

Minnesota Department of Human Services Aging and Adult Services Division

Request for Proposals for Qualified Grantees to Improve Quality of Services for People Receiving Customized Living Services Through Elderly Waiver

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I. Introduction

A. Purpose of Request

The Minnesota Department of Human Services, through its Aging and Adult Services Division (State), is seeking Proposals from qualified Responders to improve overall quality of services for persons receiving customized living services. Qualified responders must have provided customized living services to Elderly Waiver (EW) program participants in state fiscal year 2019 (i.e. between July 1, 2018 and June 30, 2019). Preference will be given to providers that serve at least 75 percent EW participants.

During State Fiscal Year (SFY) 2020-2021 it is estimated that approximately \$1 million in grants will be available to successful responders. One-time grants will be available ranging from \$20,000 to \$200,000.

B. Objective of this RFP

The objective of this RFP is to contract with qualified Responders to perform the tasks and services set forth in this RFP. The term of any resulting contract is anticipated to be 12-18 months, between January 1, 2020 and June 30, 2021.

Proposals must be submitted by 4:00 p.m. Central Standard Time on December 9, 2019. Proposals should be submitted through the Customized Living Quality Improvement grant program application [website](#)¹ This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest. All costs incurred in responding to this RFP will be borne by the Responder.

C. Background

The 2019 Minnesota Legislature established a Customized Living Quality Improvement grant program (CL QI) for providers of publicly funded customized living services (See [Laws of Minnesota 2019, 1st Spec. Sess. chapter 9, article 4, section 28](#)). The CL QI grant program supports provider-initiated projects to improve quality of services for people who are receiving customized living services. The CL QI grant program will advance all of the following policy objectives:

- Provide more efficient, higher quality services
- Encourage home and community-based services providers to innovate
- Equip home and community-based services providers with organizational tools and expertise to improve their quality
- Incentivize home and community-based services providers to invest in better services
- Disseminate successful performance improvement strategies statewide.

In July 2019, the Aging and Adult Services Division (AASD) released a report of a national review of quality measurement in assisted living produced under contract with the University of Minnesota. The report is part of AASD's effort to develop an assisted living report card. The report identified nine domains of quality (i.e. aspects of assisted living that have an impact on quality). Responders should work from these domains of quality in formulating their grant proposal. The Overview section in this RFP

¹ <https://mn.gov/dhspartners-and-providers/grants-rfps/elderly-waiver-quality-services-rfp/index.jsp>

provides a list of the nine domains and descriptors of each domain. To review the complete report on assisted living quality measure visit the [Assisted Living Report Card page²](#) on the DHS website.

II. Scope of Work

A. Overview

This RFP provides background information and describes the services desired by the State. It delineates the requirements for this procurement and specifies the contractual conditions required by the State. Although this RFP establishes the basis for Responder Proposals, the detailed obligations and additional measures of performance will be defined in the final negotiated contract.

The goal of this RFP is to support existing and new quality improvement efforts in the delivery of publicly funded customized living services. The legislation directs DHS to solicit proposals that meet the state’s policy objectives listed in the Background section above.

The target areas for quality improvement and grant funding in 2020-2021 are based on research the State conducted in partnership with the University of Minnesota in 2019. The State is seeking proposals for quality improvement projects related to the quality domains, sub-domains, and indicators in Table 1 below. The quality domains in Table 1 are aspects of quality in assisted living identified through the study. Responders should use this table to guide their work to develop or implement project improvements to enhance any of these sub-domains, indicators and quality domains.

Table 1: Quality domains and indicators

Quality Domain	Sub-domains and Indicators
Resident quality of life	<ul style="list-style-type: none"> ● Choice ● Connectedness ● Meaningful life/activities/engagement ● Social relationship ● Social activities ● Physical activity
Resident and family satisfaction	<ul style="list-style-type: none"> ● Personal care needs met ● Respect from staff ● Meal choice satisfaction ● Quality of staff care
Safety	<ul style="list-style-type: none"> ● Resident empowerment opportunities/perceived safety ● Accountability and continuous quality improvement ● Policies around resident safety ● Elder abuse

² <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/aging/assisted-living-report-card/assisted-living-reports.jsp>

Quality Domain	Sub-domains and Indicators
Resident health outcomes	<ul style="list-style-type: none"> ● Physical function ● Psychosocial well-being ● Adverse/avoidable critical incidents ● Medication errors ● Nursing home admissions ● Mental health/Behavioral health
Staff	<ul style="list-style-type: none"> ● Staff empowerment ● Collaboration among staff ● Communication (among providers/direct care workers) ● Supports (institutional, supervisor, emotional, coworker) ● Job satisfaction ● Resident-centered job satisfaction ● Consistent assignment ● Employee qualifications
Physical and social environment	<ul style="list-style-type: none"> ● Safety/Security ● Dining room environment ● Social climate ● Ability to get outside
Service availability	<ul style="list-style-type: none"> ● Meal service ● Medication assistance/management/quality ● Wellness ● Nutrition services ● Personal and emotional care ● Transportation
Core values and philosophy	<ul style="list-style-type: none"> ● Rules/Resident Rights ● Family and resident councils ● Workplace practices ● Scope of services
Care services and integration	<ul style="list-style-type: none"> ● Information transmission ● Care quality ● Collaboration among providers, including waiver case management ● Communication with family ● Service plan

B. Tasks and Deliverables

The following lists contain tasks and deliverables that will be required in grant contracts resulting from this RFP. These lists are not necessarily comprehensive. Other tasks and deliverables may be added during contract negotiations.

Tasks

- Develop and implement quality improvement initiatives
- Provide status reports as designated by the State
- Share lessons learned, best practices and challenges with other selected providers

- Submit data as needed to help the State better understand the financial implications of a specified strategy
- Meet timelines specified in the Proposal
- Provide a final project summary in a format determined by the State
- Comply with all applicable federal, state and local laws
- All products and services developed must meet the State of Minnesota accessibility standards and guidelines outlined in section VI, Accessibility Standards of this RFP

Deliverables

- Provide evidence of quality improvement as a result of project activities. Improvement may include but is not limited to the following:
 - Increased satisfaction among persons receiving customized living services
 - Increased participation by residents, families, staff or key partners
 - Improved collaboration and partnership with waiver case managers
 - Improved service delivery

III. Proposal Format

Proposals must conform to all instructions, conditions, and requirements included in the RFP.

Responders are expected to examine all documentation and other requirements. Failure to observe the terms and conditions in completion of the Proposal are at the Responder’s risk and may, at the discretion of the State, result in disqualification of the Proposal for nonresponsiveness. Acceptable Proposals must offer all services identified in Section II - *Scope of Work* and agree to the contract conditions specified throughout the RFP.

A. Required Proposal Contents

Responses to this RFP must consist of all of the following components (See following sections for more detail on each component):

1. Table of Contents

2. Proposal Requirements

- a. Executive Summary
- b. Description of the Applicant Agency
- c. Proportion of Elderly Waiver Participants
- d. Workplan: Goals, Objectives, Activities and Implementation (Appendix A)
- e. Evaluation Plan
- f. Budget Proposal (Appendix B)

3. Required Statements

- a. Responder Information and Declarations
- b. Exceptions to Terms and Conditions
- c. Affidavit of Noncollusion
- d. Trade Secret/Confidential Data Notification
- e. Submission of Certified Financial Audit, IRS Form 990, or Most Recent Board-Reviewed Financial Statements

- f. Disclosure of Funding Form
- g. Human Rights Compliance: Affirmative Action Data Page
- h. DHS Enrolled Provider

B. Proposal Requirements

The following will be considered minimum requirements of the Proposal. The emphasis should be on completeness and clarity of content.

1. Executive Summary (Maximum points 5) *Maximum 2,000 character limit, including spaces.* This component of the proposal should demonstrate the responder's understanding of the quality improvement initiatives requested in this RFP. Responders should write a brief description of the proposed project, including: goals and objectives and products/services to be developed or enhanced. The Executive Summary should also clearly describe or outline the Responder's overall design of the project in response to achieving the purpose and deliverables as defined in this RFP. Note: Executive Summary from each applicant awarded a grant may be posted on the DHS public web page.

2. Description of the Applicant Agency (Maximum points 15) *Maximum 5,000 character limit, including spaces.* This section must include a brief history of your organization, information on the assisted living setting(s) geographic area served, the address of the project site(s), and the number of total people served within each setting. Additionally, include the current programs and activities of the agency, staff experience, strengths, challenges and programmatic accomplishments. Include reasons why your organization is capable to effectively fulfill the deliverables outlined in the RFP. The Responder should also highlight the skill and experience of lead staff and designate a project manager with experience in planning and providing the proposed services.

As a component of its response, Responders may review the "Qualification as a Targeted Organization" list, available at [DHS Grants and RFPs³](#) website and submit an explanation of how Responder's qualification as a Targeted Organization uniquely improves its ability to provide services to the Target Population.

3. Proportion of Elderly Waiver Participants (Maximum points 15) Report the number of EW individuals served in your setting and the proportion of EW individuals as a percentage of your overall census in one or more of the following ways:

- Number and percent of EW participants on July 1, 2019
- Average number and percentage of EW participants between January 1, 2019 and June 30, 2019
- Average number and percentage of EW participants between July 1, 2018 and June 30, 2019

4. Workplan: Goals, Objectives, Activities and Implementation (Maximum points 40) *Maximum four pages.* This section should clearly define and discuss the goals and objectives of the project in relation to the targeted population of individuals receiving customized living services. Propose and describe specific milestones and outcomes that will be used to demonstrate the program's effectiveness and successes. Responders should complete and upload the Appendix A, provided in the application website and herein, to meet the requirements of this component of the proposal. All proposals submitted under this RFP must address, in sufficient detail, how the Responder will fulfill the expected outcomes and features set forth above. Simply repeating the outcomes and features and

³ <https://mn.gov/dhs/partners-and-providers/grants-rfps/>

asserting that they will be performed is not an acceptable response. This section should detail how the project will be carried out in an effective and thoughtful manner, including who will be involved (internal staff, stakeholders, community organizations, etc...), what resources are required, target dates for project activities and the timeframe for completion

6. Evaluation plan (Maximum points 10): *Maximum 5,500 character limit, including spaces.* This section should describe the methods and criteria that will be used to measure whether the project goals and objectives have been achieved.

A successful Responder must develop indicators of the success and effectiveness of the program and be able to measure and evaluate them to determine outcomes, including how this project/service improves quality standards/outcomes within your setting. This section should describe the methods and criteria that will be used to measure whether the project goals and objectives have been achieved. Responders can list surveys or other assessment tools proposed to use to assess and measure pre- and post-outcomes and how results will be summarized.

Additionally, describe what lasting effects will be produced by the project and how your organization will continue the proposed project after the granting period ends. Discuss the relationship with other organizations that you have or will develop further that will help maintain the proposed project long-term, and describe the value of any coordination across service providers and any secondary benefits that happened and/or you propose will happen due to this coordination.

7. Budget proposal (Maximum points 15): This section should specify the grant amount requested and detail all expenses for the proposed project. Responders should complete a budget proposal narrative and Appendix B: Budget Template. The budget proposal narrative should be separate from the Appendix B: Budget Template and should include a description of all of applicable expense areas listed in Appendix B. The budget proposal narrative must be complete and reasonable, must link to the proposed activities, and must specify how the amounts for each budget item were determined. If any subcontracted agencies are utilized include their costs in Appendix B and the budget proposal narrative. The description should also include resources that will be needed to implement the proposed project, such as staffing, training, and equipment. Responders are encouraged to apply for only the amount needed for their proposed programs.

The total available funds will not necessarily be divided equally, nor will selected applicants be guaranteed the entire amount requested. Budget proposals will be judged on efficient use of funds and overall cost-effectiveness.

Assuming successful Responders meet all requirements and responsibilities defined in the final negotiated contract, the State plans to take the following approach to payments: one initial cash advance equal to one calendar quarter, followed by quarterly cost reimbursement based on the previous quarter's expenses as documented by invoices.

C. Required Statements

Complete the correlating forms found in [eDocs](#)⁴ by searching for the form numbers referenced below, or pasting the form file path name found in the footnotes below to your browser, and submit them as the “Required Statements” section of your Proposal. You must use the current forms found in eDocs. Failure to use the most current forms found in eDocs in completion of the Proposal are at the Responder’s risk and may, at the discretion of the State, result in disqualification of the Proposal for nonresponsiveness.

1. Responder Information and Declarations (Responder Information/Declarations Form DHS-7020-ENG)⁵: Complete and submit the attached “Responder Information and Declarations” form. If you are required to submit additional information as a result of the declarations, include the additional information as part of this form. The Responder may fail the Required Statements Review in the event that the Responder does not affirmatively warrant to any of the warranties in the Responder Information and Declarations. Additionally, the State reserves the right to fail a Responder in the event the Responder does not make a necessary disclosure in the Responder Information and Declarations, or makes a disclosure which evidences a conflict of interest.

2. Exceptions to RFP Terms (Exceptions to Terms and Conditions Form DHS-7019-ENG)⁶: The contents of this RFP and the Proposal(s) of the successful Responder(s) may become part of the final contract if a contract is awarded. Each Responder's Proposal must include a statement of acceptance of all terms and conditions stated within this RFP or provide a detailed statement of exception for each item excepted by the Responder. **Responders who object to any condition of this RFP must note the objection on the attached “Exceptions to RFP Terms” form. If a Responder has no objections to any terms or conditions, the Responder should write “None” on the form.**

Responder should be aware of the State’s standard contract terms and conditions in preparing its response. A sample State of Minnesota, Department of Human Services, Grant Contract is attached in the Appendix for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

Responders are cautioned that any exceptions to the terms of the standard State contract which give the responder a material advantage over other Responders may result in the Responder’s Proposal being declared nonresponsive. Proposals being declared nonresponsive/failing will receive no further consideration for award of the Contract. Also, Proposals that take blanket exception to all or substantially all boilerplate contract provisions will be considered nonresponsive/failing Proposals and rejected from further consideration for contract award.

3. Affidavit of Noncollusion (Affidavit of Noncollusion Form- DHS-7021)⁷ : Each Responder must complete and submit the attached “Affidavit of Noncollusion” form. A Proposal will fail this component if an Affidavit of Noncollusion is not submitted.

⁴ <http://mn.gov/dhs/general-public/publications-forms-resources/edocs/index.jsp>

⁵ <https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-7020-ENG>

⁶ <https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-7019-ENG>

⁷ <https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-7021-ENG>

4. Trade Secret/Confidential Data Notification (Trade Secret/Confidential Data Notice Form- DHS-7015-ENG)⁸: All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the successful Responder. If a contract is awarded to the Responder, the State must have the right to use or disclose the trade secret data to the extent otherwise provided in the grant contract or by law.

If the Responder submits information in response to this RFP it believes to be trade secret/confidential materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statutes, section 13.37, and the Responder does not want such data used or disclosed for any purpose other than the evaluation of this Proposal, the Responder must:

a. Clearly mark every page of trade secret materials in its Proposal at the time the Proposal is submitted with the words “TRADE SECRET” or “CONFIDENTIAL” in capitalized, underlined and bolded type that is at least 20 pt.; the State does not assume liability for the use or disclosure of unmarked or unclearly marked trade secret/confidential data;

b. Fill out and submit the attached “Trade Secret/Confidential Information Notification Form,” specifying the pages of the Proposal which are to be restricted and justifying the trade secret designation for each item. If no material is being designated as protected, a statement of “None” should be listed on the form;

c. Satisfy the burden to justify any claim of trade secret/confidential information. In order for a trade secret claim to be considered by the State, detailed justification that satisfies the statutory elements of Minnesota Statutes, section 13.37 and the factors discussed in *Prairie Island Indian Community v. Minnesota Dept. of Public Safety*, 658 N.W.2d 876, 884-89 (Minn. App. 2003) must be provided. Use of generic trade secret language encompassing substantial portions of the Proposal or simple assertions of trade secret interest without substantive explanation of the basis therefore will be regarded as nonresponsive requests for trade secret exception and will not be considered by the State in the event of a data request is received for Proposal information; and

d. Defend any action seeking release of the materials it believes to be trade secret and/or confidential, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State’s award of a contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in the possession of the State. The State is required to keep all the basic documents related to its contracts, including selected responses to RFPs, for a minimum of six years after the end of the contract. Non-selected RFP Proposals will be kept by the State for a minimum of one year after the award of a contract, and could potentially be kept for much longer.

The State reserves the right to reject a claim if it determines responder has not met the burden of establishing that the information constitutes a trade secret or is confidential. **The State will not consider prices or costs submitted by the responder to be trade secret materials.** Any decision by the

⁸ <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-7015-ENG>

State to disclose information designated by the responder as trade secret/confidential will be made consistent with the Minnesota Government Data Practices Act and other relevant laws and regulations. If certain information is found to constitute a trade secret/confidential, the remainder of the Proposal will become public; only the trade secret/confidential information will be removed and remain nonpublic.

The State also retains the right to use any or all system ideas presented in any Proposal received in response to this RFP unless the Responder presents a positive statement of objection in the Proposal. Exceptions to such Responder objections include: (1) public data, (2) ideas which were known to the State before submission of such Proposal, or (3) ideas which properly became known to the State thereafter through other sources or through acceptance of the Responder's Proposal.

A Proposal may fail if a Trade Secret/Confidential Data form is not completed and submitted with the proposal.

5. Documentation to Establish Fiscal Responsibility: The successful Responder must be fiscally responsible. Therefore, Responders must include in their Proposals sufficient financial documentation to establish their financial stability.

IRS Form 990s.

If a Responder is a not-for-profit organization that completed an IRS Form 990, Responder must submit its most current IRS Form 990.

If Responder is concerned that its IRS Form 990 does not demonstrate its fiscal responsibility, it may supplement its application with any of the additional material described below. An IRS Form 990 is a federal tax return for nonprofit organizations. Nonprofit organizations that are recognized as exempt from federal income tax must file a Form 990 or Form 990 EZ if it has averaged more than \$25,000 in annual gross receipts over the past three tax years. Please also submit any information about any pending major accusations that could affect your financial stability.

Organizations without IRS Form 990s:

- (1) Organizations that have not completed an IRS Form 990 should submit a certified financial audit if they have one. A certified financial audit is a review of an organization's financial statements, fiscal policies and control procedures by an independent third party to determine if the statements fairly represent the organization's financial position and if organizational procedures are in accordance with Generally Accepted Accounting Principles (GAAP). Any organization with an annual revenue greater than \$750,000 is required to have a certified financial audit completed for any fiscal year in which they have total revenue of more than \$750,000.
- (2) If the organization does not have a certified financial audit, the organization must submit its most recent board-reviewed financial statements if it has a board.
- (3) If the organization does not have a certified financial audit or board-reviewed financial statements because it does not have a board, the organization should submit a certified statement of assets and debts (balance sheet) and evidence of cash flow including amounts in a checking account.

Responders may also include documentations of cash reserves to prevent shortages or delays in receipt of revenue, and/or any other documents sufficient to substantiate responsible fiscal management.

State may request additional information from these Responders as necessary to determine financial stability.

All Responders must submit any information about any pending major accusations that could affect your financial stability.

In the event a Responder is either substantially or wholly owned by another corporate entity, the Proposal must also include the most recent detailed financial report of the parent organization, and a written guarantee by the parent organization that it will unconditionally guarantee performance by the Responder in each and every term, covenant, and condition of such contract as may be executed by the parties.

If the Responder is a county government or a multi-county human services agency that has 1) had an audit in the last year by the State Auditor or an outside auditing firm, or 2) meets the requirements of the Single Audit Act, the Responder is not required to submit financial statements. However, the State reserves the right to request any financial information to assure itself of a county's financial status.

The information collected from these inquiries will be used in the State's determination of the award of the contract. It may be shared with other persons within the Minnesota Department of Human Services who may be involved in the decision-making process, and/or with other persons as authorized by law. If you choose not to provide the requested information, your organization's Proposal will be found nonresponsive and given no further consideration. The State reserves the right to request any additional information to assure itself of a Responder's financial reliability. If a Responder's submission in response to this component does not demonstrate its financial stability, the Responder may fail this requirement and be disqualified from further consideration.

6. Disclosure of Funding Form ([Disclosure of Funding Form- DHS-7018-ENG](#))⁹

Per the Federal Funding Accountability and Transparency Act of 2006 "Transparency Act" or "FFATA" (Public Law 109-282), all entities and organizations receiving federal funds are required to report full disclosure of funding (United States Code, title 31, chapter 61, section 6101). The purpose of FFATA is to provide every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards to be made available to the public through a single, searchable website. Federal awards include grants, sub-grants, loans, awards, and delivery orders.

In order to comply with the federal statute, the Minnesota Department of Human Services is required to obtain and report by the grantee's Data Universal Numbering System (DUNS) number and determine if the grantee meets specific requirement which would require additional reporting items and to collect additional information on executive compensation if required. In order to comply with federal law and to collect this information, Responders are required to fill out the Disclosure of Funding Form and

⁹ <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-7018-ENG>

submit it with their response. The form requires Responders to provide their Data Universal Numbering System (DUNS) number. The Data Universal Numbering System (DUNS) number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. If a Responder does not already have a DUNS number, a number may be obtained from the D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>). The Responder must have a DUNS number before their response is submitted.

7. Human Rights Compliance

- a. **Affirmative Action Certification.** ([Affirmative Action Data Page- DHS-7016-ENG](#))¹⁰: For all contracts estimated to be in excess of \$100,000, Responders are required to complete and submit the attached “Affirmative Action Data” page. As required by Minnesota Rules, part 5000.3600, “It is hereby agreed between the parties that Minnesota Statutes, section 363A.36 and Minnesota Rules, parts 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statutes, section 363A.36 and Minnesota Rules, parts 5000.3400 - 5000.3600 are available upon request from the contracting agency.”

8. DHS Enrolled Provider

The Responder must be an enrolled provider with DHS to provide Elderly Waiver customized living services. The Responder must submit a statement that attests that the provider is an enrolled provider, along with the DHS provider identification number. Based on this information, DHS will internally verify that the provider is enrolled.

IV. RFP Process

A. Responders’ Questions

Responders’ questions regarding this RFP must be submitted in writing by 4:00 p.m. Central Standard Time on November 20, 2019. All questions must be emailed to the Aging and Adult Services Division at dhs.aasd.hcbs@state.mn.us.

Other personnel are NOT authorized to discuss this RFP with Responders before the Proposal submission deadline. **Contact regarding this RFP with any State personnel not listed above could result in disqualification.** The State will not be held responsible for oral responses to Responders.

Questions will be addressed in writing and posted to the [RFP website](#)¹¹ no later than December 2, 2019.

B. Proposal Submission

Proposals must be received by 4:00 p.m. Central Standard Time on December 9, 2019 to be considered. Request for Proposal responses must be submitted through the [RFP website](#)¹².

C. RFP Important Dates

October 28, 2019: RFP will be published on the RFP website

¹⁰ <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7016-ENG>

¹¹ <https://mn.gov/dhs/partners-and-providers/grants-rfps/elderly-waiver-quality-services-rfp/index.jsp>

¹² <https://mn.gov/dhs/partners-and-providers/grants-rfps/elderly-waiver-quality-services-rfp/index.jsp>

November 20: Responders questions regarding this RFP must be submitted to dhs.aasd.hcbs@state.mn.us

December 2: Answers to Responder questions will be posted to the RFP website

December 9: RFP submission due by 4:00 p.m. Central Standard Time

V. Proposal Evaluation and Selection

A. Overview of Evaluation Methodology

1. All Proposals received by the deadline will be evaluated by the State. Proposals will be evaluated on “best value” as specified below, using a 100 point scale. The evaluation will be conducted in three phases:

- a. Phase I Required Statements Review
- b. Phase II Evaluation of Proposal Requirements
- c. Phase III Selection of the Successful Responder(s)

2. During the evaluation process, all information concerning the Proposals submitted, except identity, address, and the amount requested by Responder, will remain non-public and will not be disclosed to anyone whose official duties do not require such knowledge.

3. Nonselection of any Proposals will mean that either another Proposal(s) was determined to be more advantageous to the State or that the State exercised the right to reject any or all Proposals. At its discretion, the State may perform an appropriate cost and pricing analysis of a Responder's Proposal, including an audit of the reasonableness of any Proposal.

B. Evaluation Team

1. An evaluation team will be selected to evaluate Responder Proposals.

2. State and professional staff, other than the evaluation team, may also assist in the evaluation process. This assistance could include, but is not limited to, the initial mandatory requirements review, contacting of references, or answering technical questions from evaluators.

3. The State reserves the right to alter the composition of the evaluation team and their specific responsibilities.

C. Evaluation Phases

At any time during the evaluation phases, the State may, at the State’s discretion, contact a Responder to (1) provide further or missing information or clarification of their Proposal, (2) provide an oral presentation of their Proposal, or (3) obtain the opportunity to interview the proposed key personnel. Reference checks may also be made at this time. However, there is no guarantee that the State will look for information or clarification outside of the submitted written Proposal. Therefore, it is important that the Responder ensure that all sections of the Proposal have been completed to avoid the possibility of failing an evaluation phase or having their score reduced for lack of information.

1. Phase I: Required Statements Review

The Required Statements will be evaluated on a pass or fail basis. Responders must "pass" each of the requirements identified in these sections to move to Phase II.

2. Phase II: Evaluation of Proposal Requirements

a. Points have been assigned to these component areas. The total possible points for these component areas are as follows:

Component Total	Possible Points
i. Executive Summary	5
ii. Description of the Applicant Agency	15
iii. Proportion of Elderly Waiver Participants served	15
iv. Workplan: Goal, Objectives, Activities, and Implementation Project goals and objectives	40
v. Evaluation plan	10
vi. Budget proposal	15
Total:	100

b. The evaluation team will review the components of each responsive Proposal submitted. Each component will be evaluated on the Responder's understanding and the quality and completeness of the Responder's approach and solution to the problems or issues presented.

c. After reviewing the Proposals, the members of the evaluation team will rate each Proposal component, according to the following scale:

Proposal Component Rating	Point Factor
Excellent	1.000
Very Good	0.875
Good	0.750
Satisfactory	0.625
Poor	0.500
Unacceptable	0.000

Upon determining which of the above Ratings best describes the component being rated, the total possible points available for the component from paragraph a will be multiplied by the corresponding point factor.

EXAMPLE: A "very good" rating (0.875) of a Proposed Work Plan worth a maximum of 40 points would receive a score of 35 (40 x 0.875 = 35).

All component scores will then be added together to create a proposal's total score.

d. For item iii., points will be awarded in the following manner:

75-100 percent EW participants served = 15 points
50-74 percent EW participants served = 7.5
49 percent or below = 0 points

3. Phase III: Selection of the Successful Responder(s)

- a. Only the Proposals found to be responsive under Phases I and II will be considered in Phase III.
- b. The evaluation team will review the scoring in making its recommendations of the successful Responder(s).
- c. The State may submit a list of detailed comments, questions, and concerns to one or more Responders after the initial evaluation. The State may require said response to be written, oral, or both. The State will only use written responses for evaluation purposes. The total scores for those Responders selected to submit additional information may be revised as a result of the new information.
- d. The evaluation team will make its recommendation based on the above-described evaluation process. The successful Responder(s), if any, will be selected approximately one month after the Proposal submission due date.

D. Contract Negotiations and Unsuccessful Responder Notice

If a Responder(s) is selected, the State will notify the successful Responder(s) in writing of their selection and the State's desire to enter into contract negotiations. Until the State successfully completes negotiations with the selected Responder(s), all submitted Proposals remain eligible for selection by the State.

In the event contract negotiations are unsuccessful with the selected Responder(s), the evaluation team may recommend another Responder(s).

After the State and chosen Responder(s) have successfully negotiated a contract, the State will notify the unsuccessful Responders in writing that their Proposals have not been accepted. All public information within Proposals will then be available for Responders to review, upon request.

VI. Required Contract Terms and Conditions

A. Requirements. All Responders must be willing to comply with all state and federal legal requirements regarding the performance of the grant contract. The requirements are set forth throughout this RFP and are contained in the attached grant contract in the Appendix.

B. Governing Law/Venue. This RFP and any subsequent contract must be governed by the laws of the State of Minnesota. Any and all legal proceedings arising from this RFP or any resulting contract in which the State is made a party must be brought in the State of Minnesota, District Court of Ramsey County. The venue of any federal action or proceeding arising here from in which the State is a party must be the United States District Court for the State of Minnesota.

C. Travel. Reimbursement for travel and subsistence expenses actually and necessarily incurred by the grantee as a result of the grant contract will be in no greater amount than provided in the current

"Commissioner's Plan" promulgated by the commissioner of Minnesota Management and Budget. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out-of-state.

D. Preparation Costs. The State is not liable for any cost incurred by Responders in the preparation and production of a Proposal. Any work performed prior to the issuance of a fully executed grant contract will be done only to the extent the Responder voluntarily assumes risk of non-payment.

E. Contingency Fees Prohibited. Pursuant to Minnesota Statutes, section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

F. Insurance Requirements

1. Responder shall not commence work under the grant contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the grant contract.

2. Responder is required to maintain and furnish satisfactory evidence of the following insurance policies:

a. Workers' Compensation Insurance: Except as provided below, Responder must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Responder will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum amounts are as follows:

- \$100,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$100,000 – Bodily Injury by Accident

If Minnesota Statute, section 176.041 exempts Responder from Workers' Compensation insurance or if the Responder has no employees in the State of Minnesota, Responder must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Responder from the Minnesota Workers' Compensation requirements.

If during the course of the grant contract the Responder becomes eligible for Workers' Compensation, the Responder must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance

b. Commercial General Liability: Responder is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the grant contract whether the operations are by the Responder or by a subcontractor or by anyone directly or indirectly employed by the Responder under the grant contract. Insurance minimum amounts are as follows:

\$2,000,000 – per occurrence
\$2,000,000 – annual aggregate
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
Other; if applicable. Please list _____.
State of Minnesota named as an Additional Insured, to the extent permitted by law.

c. Commercial Automobile Liability: Responder is required to maintain insurance protecting the Responder from claims for damages for bodily injury as well as from claims for property damage resulting from ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this grant contract, and in case any work is subcontracted the Responder will require the subcontractor to provide Commercial Automobile Liability. Insurance minimum amounts are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

d. Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance (if applicable)

This policy will provide coverage for all claims the Responder may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Responder's professional services required under the grant contract.

Responder is required to carry the following minimum amounts:

\$2,000,000 – per claim or event
\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the Responder and may not exceed \$50,000 without the written approval of the State. If the Responder desires authority from the State to have a deductible in a higher amount, the Responder shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Responder to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this grant contract and Responder shall maintain such insurance for a period of at least three (3) years, following

completion of the work. If Responder discontinues such insurance, then extended reporting period coverage must be purchased to fulfill this requirement.

e. Blanket Employee Theft/Employee Dishonesty Insurance.

Responder is required to obtain a blanket employee theft/employee dishonesty policy in at least the total amount of the first year's grant award as either an addendum on its property insurance policy, or if it is not feasible to include it as an addendum to a property insurance policy, as a stand-alone employee theft/employee dishonesty policy. The State will be named as both a joint payee and a certificate holder on the property insurance policy addendum or on the stand-alone employee theft/employee dishonesty policy, whichever is applicable. Only in cases in which the first year's grant award exceeds the available employee theft/employee dishonesty coverage may Responders provide blanket employee theft/employee dishonesty insurance in an amount equal to either 25% of the yearly grant amount, or the first quarterly advance amount, whichever is greater. Upon execution of a grant contract, the Responder must furnish the State with a certificate of employee theft/employee dishonesty insurance. This requirement does not apply to grant contracts with the University of Minnesota, counties, school districts or reservations.

3. Additional Insurance Conditions:

- a. Responder's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Responder's performance under this grant contract;
- b. If Responder receives a cancellation notice from an insurance carrier affording coverage herein, Responder agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Responder's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota;
- c. Responder is responsible for payment of grant contract related insurance premiums and deductibles;
- d. If Responder is self-insured, a Certificate of Self-Insurance must be attached;
- e. Include legal defense fees in addition to its liability policy limits, with the exception of VI.G.2.d. above; and
- f. Obtain insurance policies from an insurance company having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better and must be authorized to do business in the State of Minnesota; and
- g. An Umbrella or Excess Liability insurance policy may be used to supplement the Responder's policy limits to satisfy the full policy limits required by the grant contract.

4. The State reserves the right to immediately terminate the grant contract if the Responder is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Responder. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

5. The successful Responder is required to submit Certificates of Insurance acceptable to the State of Minnesota as evidence of insurance coverage requirements prior to commencing work under the grant contract.

I. Accessibility Standards

Any information systems, tools, information content, and/or work products, including the response to this solicitation/contract, applications, web sites, video, learning modules, webinars, presentations, etc., whether commercial, off-the-shelf (COTS) or custom, purchased or developed, must comply with the Minnesota IT Accessibility Standards effective September 1, 2010, as updated on October 3, 2013. This standard requires in part, compliance with the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D.

Information technology deliverables and services offered must comply with the [MN.IT Services Accessibility Standards¹³](#). The relevant requirements are contained under the “Standards” tab. Information technology deliverables or services that do not meet the required number of standards or the specific standards required may be rejected and may not receive further consideration.

VII. State’s Authority

1. The State may:
 - A. Reject any and all Proposals received in response to this RFP;
 - B. Disqualify any Responder whose conduct or Proposal fails to conform to the requirements of this RFP;
 - C. Have unlimited rights to duplicate all materials submitted for purposes of RFP evaluation, and duplicate all public information in response to data requests regarding the Proposal;
 - D. Select for contract or for negotiations a Proposal which best represents “best value” as defined in Minnesota Statutes, section 16C.02, subdivision 4 and in this RFP document;
 - E. Consider a late modification of a Proposal if the Proposal itself was submitted on time and if the modifications were requested by the State, and the modifications make the terms of the Proposal more favorable to the State, and accept such Proposal as modified;
 - F. At its sole discretion, reserve the right to waive any non-material deviations from the requirements and procedures of this RFP;
 - G. Negotiate as to any aspect of the Proposal with any Responder and negotiate with more than one Responder at the same time, including asking for Responders’ “Best and Final” offers;
 - H. Extend the grant contract, in increments determined by the State, not to exceed a total contract term of five years;

¹³ <https://mn.gov/mnit/government/policies/accessibility/#1>

- I. Cancel the RFP at any time and for any reason with no cost or penalty to the State; and
 - J. The State will not be liable for any errors in the RFP or other responses related to the RFP.
2. If federal funds are used in funding a contract that results from this RFP, in accord with 45 C.F.R. § 92.34, for Works and Documents created and paid for under the contract, the U.S. Department of Health and Human Services will have a royalty free, non-exclusive, perpetual and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the Works or Documents created and paid for under a resulting contract for federal government purposes.

Appendix A: Work Plan

Responders must use this template to complete their work plan, which will include goal, objectives, activities and implementation plan.

GOAL:

Objective	Key Activities/Strategies	People Responsible	Outcomes	Detailed Timeline

Appendix B: Budget Template

Responders must use this budget template to provide detailed expenses for the proposed project. You must attach a narrative describing all the details. The detailed description column and/or the narrative must specify how the amounts for each expense area were determined. The narrative budget should also describe what funds the responder is investing in the project beyond the dollars requested. Responders can modify the budget template, editing expense areas or adding expense areas not represented in the template, as needed.

Expense Area	Detailed description	Examples	Jan-Jun 2020	Jul 2020-Jun 2021	TOTAL Dollars
Personnel		Salaries for FTEs dedicated to project			

Expense Area	Detailed description	Examples	Jan-Jun 2020	Jul 2020-Jun 2021	TOTAL Dollars
Sub-contracts		Contracts with other organizations to deliver direct services to participants			
Contracted services		Professional contracts to benefit the grantee (e.g. program experts/advisers, technical assistance, interpreters, photographers/videographers, project-specific IT services, project content trainers, evaluation services, legal advice)			
Direct program costs		Project related expenses, such as: supplies, materials, copying, postage, room rental, refreshments, and stipends to incent program participation.			
Equipment		Any equipment over \$500			
Marketing		Advertising, promotion, outreach, publicity			
Staff development		Training, conference			
In-state staff travel		Training, conference, other			
Indirect / administrative costs		Portion of management, support staff, HR, accounting, IT, office supplies, not directly involved in project.			
Other		Add expense areas not represented in the template.			
TOTAL					

Appendix C: Sample State Grant Contract

State of Minnesota Department of Human Services Grant Contract

RECITALS

THIS GRANT, and amendments and supplements thereto, is between State of Minnesota, acting through its Department of Human Services _____ Division (hereinafter STATE) and _____, an

independent grantee, not an employee of the State of Minnesota, address _____(hereinafter GRANTEE), witnesseth that:

WHEREAS, the STATE, pursuant to Minnesota Statutes, section _____ is empowered to enter into contracts for the following services: _____, and

WHEREAS STATE is in need of the following services: _____, and

WHEREAS STATE is permitted to share information with the GRANTEE in accordance with Minnesota Statutes, section 13.46, and

WHEREAS, GRANTEE represents that it is duly qualified and willing to perform the services set forth herein,

NOW, THEREFORE, it is agreed:

1. GRANTEE'S DUTIES. GRANTEE shall:

2. CONSIDERATION AND TERMS OF PAYMENT.

2.1 **Consideration.** Consideration for all services performed and goods or materials supplied by GRANTEE pursuant to this grant shall be paid by the STATE as follows:

(a.) **Compensation.** GRANTEE will be paid as follows

(b.) **Reimbursement.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by GRANTEE'S performance of this grant contract shall be no greater amount than provided in the current Commissioner's Plan (which is incorporated by reference) promulgated by the Commissioner of Minnesota Management and Budget. GRANTEE shall not be reimbursed for travel and subsistence expense incurred outside the State of Minnesota unless it has received prior written approval for such out of state travel from the STATE.

(c.) **Total obligation.** The total obligation of the STATE for all compensation and reimbursements to GRANTEE shall not exceed _____ dollars (\$ _____).

d. (If applicable.) For compensation payable under this grant contract, which is subject to withholding under state or federal law, appropriate amounts will be deducted and withheld by the State as required.

2.2. Terms of Payment

(a.) Reimbursement shall be one initial cash advance of _____(equal to one calendar month or calendar quarter) followed by monthly/quarterly cost reimbursement based on the previous month's/quarter's expenses as documented by receipts, invoices, travel vouchers, and time sheets.

The STATE shall issue a second cash advance of _____(equal to one calendar month or calendar quarter) after reconciliation of the previous State fiscal year funds. If actual expenditures of the

GRANTEE are less than provided in the approved program line item budget at the end of the grant's term, the STATE shall reduce the final payment so as not to exceed expenditures.

(b.) Please document the need for the Advance given to the GRANTEE:

(c.) Payments shall be made by the STATE promptly after GRANTEE'S presentation of invoices for services performed and acceptance of such services by the STATE'S authorized agent pursuant to Clause 7. Invoices shall be submitted in a form prescribed by the STATE and according to the following schedule:

(d.) (Where applicable. If blank this section does not apply.) Payments are to be made from federal funds obtained by the STATE through Title _____ of the _____ Act of _____ (Public Law _____ and amendments thereto) Catalog of Federal Domestic Assistance (CFDA) No. _____ federal award name and number _____ - _____. If at any time such funds become unavailable, this grant shall be terminated immediately upon written notice of such fact by the STATE to the GRANTEE. In the event of such termination, GRANTEE shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

(e.) GRANTEE's Data Universal Numbering System (DUNS) number is _____. The Data Universal Numbering System (DUNS) number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities.

3. CONDITIONS OF PAYMENT. All services provided by GRANTEE pursuant to this grant contract shall be performed to the satisfaction of the STATE, as determined at the sole discretion of its authorized representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations including business registration requirements of the Office of the Secretary of State. GRANTEE shall not receive payment for work found by the STATE to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

4. PAYMENT RECOUPMENT. The GRANTEE must reimburse the STATE upon demand or the STATE may deduct from future payments under this grant any amounts paid by the STATE, under this or any previous grant, for which invoices and progress reports have not been received, or for which the GRANTEE'S books, records or other documents are not sufficient to clearly substantiate that those amounts were used by the GRANTEE to perform grant services.

5. TERMS OF CONTRACT. This grant shall be effective on _____, or upon the date that the final required signature is obtained by the STATE, pursuant to Minnesota Statutes, section 16C.05, subdivision 2, whichever occurs later, and shall remain in effect through _____, or until all obligations set forth in this grant contract have been satisfactorily fulfilled, whichever occurs first. GRANTEE understands that NO work should begin under this grant contract until ALL required signatures have been obtained, and GRANTEE is notified to begin work by the STATE's Authorized Representative.

The GRANTEE shall have a continuing obligation, after said grant period, to comply with the following provisions of grant clauses: 10. Indemnification; 11. State Audits; 12. Information Privacy and Security; 13. Intellectual Property Rights; 14. Publicity; and 20. Jurisdiction and Venue.

6. CANCELLATION.

6.1. **For Cause or Convenience.** This grant contract may be canceled by the STATE or GRANTEE at any time, with or without cause, upon thirty (30) days written notice to the other party. In the event of such a cancellation, GRANTEE shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed. The STATE has the right to suspend or terminate this grant contract immediately when the STATE deems the health or welfare of the service recipients is endangered, when the STATE has reasonable cause to believe that the GRANTEE has breached a material term of the grant contract, or when GRANTEE'S non-compliance with the terms of the grant contract may jeopardize federal financial participation.

6.2. **Insufficient Funds.** The STATE may immediately terminate this grant contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination will be by written or fax notice to the GRANTEE. The STATE is not obligated to pay for any services that are provided after notice and effective date of termination. However, the GRANTEE will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The STATE will not be assessed any penalty if the grant contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The STATE must provide the GRANTEE notice of the lack of funding within a reasonable time of the STATE's receiving that notice.

6.3. **Breach.** Notwithstanding clause 6.1., upon STATE's knowledge of a curable material breach of the grant contract by GRANTEE, STATE shall provide GRANTEE written notice of the breach and ten (10) days to cure the breach. If GRANTEE does not cure the breach within the time allowed, GRANTEE will be in default of this grant contract and STATE may cancel the grant contract immediately thereafter. If GRANTEE has breached a material term of this grant contract and cure is not possible, STATE may immediately terminate this grant contract.

7. AUTHORIZED REPRESENTATIVES, RESPONSIBLE AUTHORITY and PROJECT MANAGER.

7.1. **State.** The STATE'S authorized representative for the purposes of administration of this grant contract is _____ or his/her successor. Such representative shall have final authority for acceptance of GRANTEE'S services and if such services are accepted as satisfactory, shall so certify on each invoice submitted pursuant to Clause 2.2.

7.2. **Grantee.** The GRANTEE's Authorized Representative is _____ or his/her successor. If the GRANTEE's Authorized Representative changes at any time during this grant contract, the GRANTEE must immediately notify the STATE.

7.3. Information Privacy and Security. (If applicable) GRANTEE's responsible authority for the purposes of complying with data privacy and security for this grant contract is _____ or his/her successor.

7.4 Project Manager. The STATE'S project manager for this grant contract is _____ phone number: _____ or his/her successor.

8. ASSIGNMENT. GRANTEE shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the STATE.

9. AMENDMENTS. Any amendments to this grant contract shall be in writing, and shall be executed by the same parties who executed the original grant contract, or their successors in office.

10. INDEMNIFICATION.

In the performance of this grant contract by GRANTEE, or GRANTEE'S agents or employees, the GRANTEE must indemnify, save, and hold harmless the STATE, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the STATE, to the extent caused by GRANTEE'S: 1) Intentional, willful, or negligent acts or omissions; or 2) Actions that give rise to strict liability; or 3) Breach of contract or warranty. The indemnification obligations of this clause do not apply in the event the claim or cause of action is the result of the STATE'S sole negligence. This clause will not be construed to bar any legal remedies the GRANTEE may have for the STATE'S failure to fulfill its obligation under this grant contract.

11. STATE AUDITS. Under Minnesota Statutes, section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the GRANTEE and its employees, agents, or subcontractors relevant to this grant contract shall be made available and subject to examination by the STATE, including the contracting Agency/Division, Legislative Auditor, and State Auditor for a minimum of six years from the end of this grant contract.

12. INFORMATION PRIVACY AND SECURITY.

- A. It is expressly agreed that STATE will not be disclosing or providing information protected under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, (the "Data Practices Act") as "not public data" on individuals to GRANTEE under this Contract. "Not public data" means any data that is classified as confidential, private, nonpublic, or protected nonpublic by statute, federal law or temporary classification. Minn. Stat. § 13.02, subd. 8a.
- B. It is expressly agreed that GRANTEE will not create, receive, maintain, or transmit "protected health information," as defined in the Health Insurance Portability Accountability Act ("HIPAA"), 45 C.F.R. § 160.103, on behalf of STATE for a function or activity regulated by 45 C.F.R. §§ 160 or 164. Accordingly, GRANTEE is not a "business associate" of STATE, as defined in HIPAA, 45 C.F.R. § 160.103 as a result of, or in connection with, this grant contract. Therefore, GRANTEE is not required to comply with the privacy provisions of HIPAA as a result of, or for purposes of, performing under this

grant contract. If GRANTEE has responsibilities to comply with the Data Practices Act or HIPAA for reasons other than this grant contract, GRANTEE will be responsible for its own compliance.

- C. Notwithstanding paragraph A and B, in its capacity as GRANTEE under this Contract, GRANTEE must comply with the provisions of the Data Practices Act as though it were a governmental entity as defined by the Data Practices Act. GRANTEE will be performing functions of a government entity under Minnesota Statutes, section 13.05, subdivision 11, and thus any data created, collected, received, stored, used, maintained or disseminated by GRANTEE in performing its duties under this contract is subject to the protections of the Data Practices Act. The civil remedies of Minnesota Statutes, section 13.08 apply to the release of the data governed by the Data Practices Act, Minnesota Statutes, Chapter 13, by either the GRANTEE or the STATE.
- D. In its capacity as GRANTEE under this contract, GRANTEE is being made an agent of the “welfare system” as defined in Minnesota Statutes, section 13.46, subdivision 1, and any data collected, created, received, stored, used, maintained or disseminated by GRANTEE in performing its duties under this Contract is explicitly subject to the protections of Minn. Stat. § 13.46.
- E. If the GRANTEE receives a request to release data created, collected, received, stored, used, maintained or disseminated by GRANTEE in performing its duties under this Contract, GRANTEE must immediately notify and consult with the STATE’s Authorized Representative as to how the GRANTEE should respond to the request.
- F. Under this Contract, GRANTEE performing the functions of a government entity including, but are not limited to, responding appropriately pursuant to Minnesota Statutes, sections 13.03 and 13.04 to requests for data created, collected, received, stored, used, maintained, or disseminated by GRANTEE in performing its duties under this Contract.
- G. GRANTEE’s obligations while performing the functions of a government entity include, but are not limited to, complying with Minnesota Statutes, section 13.05, subdivision 5 to establish appropriate security safeguards for all records containing data on individuals.
- H. GRANTEE must comply with Minnesota Statutes, section 13.055 to investigate and appropriately report or notify regarding any potential unauthorized acquisition of data created, collected, received, stored, used, maintained, or disseminated by GRANTEE in performing its duties under this Contract.

12. INTELLECTUAL PROPERTY RIGHTS.

Definitions. Works means all inventions, improvements, discoveries (whether or not patentable or copyrightable), data, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the GRANTEE, its employees, agents, and subcontractors, either individually or jointly with others in the performance of the grant contract. Works includes “Documents.” Documents are the originals of any data, data bases, computer programs, reports, notes, studies, photographs, negatives,

designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the GRANTEE, its employees, agents, or subcontractors, in the performance of this grant contract.

Ownership. The STATE owns all rights, title, and interest in all of the intellectual property, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this grant contract. The Works and Documents will be the exclusive property of the STATE and all such Works and Documents must be immediately returned to the STATE by the GRANTEE upon completion or cancellation of this grant contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” If using STATE data, GRANTEE must cite the data, or make clear by referencing that STATE is the source.

Responsibilities.

Notification. Whenever any Works or Documents (whether or not patentable) are made or conceived for the first time or actually or constructively reduced to practice by the GRANTEE, including its employees and subcontractors, and are created and paid for under this grant contract, the GRANTEE will immediately give the STATE’S Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon. The GRANTEE will assign all right, title, and interest it may have in the Works and the Documents to the STATE.

Filing and recording of ownership interests. The GRANTEE must, at the request of the STATE, execute all papers and perform all other acts necessary to transfer or record the STATE’S ownership interest in the Works and Documents created and paid for under this grant contract. The GRANTEE must perform all acts, and take all steps necessary to ensure that all intellectual property rights in these Works and Documents are the sole property of the STATE, and that neither GRANTEE nor its employees, agents, or subcontractors retain any interest in and to these Works and Documents.

Duty not to Infringe on intellectual property rights of others. The GRANTEE represents and warrants that the Works and Documents created and paid for under this grant contract do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 10, the GRANTEE will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the STATE, at the GRANTEE’S expense, from any action or claim brought against the STATE to the extent that it is based on a claim that all or part of these Works or Documents infringe upon the intellectual property rights of others. The GRANTEE will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the GRANTEE’S or the STATE’S opinion is likely to arise, the GRANTEE must, at the STATE’S discretion, either procure for the STATE the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the STATE will be in addition to and not exclusive of other remedies provided by law.

13. HUMAN RIGHTS COMPLIANCE.

13.1 Affirmative Action requirements for Grantees with more than 40 full-time employees and a contract in excess of \$100,000.

If GRANTEE has had more than 40 full-time employees within the State of Minnesota on a single working day during the previous twelve months preceding the date GRANTEE submitted its response to the STATE, it must have an affirmative action plan, approved by the Commissioner of Human Rights of the State of Minnesota, for the employment of qualified minority persons, women and persons with disabilities. See Minnesota Statutes, section 363A.36. If GRANTEE has had more than 40 full-time employees on a single working day during the previous twelve months in the state in which it has its primary place of business, then GRANTEE must either: 1) have a current Minnesota certificate of compliance issued by the Minnesota Commissioner of Human Rights; or 2) certify that it is in compliance with federal Affirmative Action requirements.

Affirmative Action and Non-Discrimination requirements for all Grantees:

A. The GRANTEE agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status in regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age in regard to any position for which the employee or applicant for employment is qualified. Minnesota Statutes, section 363A.02. GRANTEE agrees to take affirmative steps to employ, advance in employment, upgrade, train, and recruit minority persons, women, and persons with disabilities.

B. The GRANTEE must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The GRANTEE agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Minnesota Rules, part 5000.3550

C. GRANTEE agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

Notification to employees and other affected parties. The GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices will state the rights of applicants and employees, and GRANTEE's obligation under the law to take affirmative action to employ and advance in employment qualified minority persons, women, and persons with disabilities.

The GRANTEE will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the GRANTEE is bound by the terms of Minnesota Statutes, section 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment minority persons, women, and persons with physical and mental disabilities.

Compliance with Department of Human Rights Statutes. In the event of GRANTEE's noncompliance with the provisions of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section 363A.36, and the rules and relevant orders issued pursuant to the Minnesota Human Rights Act.

14. WORKERS' COMPENSATION. The GRANTEE certifies that it is in compliance with Minnesota Statutes, section 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The GRANTEE'S employees and agents will not be considered employees of the STATE. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the STATE'S obligation or responsibility.

15. VOTER REGISTRATION REQUIREMENT. GRANTEE certifies that it will comply with Minnesota Statutes, section 201.162 by providing voter registration services for its employees and for the public served by the GRANTEE.

16. OWNERSHIP OF EQUIPMENT. The STATE shall have the right to require transfer of all equipment purchased with grant funds (including title) to the STATE or to an eligible non-STATE party named by the STATE. This right will normally be exercised by the STATE only if the project or program for which the equipment was acquired is transferred from one grantee to another.

17. FEDERAL AUDIT REQUIREMENTS AND GRANTEE DEBARMENT INFORMATION. GRANTEE certifies it will comply with the Single Audit Act, and Code of Federal Regulations, title 2, subtitle A, chapter II, part 200, as applicable. All sub-recipients receiving \$750,000 or more of federal assistance in a fiscal year will obtain a financial and compliance audit made in accordance with the Single Audit Act, or Code of Federal Regulations, title 2, subtitle A, chapter II, part 200, as applicable. Failure to comply with these requirements could result in forfeiture of federal funds.

DEBARMENT BY STATE, ITS DEPARTMENTS, COMMISSIONS, AGENCIES OR POLITICAL SUBDIVISIONS

GRANTEE certifies that neither it nor its principles is presently debarred or suspended by the STATE, or any of its departments, commissions, agencies, or political subdivisions. GRANTEE'S certification is a material representation upon which the grant contract award was based. GRANTEE shall provide immediate written notice to the STATE'S authorized representative if at any time it learns that this

certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

Federal money will be used or may potentially be used to pay for all or part of the work under the grant contract, therefore GRANTEE certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. GRANTEE'S certification is a material representation upon which the grant contract award was based.

18. JURISDICTION AND VENUE. This grant contract, and amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this grant contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

19. WAIVER. If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the STATE's right to enforce it.

20. CONTRACT COMPLETE. This grant contract contains all negotiations and agreements between the STATE and the GRANTEE. No other understanding regarding this grant contract, whether written or oral may be used to bind either party.

21. OTHER PROVISIONS.

21.1. GRANTEE agrees that it will at all times during the term of the grant contract keep in force a commercial general liability insurance policy with the following minimum amounts: \$2,000,000 per occurrence and \$2,000,000 annual aggregate, protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the grant contract whether the operations are by the GRANTEE or by a subcontractor or by anyone directly or indirectly employed by the GRANTEE under the grant contract.

21.2. The GRANTEE further agrees to keep in force a blanket employee theft/employee dishonesty policy in at least the total amount of the first year's grant award as either an addendum on its property insurance policy, or, if it is not feasible to include it as an addendum to a property insurance policy, as a stand-alone employee theft/employee dishonesty policy. The STATE will be named as both a joint payee and a certificate holder on the employee theft/employee dishonesty addendum or on the stand-alone employee theft/employee dishonesty policy, whichever is applicable. Only in cases in which the first year's grant award exceeds the available employee theft/employee dishonesty coverage may grantees provide blanket employee theft/employee dishonesty insurance in an amount equal to either 25% of the yearly grant amount, or the first quarterly advance amount, whichever is greater. Upon execution of this grant contract, the GRANTEE shall furnish the State with a certificate of employee theft/employee dishonesty insurance.

21.3. GRANTEE agrees that no religious based counseling shall take place under the auspices of this grant contract.

21.4. If the GRANTEE has an independent audit, a copy of the audit shall be submitted to the STATE.

21.5. **Payment to Subcontractors.** (If applicable) As required by Minnesota Statutes, section 16A.1245, the prime GRANTEE must pay all subcontractors, less any retainage, within ten (10) calendar days of the prime GRANTEE's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).