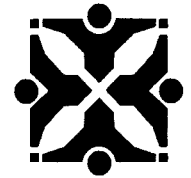


# City of Columbia

701 East Broadway, Columbia, Missouri 65201



**Agenda Item Number:** B 320-14

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

**To:** City Council

**From:** City Manager & Staff

**Council Meeting Date:** October 6, 2014

**Re:** Missouri Department of Health and Senior Services  
Child Care Health Consultation Contract

## Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Child Care Health Consultation Contract

**Supporting documentation includes:** None

## Executive Summary

An ordinance authorizing the City Manager to sign the Child Care Health Consultation Contract between the City of Columbia and the Missouri Department of Health and Senior Services in the amount of \$8,853.25 for the period of October 1, 2014 through September 30, 2015.

## Discussion

This contract allows the Department of Public Health and Human Services to provide educational support to child care providers seeking state licensure.

## Fiscal Impact

Short-Term Impact: none

Long-Term Impact: none

## 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

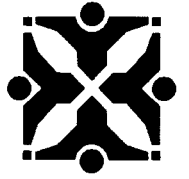
Should the Council agree with staff recommendations, an affirmative vote is in order.

## Legislative History

This contract has been in place since 1999.

# City of Columbia

701 East Broadway, Columbia, Missouri 65201



Stephanie K. Browning  
Department Approved

W. W. W. W.  
City Manager Approved

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

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

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

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

Council Bill No. B 320-14

**AN ORDINANCE**

authorizing a program services contract with the Missouri Department of Health and Senior Services for child care health consultation 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 program services contract with the Missouri Department of Health and Senior Services for child care health consultation services for the period of October 1, 2014 through September 30, 2015. The form and content of the program services contract 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 program services contract 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 \_\_\_\_\_, 2014.

ATTEST:

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

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

APPROVED AS TO FORM:

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



## MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES

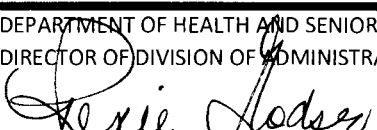
**PROGRAM SERVICES CONTRACT**

This contract is entered into by and between the State of Missouri, Department of Health and Senior Services (Department/state agency) and the below named entity/individual (Contractor). The contract consists of the contract signature page, the scope of work; any attachments referenced and incorporated herein; the terms and conditions; and any written amendments made in accordance with the provisions contained herein. This contract expresses the complete agreement of the parties. By signing below, the Contractor and Department agree to all the terms and conditions set forth in this contract.

To the extent that this contract involves the use, in whole or in part, federal funds, the signature of the Contractor's authorized representative on the contract signature page indicates compliance with the Certifications contained in Attachment A as attached hereto and incorporated by reference as if fully set forth herein.

<b>Tracking #</b> 40953	<b>Contract Title:</b> CHILD CARE HEALTH CONSULTATION	
<b>Contract Start:</b> 10/1/2014	<b>Contract End:</b> 9/30/2015	<b>Questions/Please Contact:</b> PROCUREMENT UNIT @ (573)751-6471
<b>Contract #:</b>		<b>Amend #:</b> 00

**PLEASE VERIFY/COMPLETE - TYPE OR PRINT - SIGNATURE REQUIRED**

NAME OF ENTITY/INDIVIDUAL (Contractor) COLUMBIA/BOONE COUNTY DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES	
DOING BUSINESS AS (DBA) NAME	
MAILING ADDRESS 1005 WEST WORLEY P O BOX 6015	
CITY, STATE, and ZIP CODE COLUMBIA MO 65205-6015	
REMIT TO (PAYMENT) ADDRESS (if different from above)	
CITY, STATE, and ZIP CODE	
CONTACT PERSON	EMAIL ADDRESS
PHONE NUMBER	FAX NUMBER
TAXPAYER ID NUMBER (TIN) 436000810	DUNS NUMBER 071989024
CONTRACTOR'S AUTHORIZED SIGNATURE	DATE
PRINTED NAME	TITLE
DEPARTMENT OF HEALTH AND SENIOR SERVICES DIRECTOR OF DIVISION OF ADMINISTRATION OR DESIGNEE SIGNATURE 	DATE SEP 10 2014

Wednesday, September 10, 2014 11:35:57 AM

**Child Care Health Consultation  
Columbia-Boone County Department of Public Health and Human Services  
SCOPE OF WORK**

**1. GENERAL**

- 1.1 The contract amount shall not exceed \$8,853.25 for the period of October 1, 2014 through September 30, 2015.
- 1.2 A minimum of \$326.10 shall be used for obesity prevention in child care by providing consultation, training and health promotions.
- 1.3 The Department has determined this contract is sub-recipient in nature as defined in the Office of Management and Budget (OMB) Circular A-133, Section 210. To the extent that this contract involves the use, in whole or in part, federal funds, the Contractor shall comply with the special conditions contained in Attachment B as attached hereto and incorporated by reference as if fully set forth herein.
- 1.4 The funding for this contract is obligated by the Department upon signature of the Department's Director of the Division of Administration or designee. No payment for services will be made until a signed contract and a completed Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization is on file with the Department.

**2. PURPOSE**

- 2.1 To support health consultation services offered by the local public health agency (LPHA), hereinafter Contractor, to child care providers. Consultation, training, and/or health promotion services are provided through LPHA health professionals, Child Care Health Consultation (CCHC) program consultants, including a Primary Consultant identified by the agency that is a registered nurse (RN), hereinafter approved CCHC program trainer(s).
- 2.2 To enhance child care health, safety, and nutrition practices in order to improve the health status and ensure safety of children in child care.
- 2.3 To assist the Missouri Department of Health and Senior Services, Center for Local Public Health Services, hereinafter Department or state agency, in achieving standards according to the 2011 "Core Competencies for Early Childhood and Youth Development Professionals (Kansas and Missouri)" for Content Area V: Health and Safety; which outlines standards to help early childhood and youth development professionals establish and maintain an environment that manages risk, ensures safety, promotes physical and mental well-being, and encourages healthy nutrition.
- 2.4 To assist the Department in addressing health issues for Missourians.
- 2.5 To provide outreach to child care providers who serve child care subsidy children by providing consultation, training, and health promotion services.

### 3. DELIVERABLES

3.1 The Contractor shall utilize contract funding to address health and safety issues in child care by providing one or more of the following:

#### 3.1.1 Consultation services:

The Contractor shall make health consultation services available to all child care providers, regulated and unregulated, that are in the Contractor's coverage area. The Contractor may also include parents of children in child care in the health consultation with the child care provider.

- a. The Contractor shall address issues identified by the child care provider, parents, consultant, and the Department.
- b. Consultation services can be provided through the two following categories:
  - 1) Specialized Consultation
    - a) A face-to-face meeting of **no less than one-half hour**
    - b) Is conducted with child care providers at a mutually agreed upon location
    - c) Must identify a goal and culminate with an outcome
  - 2) Technical Consultation
    - a) Non face-to-face collective series of communications that do **not exceed 20 minutes** (equals one [1] unit of service)
    - b) Must be provider initiated
    - c) Collective communication pertains to a single health and safety issue
    - d) Must identify a goal and culminate with an outcome
- c. Consultation services should include the following:
  - 1) Assessments of the child care facility and/or staff are conducted in accordance with the 2011 "Core Competencies for Early Childhood and Youth Development Professionals (Kansas and Missouri)", Content Area V: Health and Safety.
  - 2) Assistance in the development of a policy or implementation of an evidence-based best practice regarding health and safety issues affecting children within the child care facility.
  - 3) Assistance in the development of Individualized Health Plan(s) (IHPs).
  - 4) Making referrals to outside resources as needed, such as MO HealthNet for Kids, developmental screening, and WIC.
- d. Consultation services for obesity prevention shall include:

- 1) Identifying barriers to creating a healthy child care environment regarding nutrition and physical activity or
- 2) Assisting with the development of policies and evidenced-based best practices for obesity prevention.

e. Consultation Documentation

- 1) The Contractor shall utilize the Department provided on-line Missouri Public Health Invoicing and Reporting System (MOPHIRS) for Service Log Documentation located at <https://healthapps.dhss.mo.gov/Login/Login.aspx?ReturnUrl=%2fmophirs%2fhome.aspx> and is incorporated by reference as if fully set forth herein.

3.1.2 **Health Issue Trainings for Child Care Providers:**

The Contractor should provide health and safety training sessions for child care providers or assure providers have access to and are aware of equivalent trainings. The Contractor may also encourage parents to attend provider training sessions. Health and safety training sessions shall be conducted by the Primary Consultant, LPHA staff approved as CCHC program trainers, or guest speakers approved by the CCHC program.

a. The process for approving CCHC program trainers will be as follows:

- 1) The Primary Consultant shall obtain a Missouri Professional Development Identification Number (MOPDID). This number is obtained from the website maintained by the Opportunities in a Professional Educational Network (OPEN) initiative: [www.mopdid.org](http://www.mopdid.org)
- 2) Additional LPHA staff who will be utilized as approved CCHC program trainers shall also obtain a MOPDID.
- 3) The Primary Consultant shall also create a user account on the Missouri Workshop Calendar (MOWC) at: <http://www.moworkshopcalendar.org/>. Additional LPHA staff approved as CCHC program trainers will only need the MOPDID and do not need to create user accounts on the MOWC. User accounts are only needed for the designated staff that will schedule and assign trainers for a training session. Other guest speakers who are approved by the CCHC program do not need to obtain a MOPDID or MOWC user account unless a certification is being provided as part of the clock hour training (such as CPR/First Aid).
- 4) The Contractor must notify the CCHC Program Manager when a new employee has been added by providing the new employee's name and contact information, including the MOPDID (fax to 573.751.5350). Likewise, the Contractor must notify the CCHC Program Manager when LPHA staff should be removed from approved CCHC program trainer status.

- 5) The CCHC Program Manager will contact Child Care Aware with additions or deletions to the approved CCHC trainer list in the MOWC.
- b. Paper clock hour certificates
- 1) Approved CCHC program trainers should provide paper clock hour certificates to meet the annual requirements for child care providers who have not yet obtained a MOPDID. Blank certificates shall not be given out.
  - 2) When paper clock hour certificates are issued, they shall include the following:
    - a) Name of Participant
    - b) Topic
    - c) Date
    - d) Time (From/To)
    - e) Training Site
    - f) Name of LPHA
    - g) Name of approved CCHC program trainer(s)
    - h) Number of clock hours awarded
    - i) List content area, standard, and level of training as outlined in the 2011 “Core Competencies for Early Childhood and Youth Development Professionals (Kansas and Missouri)”
- c. When conducting trainings, approved CCHC program trainers shall:
- 1) Provide training in accordance with the 2011 “Core Competencies for Early Childhood and Youth Development Professionals (Kansas and Missouri)”, Content Area V: Health and Safety.
  - 2) Provide trainings at times when child care providers do not have responsibility for the care and supervision of children.
  - 3) Ensure at least one (1) child care provider be in attendance to qualify for training reimbursement.
  - 4) Provide Department approved training for no less than one (1) hour and give clock hours in no less than one-half (1/2) hour increments **after the first full hour**.
  - 5) Ensure all trainings are culturally competent and consider the inclusion of adults/children of all abilities.
  - 6) Make referrals to outside resources as needed such as, MO HealthNet for Kids, developmental screening, and WIC when indicated.
- d. The Contractor may choose to address, by training, health issues based on local child care provider need/request as follows:



1) Department Standardized Health Issue Training

The Contractor should address health issues using Department standardized training on health and safety for child care providers.

- a. When using Department standardized curricula (including lesson plans), the Contractor may add supplemental information to the training curriculum, however, shall not delete information. These Department standardized curricula are found in the library for approved CCHC trainers on the MOWC at: <http://www.moworkshopcalendar.org/>
- b. The Contractor **shall** use the standardized curricula (including lesson plans) when providing obesity prevention training. These curricula are found in the library for approved CCHC trainers on the MOWC at: <http://www.moworkshopcalendar.org/>

2) Locally Developed Health Issue Training

- a. The Contractor should address locally developed health issue training on health and safety for child care providers. Locally developed health issue trainings shall be provided by an approved CCHC program trainer or guest trainer. When a guest trainer is utilized, an approved CCHC program trainer shall be present.
- b. Existing lesson plans are found in the library for approved CCHC program trainers in the MOWC at: <http://www.moworkshopcalendar.org/>
- c. When visual media are used (e.g. DVD), it shall consist of less than one-half (1/2) of the total training time.
- d. As new health and safety topics are identified, the Contractor shall contact the CCHC Program Manager for assistance with developing a lesson plan to be placed in the library for approved CCHC trainers in the MOWC. Approval for new lesson plans may take up to three weeks through the MOWC process.
- e. Lesson plans are approved for three (3) years and shall be revised/updated after that time by the CCHC Program Manager.

e. Training Documentation

1) The Contractor shall utilize a sign-in sheet for each training.

- a) Training sign-in sheets shall include the following components:
  - i) Name of contractor
  - ii) Training site
  - iii) Topic

- iv) Date
  - v) Time (from/to)
  - vi) Approved CCHC program trainer(s)
  - vii) Guest trainer
  - viii) Participants (child care provider/parent/family member) printed name/signature
  - ix) Facility name/town/DVN
  - x) Total number of attendees
- b) Training sign-in sheets may either be generated using the MOWC, or template provided by the CCHC Program. Training sign in sheets **must** be uploaded into the MOWC following the steps on the MOWC to close out training attendance.
  - c) Training sign-in sheets shall be maintained within the agency and made available upon request for contract monitoring.
- 2) The Contractor shall utilize the Department provided on-line Missouri Public Health Invoicing and Reporting System (MOPHIRS) for Service Log Documentation located at <https://healthapps.dhss.mo.gov/Login/Login.aspx?ReturnUrl=%2fmophirs%2fhome.aspx>.

### 3.1.3 **Health Promotion:**

The Contractor may provide health promotion presentations/activities for children enrolled at the child care facility to achieve a specific skill or knowledge objective. These activities, while focused on children, should give providers tools, methods (e.g. modeling), or guidance on how to reinforce or assess the objective.

- a. Health promotions shall be presented on-site at the child care facility and should not exceed thirty (30) minutes, which equals one (1) unit.
- b. Health promotions shall be provided by an approved CCHC program trainer or guest trainer. When a guest trainer is utilized, an approved CCHC program trainer must be present.
- c. Health promotion topics will be developed in accordance with the 2011 “Kansas and Missouri Core Competencies for Early Childhood and Youth Development Professionals”, Content Area V: Health and Safety.
- d. Health promotion programs for children shall be developmentally appropriate and based on a written lesson plan as follows:
  - 1) Lesson plans shall be documented on the Child Care Health Consultation Lesson Plan. The Child Care Health Consultation Lesson Plan form is located on the Center for Local Public Health Services web page at <http://clphs.health.mo.gov/lphs/lphainfo.php>.

- 2) When visual media are used (e.g. DVD), it must consist of less than one-half (1/2) of the total health promotion time.
  - 3) Lesson plans are approved for three (3) years and must be revised/updated after that time.
- e. Health promotion presentations/activities for children enrolled in child care settings regarding obesity prevention **will be reimbursed**. Contractors that conduct health promotions for obesity prevention **shall** use standardized curricula (including lesson plans), provided by the CCHC program, found on the Center for Local Public Health Services web page at <http://clphs.health.mo.gov/lphs/lphainfo.php>. The Department will notify the Contractor when updated trainings are posted. The Contractor may add supplemental information to the training curriculum, however, shall not delete information.
- 1) Obesity prevention health promotion presentations/activities to children are for the purpose of:
    - a) Promoting current nutrition recommendations for children in child care
    - b) Promoting current physical activity recommendations for children in child care
- f. The Contractor shall not conduct back-to-back or same-day health promotions with the same children.
- g. Appropriate staff/child ratio must be maintained by the child care providers during the health promotions. The presenter is not considered to be a staff member of the child care facility for purposes of complying with the staff/child ratio set forth in Licensing Rules for Group Day Care Homes and Child Day Care Centers, 19 CSR 30-62.112, Rules for Family Day Care Homes, 19 CSR 30-61.105(2), and Rules for License-Exempt Child Care Facilities, 19 CSR 30-60.050.
- h. Health promotions **do not** count toward the licensed child care provider's annual training clock hour requirement.
- i. Health Promotion Documentation
- 1) The Contractor shall utilize the Department provided on-line Missouri Public Health Invoicing and Reporting System (MOPHIRS) for Service Log Documentation located at <https://healthiss.dhss.mo.gov/Login/Login.aspx?ReturnUrl=%2fmophirs%2fhome.aspx>.

#### 4. **ADDITIONAL CONTRACT REQUIREMENTS AND CLARIFICATIONS**

- 4.1 The Contractor shall designate at least one (1) Primary Consultant, who is a Registered Nurse (RN), to coordinate and actively provide oversight to the health consultation services for the contract. The Primary Consultant shall acquire approved trainer status. Other Local Public Health Agency (LPHA) staff with relevant education, experience, and expertise, may apply to be approved CCHC program trainers, and may provide training services under the oversight of a Primary Consultant if desired and/or needed. (See section 3.1.2(a), trainer approval process).
- 4.2 The Contractor's Primary Consultant shall complete orientation to the CCHC program offered by the Department. Other approved CCHC program trainers, which are providing CCHC program services, are also encouraged to complete the orientation. When possible, orientation will be offered by webinar. Upon completion of orientation, the evaluation must be submitted to the CCHC program to serve as documentation of completion.
- 4.3 The Contractor's Primary Consultant, or another designated approved CCHC program trainer(s), shall complete the annual contract opening conducted by the Department. This session will include review of the pertinent changes to the CCHC Scope of Work and information necessary to address health issues in the contract. The annual contract opening will be offered by webinar and regional trainings may be provided. Submitted evaluation serves as documentation of completion.
- 4.4 Contractors may accept a contract issued by the Department to provide CCHC services in another jurisdictional territory not already served by the agency located in said territory. These CCHC contracts are referred to as a neighboring area CCHC contract.
- 4.5 Outreach efforts should be made to provide consultation, training, and health promotion services to child care providers who serve child care subsidy children.
- 4.6 The Contractor shall not provide direct clinical services under this contract (e.g. injections, blood tests, health screenings, etc.).
- 4.7 Other LPHA personnel shall not conduct CCHC services in conjunction with LPHA inspection activities.
- 4.8 Additional tools and references for the CCHC contract are provided on the Center for Local Public Health Services web page at <http://clphs.health.mo.gov/lphs/lphainfo.php>. The Department will notify the Contractor when updated tools and references are posted.

## **5. REPORTS**

- 5.1 The Child Care Health Consultation Final Report shall be submitted by October 31, 2015.
- 5.2 The CCHC final report shall document an unduplicated number of child care facilities, including DVNs, receiving consultation, training, and health promotion services during the contract period, and the number of children impacted by these services.

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

**6. BUDGET AND ALLOWABLE COSTS**

- 6.1 The Contractor shall be reimbursed on a quarterly basis not to exceed the total contract amount according to the following fixed rates, until the total contract amount is utilized:

6.1.1 Consultation Services

<u>Type</u>	<u>Increments</u>	<u>Rate</u>
Specialized Consultation	½ hour	\$90.00 per hour
Specialized Consultation in Contracted Neighboring Area	½ hour	\$100.00 per hour
Technical Consultation	1 unit	\$30.00 per unit

6.1.2 Health Issues Trainings for Child Care Providers

<u>Approved</u>	<u>Increments</u>	<u>Rate</u>
CCHC program Guest trainer(s)	½ hour	\$80.00 per hour
CCHC program/Guest trainer(s) in Contracted Neighboring Area	½ hour	\$90.00 per hour

6.1.3 Health Promotion

<u>Approved</u>	<u>Increments</u>	<u>Rate</u>
CCHC program/Guest trainer(s)	1 unit	\$50.00 per unit
CCHC program/Guest trainer(s) in Contracted Neighboring Area	1 unit	\$60.00 per unit

- 6.2 Charge for attendees shall not exceed the Contractor's total cost of course materials for an individual.

- 6.3 Training offered under this contract must be provided free of charge to child care providers/parents, except as outlined in Section 6.2.

- 6.4 Preparation and travel time, as well as travel expenses, are built into the payment schedule.

- 6.5 The Contractor will not be paid for services provided in a neighboring area without prior written approval from the Department.
- 6.6 The Department reserves the right to reallocate or reduce contract funds at any time during the contract period due to underutilization of contract funds or changes in the availability of program funds. The Contractor will be given thirty (30) days prior written notification of any reallocation.
- 6.7 Administrative costs billed to the Department shall not exceed **5%** of the direct contract costs billed. Administrative costs are those associated with the management and oversight of an organization's activities. The Contractor is not required to submit supporting documentation to the Department.
- 6.8 The Contractor shall follow competitive procurement practices assuring all purchases are at reasonable prices.

## **7. INVOICING AND PAYMENT**

- 7.1 If the Contractor has not already submitted a properly completed State Vendor Automated Clearing House Electronic Funds Transfer (ACH/EFT) Application for deposit into a bank account of the Contractor, such Application shall be completed and submitted per this section, as the Department will make payments to the Contractor through Electronic Funds Transfer. The Department may delay payment until the ACH/EFT application is completed and approved.
  - 7.1.1 A copy of State Vendor ACH/EFT Application and completion instructions may be obtained from the Internet at:  
<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>.
  - 7.1.2 The Contractor must fax the ACH/EFT Application to: Office of Administration, Division of Accounting at 573-526-9813.
- 7.2 The Contractor shall be paid on a quarterly basis upon receipt and approval of a properly prepared Vendor Request for Payment form due by the fifteenth (15<sup>th</sup>) of the month following the quarter in which services were provided during the contract period.
- 7.3 The Contractor shall submit to the Department, uniquely identifiable invoices for payment processing using the Vendor Request for Payment Form (DH-38). The Vendor Request for Payment form shall be submitted by the 15<sup>th</sup> of the month following the quarter in which services were provided.
  - 7.3.1 The Contractor shall utilize the Department 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>.

- 7.3.2 Invoices and documentation shall be submitted according to the following quarterly schedule.

<b><u>Billing Period for Services Provided</u></b>	<b><u>Invoice Number</u></b>	<b><u>Due Dates</u></b>
October-December 2014	CCHC101214	January 15, 2015
January-March 2015	CCHC010315	April 15, 2015
April-June 2015	CCHC040615	July 15, 2015
July-September 2015	CCHC070915	October 8, 2015

- 7.3.3 No more than four invoices, one for each three-month invoice period, will be accepted from the Contractor during each contract year.
- 7.4 Final invoices are due within eight (8) calendar days of the contract ending date. The Department shall have no obligation to pay any invoice submitted after the due date.
- 7.5 If a request by the Contractor for payment or reimbursement is denied, the Department shall provide the Contractor with written notice of the reason(s) for denial.
- 7.6 Notwithstanding any other payment provision of this contract, if the Contractor fails to perform required work or services, fails to submit reports when due, or is indebted to the United States, the Department may withhold payment or reject invoices under this contract.
- 7.7 If the Contractor is overpaid by the Department, the Contractor shall issue a check made payable to "DHSS-DA-Fee Receipts" upon official notification by the Department and shall mail the payment to:

Missouri Department of Health and Senior Services  
Division of Administration, Fee Receipts  
P.O. Box 570  
920 Wildwood Drive  
Jefferson City, Missouri 65102-0570

## **8. AMENDMENTS**

- 8.1 Any changes to this contract shall only be made by execution of a written amendment signed and approved by the Department.

## **9. MONITORING**

- 9.1 The Department reserves the right to monitor this contract during the contract period to ensure financial and contractual compliance.
- 9.2 Contractors deemed high-risk by the Department may have special conditions or restrictions imposed, 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. Special conditions or restrictions can be imposed at the time of the contract award or at any time after the contract award. Written notification will be provided to the Contractor prior to the effective date of the high-risk status.

- 9.3 The Department shall monitor Contractors periodically throughout the year as follows:
  - 9.3.1 The Department reserves the right to conduct desk monitoring of the contract through reviews of invoicing and reporting submitted during the contract period to ensure contract compliance.
  - 9.3.2 The Department reserves the right to monitor the contract through on-site visits during the contract period at a minimum of once a year to ensure contractual compliance.
    - a. The focus of the on-site visit is consultation and technical assistance to assist the Contractor in acquiring the resources and expertise necessary to address the health and safety issues in the child care setting.
    - b. The Contractor on-site visit will include monitoring the Contractor's compliance with terms of the contract, and verifying the Contractor's progress toward meeting the contract deliverables including Department priority health issues
  - 9.3.3 The Contractor shall provide supporting documentation of services invoiced, for review during on-site visits by program staff, as follows:
    - a. Copies of a training sign-in sheet for each training conducted for child care providers and/or parents during the invoice period
- 9.4 The Department reserves the right to request an audit performed in accordance with generally accepted auditing standards at the expense of the Contractor at any time contract monitoring reveals such an audit is warranted.

## **10. DOCUMENT RETENTION**

- 10.1 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. The Contractor shall allow authorized representatives of the Department, State, and Federal Government to inspect these records upon request. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three (3) year period, the records shall be retained 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. The Department may recover any payment it has made to the Contractor if adequate documentation is not retained by the Contractor.



## **11. CONFIDENTIALITY**

- 11.1 The Contractor shall comply with provisions of Attachment C, as attached hereto and incorporated by reference as if fully set forth herein, in regards to the Health Insurance Portability and Accountability Act of 1996, as amended.

## **12. LIABILITY**

- 12.1 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.
- 12.2 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.

## **13. PUBLICATIONS, COPYRIGHTS, AND RIGHTS IN DATA AND REPORTS**

- 13.1 Any publicity release mentioning contract activities shall reference the contract number and the Department. Any publications, including audiovisual items produced with contract funds, shall give credit to the contract and the Department. The Contractor shall obtain approval from the Department prior to the release of such publicity or publications.
- 13.2 In accordance with the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 112-74, Section 505, "Steven's Amendment," the Contractor shall not issue any statements, press release, request for proposals, bid solicitations, and other documents describing projects or

programs funded in whole or in part with Federal money unless it clearly states the following:

- 13.2.1 The percentage of the total costs of the program or project which will be financed with Federal money; and
- 13.2.2 The percentage of the total costs of the project or program that will be financed by nongovernmental sources.
- 13.3 If any copyrighted material is developed 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.

#### **14. AUTHORIZED PERSONNEL**

- 14.1 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.
- 14.2 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.
- 14.3 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/statutes/C200-299/2850000525.HTM>), 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 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.

- 14.4 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:
- 14.4.1 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
- 14.4.2 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 Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
- 14.4.3 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.
- 14.5 In accordance with subsection 2 of section 285.530 RSMo, the Contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

## **15. TERMINATION**

- 15.1 If state and/or federal funds are not appropriated, continued, or available at a sufficient level to fund this contract, or in the event of a change in federal or state law relevant to this contract, the obligations of each party may, at the sole discretion of the Department, be terminated in whole or in part, effective immediately or as determined by the Department, upon written notice to the Contractor from the Department.
- 15.2 The Contractor may terminate the contract by giving written notice at least sixty (60) calendar days prior to the effective date of such termination. The Department reserves the right to terminate the contract, in whole or in part, at any time, for the convenience of the Department, without penalty or recourse, by giving written notice to the Contractor at least thirty (30) calendar days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the Contractor pursuant to the terms of the contract shall, at the option of the Department, become the property of the Department as authorized by law. The Contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the Department and for all non-cancelable obligations incurred pursuant to the contract prior to the effective date of termination.

## **16. SUBCONTRACTING**

- 16.1 Any subcontract shall include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the Contractor and the Department, including the civil rights requirements set forth in 19 CSR 10-2.010 (5) (A)-(L), if applicable, and provided that the Department approves the subcontracting arrangement prior to finalization. The Contractor shall ensure that the Department is indemnified, saved and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described herein. The Contractor shall expressly understand and agree that the responsibility for all legal and financial obligations related to the execution of a subcontract rests solely with the Contractor; and the Contractor shall assure and maintain documentation that any and all subcontractors comply with all requirements of this contract. The Contractor shall agree and understand that utilization of a subcontractor to provide any of the equipment or services in this contract shall in no way relieve the Contractor of the responsibility for providing the equipment or services as described and set forth herein.
- 16.2 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 contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo if the contract binding the Contractor and subcontractor affirmatively states that
- 16.2.1 the direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo and
- 16.2.2 shall not henceforth be in such violation and
- 16.2.3 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.
- 16.3 The Contractor shall be responsible for assuring that any subcontractor(s), 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.
- 16.4 The Contractor shall notify all subcontractor(s) of applicable Office of Management and Budget (OMB) administrative requirements, cost principles, other applicable federal rules and regulations, and funding source information as included herein.

**CERTIFICATIONS****1. GENERAL**

- 1.1 To the extent that this contract involves the use, in whole or in part, federal funds, the signature of the Contractor's authorized representative on the contract signature page indicates compliance with the following Certifications.

**2. CONTRACTOR'S CERTIFICATION REGARDING SUSPENSION AND DEBARMENT**

- 2.1 The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency pursuant to 2 CFR 180.
- 2.2 The Contractor shall include these certification requirements regarding debarment, suspension, ineligibility, and voluntary exclusion in all lower tier covered transactions.
- 2.3 If the Contractor enters into a covered transaction with another person at the next lower tier, the Contractor must verify that the person with whom it intends to do business is not excluded or disqualified by:
- 2.3.1 Checking the EPLS; or
- 2.3.2 Collecting a certification from that person; or
- 2.3.3 Adding a clause or condition to the covered transaction with that person.

**3. CONTRACTOR'S CERTIFICATION REGARDING LOBBYING**

- 3.1 The Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 3.2 The Contractor certifies that no funds under this contract shall be used to pay for any activity to support or defeat the enactment of legislation before the Congress, or any State or local legislature or legislative body. No funds under this contract shall be used to pay for any activity to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- 3.3 The Contractor certifies that no funds under this 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 the enactment of legislation, appropriations, regulation,

**CERTIFICATIONS**

administrative action, or Executive Order proposed or pending before the Congress, any State, local legislature or legislative body.

- 3.4 The above prohibitions include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- 3.5 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 3.6 The Contractor shall require that the language of this section be included in the award documents for all subawards at all levels (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 3.7 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code of Federal Regulations. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**4. CONTRACTOR'S CERTIFICATION REGARDING A DRUG FREE WORKPLACE**

- 4.1 The Contractor certifies it shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations. The Contractor is required to report any conviction of employees under a criminal drug statute for violations occurring on the Contractor's premises or off the Contractor's premises while conducting official business. A report of a conviction shall be made to the Department within five (5) working days after the conviction. Submit reports to:

Missouri Department of Health and Senior Services  
Division of Administration, Grants Accounting Unit  
P.O. Box 570  
920 Wildwood Drive  
Jefferson City, Missouri 65102-0570

**5. CONTRACTOR'S CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

## CERTIFICATIONS

- 5.1 Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.
- 5.2 The Contractor certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.
- 5.3 The Contractor agrees that it will require that the language of this certification be included in any subcontract or subaward that contains provisions for children's services and that all subrecipients shall certify accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.

## 6. **CONTRACTOR'S CERTIFICATION REGARDING NON-DISCRIMINATION**

- 6.1 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. These include but are not limited to:
  - 6.1.1 Title VI of the Civil Rights Act of 1964 (P.L. 88-352) 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 discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;
  - 6.1.2 Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. Section 206 (d));
  - 6.1.3 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;
  - 6.1.4 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;

## **CERTIFICATIONS**

- 6.1.5 The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;
- 6.1.6 Equal Employment Opportunity – E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”;
- 6.1.7 Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Requirements;
- 6.1.8 Missouri Governor’s E.O. #94-03 (excluding article II due to its repeal);
- 6.1.9 Missouri Governor’s E.O. #05-30; and
- 6.1.10 The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

## **7. CONTRACTOR’S CERTIFICATION REGARDING EMPLOYEE WHISTLEBLOWER PROTECTIONS**

- 7.1 The contractor shall comply with the provisions of 41 U.S.C. 4712 that states an employee of a contractor, subcontractor, grantee, or subgrantee may not be discharged, demoted or otherwise discriminated against as a reprisal for “whistleblowing”. In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.
- 7.2 The contractor’s employees are encouraged to report fraud, waste, and abuse. The contractor shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce.
- 7.3 The contractor shall include this requirement in any agreement made with a subcontractor or subgrantee.



**SUBRECIPIENT SPECIAL CONDITIONS**

1. The Department of Health and Senior Services (DHSS) has determined that this contract is subrecipient in nature as defined in the Office of Management and Budget (OMB) Circular A-133, Section 210. To the extent that this contract involves the use, in whole or in part, federal funds, the Contractor shall comply with the following special conditions.
  - 1.1 The Contractor shall comply with all applicable implementing regulations, and all other laws, regulations and policies authorizing or governing the use of any federal funds paid to the Contractor through this contract.
  - 1.2 In performing its responsibilities under this contract, the Contractor shall fully comply with the following Office of Management and Budget (OMB) administrative requirements and cost principles, as applicable, including any subsequent amendments.
    - 1.2.1 Uniform Administrative Requirements  
A-102 – State/Local Governments  
2 CFR 215 – Hospitals, Colleges and Universities, For-Profit Organizations (if specifically included in federal agency implementation), and Not-For-Profit Organizations (OMB Circular A-110)
    - 1.2.2 Cost Principles  
2 CFR 225 – State/Local Governments (OMB Circular A-87)  
2 CFR 230 – Not-For-Profit Organizations (OMB Circular A-122)  
2 CFR 220 – Colleges and Universities (OMB Circular A-21)  
48 CFR 31.2 – For-Profit Organizations  
45 CFR 74 Appendix E – Hospitals
  - 1.3 The Contractor shall comply with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) and OMB Circular A-133, including subsequent amendments or revisions, as applicable or 2 CFR 215.26 as it relates to for-profit hospitals and commercial organizations. A copy of any audit report shall be sent to DHSS, Division of Administration, P.O. Box 570, Jefferson City, MO 65102 each contract year if applicable. The Contractor shall return to the Department any funds disallowed in an audit of this contract.
  - 1.4 The Contractor shall comply with the public policy requirements as specified in the Department of Health and Human Services (HHS) Grants Policy Statement which is incorporated herein as if fully set forth.  
<http://www.hhs.gov/asfr/ogapa/aboutog/hhsgps107.pdf>
  - 1.5 The Contractor shall comply with Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104), as amended. This law applies to any private entity. A private entity includes any entity other than a State, local government, Indian tribe, or foreign public entity, as defined in 2 CFR 175.25. The subrecipient and subrecipients' employees may not:

**SUBRECIPIENT SPECIAL CONDITIONS**

- 1.5.1 Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- 1.5.2 Procure a commercial sex act during the period of time that the award is in effect; or
- 1.5.3 Use forced labor in the performance of the award or subawards under the award.
- 1.5.4 The Contractor must include the requirements of this paragraph in any subaward made to a private entity.
- 1.6 The Contractor shall comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations, as applicable.
- 1.7 The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).
- 1.8 The Contractor shall provide its Data Universal Numbering System (DUNS) number, unless the Contractor is an exempt individual as per 2 CFR 25.110(b). Pursuant to 2 CFR 25, no entity may receive a subaward unless the entity has provided its DUNS number. The award of this contract shall be withheld until the DUNS number has been submitted to and verified by the Department.
- 1.9 Equipment
  - 1.9.1 Title to equipment purchased by the Contractor for the purposes of fulfilling contract services vests in the Contractor upon acquisition, subject to the conditions that apply as set forth in 2 CFR 215.34 or 45 CFR 92.32, as applicable. The Contractor must obtain written approval from the Department prior to purchasing equipment with a cost greater than \$1,000. The repair and maintenance of purchased equipment will be the responsibility of the Contractor. Upon satisfactory completion of the contract, if the current fair market value (FMV) of the equipment purchased by the Contractor is less than \$5,000 there is no further obligation to the Department. Items purchased by the Contractor with a current FMV greater than \$5,000 may be sold or retained by the Contractor but the Contractor may be required to reimburse the Department for costs up to the current value of the equipment.
  - 1.9.2 Equipment purchased by the Department and placed in the custody of the Contractor shall remain the property of the Department. The Contractor must ensure these items are safeguarded and maintained appropriately, and return such equipment to the Department at the end of the program.

## 1. Business Associate Provisions

- 1.1 Health Insurance Portability and Accountability Act of 1996, as amended - The state agency 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 state agency. Therefore, the term, "contractor" as used in this section shall mean "Business Associate."
- 1.1.1 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 state agency.
  - 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:
    - (i) Except as provided in paragraph (b) 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.
    - (ii) 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 (state agency) 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.
- 1.1.2 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.
  - 1.1.3 The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. 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.
  - 1.1.4 The state agency 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.
  - 1.2 Permitted Uses and Disclosures of Protected Health Information by the Contractor:
    - 1.2.1 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 state agency, except for the specific uses and disclosures in the contract.

- 1.2.2 The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- 1.2.3 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 state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- 1.2.4 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.
- 1.2.5 If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.
- 1.2.6 If applicable, the contractor may use Protected Health Information to provide Data Aggregation services to the state agency as permitted by 45 CFR 164.504(e)(2)(i)(B).
- 1.2.7 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 state agency to do so.
- 1.2.8 The contractor agrees to make uses and disclosures and requests for Protected Health Information consistent with the state agency's minimum necessary policies and procedures.
- 1.3 Obligations and Activities of the Contractor:
  - 1.3.1 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).
  - 1.3.2 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.
- 1.3.3 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 state agency 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.
- 1.3.4 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.
- 1.3.5 By no later than ten (10) calendar days after receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, 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 state agency available to the state agency 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.
- 1.3.6 The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency 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 state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency. If requested by the state agency 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 state agency upon request.
- 1.3.7 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 state agency 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 state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.

- 1.3.8 At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- 1.3.9 The contractor shall report to the state agency'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 state agency'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.
- 1.3.10 The contractor shall report to the state agency'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 state agency'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.
- 1.3.11 The contractor shall report to the state agency'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 state agency'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.
- 1.3.12 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.

- 1.3.13 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.
- 1.3.14 Contractor shall not directly or indirectly receive remuneration in exchange for any Protected Health Information without a valid authorization.
- 1.3.15 If the contractor becomes aware of a pattern of activity or practice of the state agency that constitutes a material breach of contract regarding the state agency's obligations under the Business Associate Provisions of the contract, the contractor shall notify the state agency's Security Officer of the activity or practice and work with the state agency to correct the breach of contract.
- 1.3.16 The contractor shall indemnify the state agency 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 state agency 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 state agency 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.
- 1.4 Obligations of the State Agency:
  - 1.4.1 The state agency 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 state agency's notice of privacy practices in accordance with 45 CFR 164.520.
  - 1.4.2 The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
  - 1.4.3 The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
  - 1.4.4 The state agency 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.



- 1.5 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 state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, 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.
- 1.5.1 In the event the state agency 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 state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.
- 1.5.2 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 state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the breach of contract to the Secretary of the Department of Health and Human Services.

**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.

- |               |   |
|---------------|---|
| <b>BOX A:</b> | To be completed by a non-business entity as defined below.  |
| <b>BOX B:</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 <a href="http://www.dhs.gov/files/programs/gc_1185221678150.shtm">http://www.dhs.gov/files/programs/gc_1185221678150.shtm</a> . |
| <b>BOX C:</b> | 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 Child Care Health Consultation (Contract Name) 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**

**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.)*

\_\_\_\_\_  
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  
(DAY) (MONTH, YEAR)

commissioned as a notary public within the County of \_\_\_\_\_, State of  
(NAME OF COUNTY)

\_\_\_\_\_, and my commission expires on \_\_\_\_\_.  
(NAME OF STATE) (DATE)

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Date

**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.

**CONTRACT FUNDING SOURCE(S)**

The Contract Funding Source(s) is supplemental information the Department is required to provide the Contractor when issuing a contract or amendment that will be funded by federal sources. The document identifies the total amount of funding and the federal funding source(s) expected to be used over the life of this contract. For the specific amount for a contract period, refer to the contract and/or applicable amendments. If the funding information is not available at the time the contract is issued or the information below changes, the Contractor will be notified in writing by the Department. Please retain this information with your official contract files for future reference.

<b>Tracking #</b> 40953	<b>State:</b> 0% \$0.00	<b>Federal:</b> 100% \$8,853.25
<b>Contract Title:</b> CHILD CARE HEALTH CONSULTATION		
<b>Contract Start:</b> 10/1/2014	<b>Contract End:</b> 9/30/2015	<b>Amend#:</b> 00
<b>Contract #:</b>		
<b>Vendor Name:</b> COLUMBIA/BOONE COUNTY DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES		

**Federal Award Year:** \* **DHSS #:** ZZZ-PENDING FOA  
**Federal Agency:** \*  
**CFDA:** 10.000 **CFDA Name:** \*  
**Federal Award Name:** \*  
**Federal Award:** \*  
**Research and Development:** \* **Subject to A-133 Requirements:** Y

**Federal Award Year:** 2014 **DHSS #:** 14CACFP-SAE  
**Federal Agency:** DEPARTMENT OF AGRICULTURE / FOOD AND NUTRITION SERVICE  
**CFDA:** 10.560 **CFDA Name:** STATE ADMINISTRATIVE EXPENSES FOR CHILD NUTRITION  
**Federal Award Name:** CHILD NUTRITION  
**Federal Award:** 3MO300006-2014  
**Research and Development:** N **Subject to A-133 Requirements:** Y

**Federal Award Year:** 2014 **DHSS #:** 14MCH  
**Federal Agency:** DEPARTMENT OF HEALTH AND HUMAN SERVICES / HEALTH RESOURCES AND SERVICES ADMINISTRATION  
**CFDA:** 93.994 **CFDA Name:** MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT TO THE STATES  
**Federal Award Name:** MATERNAL AND CHILD HEALTH SERVICES  
**Federal Award:** 1 B04MC26677-01  
**Research and Development:** N **Subject to A-133 Requirements:** Y

\* The Department will provide this information when it becomes available.