d. WebSurv Application Training,
  - e. Annual District Communicable Disease Update Meetings,
  - f. Annual Regional TB In-services, and
  - g. TB Orientation Training
- 3.10 Provide the following uniform training programs for Environmental Public Health Specialists to support the LPHA with their delivery of public health services:



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
**PARTICIPATION AGREEMENT FOR STATE  
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- a. Environmental Health Fundamentals,
  - b. Lodging Safety and Sanitation,
  - c. Food Safety (Retail),
  - d. Food Safety (Manufacturing),
  - e. Environmental Child Care,
  - f. Onsite Wastewater Treatment,
  - g. Drinking Water,
  - h. Emergency Response,
  - i. General Environmental Health, and
  - j. Annual Environmental Health District Meetings.
- 3.11 Provide, at the LPHA's request, on-site technical assistance and evaluation of environmental public health activities.
- 3.12 Provide access to State Public Health Laboratory services and 24/7 emergency laboratory services for assistance in rapid detection, investigation, and containment of health concerns and environmental public health hazards.
4. The LPHA shall support the DHSS in the delivery of public health services by the following:
- 4.1 Complete and submit electronically, the Financial Report or the Infrastructure and Practices Survey on an alternating (each report every other year) basis.
- a. Submit a Financial Report within 60 days of the end of the LPHA's fiscal year end following the execution of this agreement and every other year thereafter. The electronic report can be found at the following web link <http://health.mo.gov/living/lpha/forms.php>.
  - b. Submit in electronic format, the Infrastructure and Practices Survey by December 31 of the year following the Financial Report and every other year thereafter. A web link to the electronic survey will be issued by the DHSS.
- 4.2 Share with the DHSS the priority health issues identified by results of the most recent locally prepared needs assessment conducted by the LPHA in order to facilitate the development of a statewide health improvement plan.
- 4.3 Collaborate with the DHSS to identify gaps and resource needs within the local public health capacity to guide joint planning and future DHSS investments.
- 4.4 Provide local public health services guided by standards identified within the DHSS reference and training materials, including:
- a. the Communicable Disease Investigation Reference Manual,
  - b. the Environmental Health Operational Guidelines,
  - c. the Public Health Nursing Manual, and
  - d. state and national public health accreditation standards.
- 4.5 Request from the DHSS any support, including staff and technical assistance, the LPHA deems necessary to respond to:



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
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- a. communicable disease outbreaks,
- b. food borne outbreaks,
- c. environmental contamination situations or events, (e.g., adulterated foods, sewage releases, hazardous waste releases, etc.),
- d. public health assessments,
- e. community meetings or planning processes,
- f. public health emergency events, or
- g. shortages of local manpower or resources to address applicable communities' public health needs.

4.6 Submit to the DHSS a Vendor Request For Payment (DH-38 form available online at <http://health.mo.gov/living/lpha/forms.php> either quarterly or monthly.

- a. The LPHA must indicate invoicing preference upon signing of agreement in the area provided below.
- b. If invoicing quarterly, the DH-38 form is due by July 15th, September 15th, December 15th, and March 15th, of the budget period. Advance payment for services is allowable under this option.
- c. If invoicing monthly, the DH-38 form must be submitted by the 15th of each month beginning July 15, 2015 and the May invoice submitted no later than June 3rd of the budget period.

4.7 The LPHA shall utilize the DHSS provided on-line Missouri Public Health Invoicing and Reporting System (MOPHIRS) to submit the DH-38 located at <https://healthapps.dhss.mo.gov/Login/Login.aspx?ReturnUrl=%2fmophirs%2fhome.aspx>.

5. General Conditions:

5.1 Pursuant to section 285.530, RSMo, if the LPHA meets the section 285.525, RSMo definition of a "business entity" (<http://www.moga.mo.gov/statutes/C200-299/2850000525.HTM>), the LPHA must affirm the LPHA'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 LPHA should complete applicable portions of Exhibit 1, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization, as attached hereto and incorporated by reference as if fully set forth herein. The applicable portions of Exhibit 1 must be submitted prior to an award of a contract.

5.2 If the LPHA meets the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo the LPHA 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 LPHA'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 LPHA 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 Missouri Department of Health and Senior Services the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work



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Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND

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

5.3 In accordance with subsection 2 of section 285.530 RSMo, the LPHA should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

5.4 Either party may terminate this agreement with or without cause by providing a thirty (30) day written notice to the other party.

5.5 Both parties agree that cooperation and collaboration of public health agencies at the state and local level is necessary to meet the public health needs of the residents of and visitors to the State of Missouri.

**Preferred Invoicing Schedule (please check one)**

**Quarterly Invoicing**

**Monthly Invoicing**

AUTHORIZED PROVIDER SIGNATURE	MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
PRINTED NAME / TITLE:	Director or Designee, Division of Administration
DATE:	DATE:

**EXHIBIT 1**  
**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 [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm).
- 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 State Investment In Local Public Health Services 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 Health and Senior 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 1, 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: [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm); Phone: 888-464-4218; 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 1, 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

**STATE OF MISSOURI  
DEPARTMENT OF HEALTH AND SENIOR SERVICES**

**TERMS AND CONDITIONS**

This contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained herein. Any change must be accomplished by a formal signed amendment prior to the effective date of such change.

**1. APPLICABLE LAWS AND REGULATIONS**

- a. The contract shall be construed according to the laws of the State of Missouri (state). The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. 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, the provisions 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.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. 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.
- e. 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.
- f. The contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

**2. INVOICING AND PAYMENT**

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified herein.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the state.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the specific contract terms.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

**3. DELIVERY**

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

**4. INSPECTION AND ACCEPTANCE**

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

**5. CONFLICT OF INTEREST**

Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.

**6. WARRANTY**

The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the state, (2) be fit and sufficient for the purpose intended, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

## **7. REMEDIES AND RIGHTS**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

## **8. CANCELLATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the state may cancel the contract. At its sole discretion, the state may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide the state within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the state will issue a notice of cancellation terminating the contract immediately. If it is determined the state improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the state cancels the contract for breach, the state reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the state deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

## **9. BANKRUPTCY OR INSOLVENCY**

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 must notify the state immediately. Upon learning of any such actions, the state reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

## **10. INVENTIONS, PATENTS AND COPYRIGHTS**

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

## **11. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the state shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the state until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## **12. AMERICANS WITH DISABILITIES ACT**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## **13. FILING AND PAYMENT OF TAXES**

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise.

## **14. COMMUNICATIONS AND NOTICES**

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

## 15. AMENDMENTS

Any changes to this contract shall be made only through execution of a written amendment signed and approved by an authorized signatory of each party.

## 16. MONITORING

- a. The Department reserves the right to monitor the Contractor during the contract period to ensure financial and contractual compliance.
- b. If the Department deems a Contractor to be high-risk, the Department may impose special conditions or restrictions on the Contractor, including but not limited to the following: withholding authority to proceed to the next phase of the project until the Department receives evidence of acceptable performance within a given contract period; requiring additional, more detailed financial reports or other documentation; additional project monitoring; requiring the Contractor to obtain technical or management assistance; or establishing additional prior approvals from the Department. The Department may impose special conditions or restrictions at the time of the contract award or at any time after the contract award. The Department will provide written notification to the Contractor prior to the effective date of the high-risk status.

## 17. DOCUMENT RETENTION

- a. The Contractor shall retain all books, records, and other documents relevant to this contract for a period of three (3) years after final payment or the completion of an audit, whichever is later, or as otherwise designated by the federal funding agency and stated in the contract.
- b. The Contractor shall allow authorized representatives of the Department, State, and Federal Government to inspect these records upon request.
- c. If the Contractor is subject to any litigation, claim, negotiation, audit or other action involving the records before the expiration of the three (3) year period, the Contractor shall retain the records until completion of the action and resolution of all issues which arise from it, or until the end of the regular three (3) year period, whichever is later.
- d. If the Department is subject to any litigation, claim, negotiation, audit or other action involving the records, the Department will notify the Contractor in writing to extend the Contractor's retention period.
- e. The Department may recover any payment it has made to the Contractor if the Contractor fails to retain adequate documentation.

## 18. CONFIDENTIALITY

- a. The Contractor shall safeguard Protected Personally Identifiable Information (PII) as defined in 2 CFR § 200.82. The Contractor agrees it will assume liability for all disclosures of Protected PII and breaches by the Contractor and/or the Contractor's subcontractors and employees.
- b. The Contractor shall maintain strict confidentiality of all patient and client information or records supplied to it by the Department or that the Contractor creates as a result of contract activities. Unless disclosure is required by law, the Contractor shall not disclose the contents of such records to anyone other than the Department, the patient/client, or the patient's/client's parent or legal guardian. The Contractor agrees it will assume liability for all disclosures of confidential information and breaches by the Contractor and/or the Contractor's subcontractors and employees. The Contractor agrees to comply with all applicable confidentiality and information security laws, including but not limited to sections 192.067 and 192.667, RSMo.

## 19. LIABILITY

- a. The relationship of the Contractor to the Department shall be that of an independent Contractor. The Contractor shall have no authority to represent itself as an agent of the Department. Nothing in this contract is intended to, nor shall be construed in any manner as creating or establishing an agency relationship or the relationship of employer-employee between the parties. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, or any other applicable employee related obligation or expense, and shall assume all costs, attorney fees, losses, judgments, and legal or equitable imposed remedies associated with the matters outlined in this paragraph in regards to the Contractor's subcontractors, employees and agents. The Contractor shall have no authority to bind the Department for any obligation or expense not specifically stated in this contract. This provision is not intended to waive any claim of sovereign immunity to which a public entity would otherwise be entitled to under Missouri law.
- b. The Contractor shall be responsible for all claims, actions, liability, and loss (including court costs and attorney's fees) for any and all injury or damage (including death) occurring as a result of the Contractor's performance or the performance of any subcontractor, involving any equipment used or service provided, under the terms and conditions of this contract or any subcontract, or any condition created thereby, or based upon any violation of any state or federal statute, ordinance, building code, or regulation by Contractor. However, the Contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the Department, including its officers, employees, and assigns. This provision is not intended to waive any claim of sovereign immunity to which a public entity would otherwise be entitled to under Missouri law.

## 20. PUBLICATIONS, COPYRIGHTS, AND RIGHTS IN DATA AND REPORTS

- a. If the Contractor issues any press releases mentioning contract activities, the Contractor shall reference in the release both the contract number and the Department. If the Contractor creates any publications, including audiovisual items, produced with contract funds, the Contractor shall give credit to both the contract and the Department in the publication. The Contractor shall obtain approval from the Department prior to the release of such press releases or publications.
- b. If the Contractor develops any copyrighted material as a result of this contract, the Department shall have a royalty-free, nonexclusive and irrevocable right to publish or use, and to authorize others to use, the work for Department purposes or the purpose of the State of Missouri.

## 21. AUTHORIZED PERSONNEL

- a. The Contractor shall be responsible for assuring that all personnel 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 documentation of such licensure or certification shall be made available upon request.
- b. The Contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Immigration Reform and Control Act of 1986 as codified at 8 U.S.C. § 1324a, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and Section 274A of the Immigration and Nationality Act. If the Contractor is found to be in violation of these requirements or the applicable laws of the 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 of the total amount due to the Contractor. The Contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.