Minnesota Department of Human Services
Mental Health Division

Request for Proposal for a Qualified Contractor
to Conduct a Comprehensive Analysis of
Minnesota’s Continuum of Intensive Mental
Health Services for Children with Severe
Emotional Disturbance

Date of Publication: January 8, 2018

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To further this commitment, the Department of Administration operates a program for Minnesota-based small businesses owned by minorities, women, veterans, and those with substantial physical disabilities. For additional information on this program, or to determine eligibility, please call 651-296-2600 or go to [www.mmd.admin.state.mn.us/mn02001.htm](http://www.mmd.admin.state.mn.us/mn02001.htm).
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RFP Summary

Important Dates:

RFP Published: January 8, 2018

Questions Due: January 23, 2018

DHS Responses Due: February 5, 2018

Proposals Due: SWIFT EVENT END: February, 26, 2018

Anticipated Selection of Successful Responder(s): March 12, 2018

Anticipated Start of Contract: April 6, 2018

Anticipated End of Contract: June 30, 2019

Anticipated Extensions: 0

Number of paper courtesy copies: 5

State Contact: Bill Wyss
I. Introduction

A. Purpose of Request

The Minnesota Department of Human Services, through its Mental Health Division (State), is seeking Proposals from qualified Responders to conduct a comprehensive analysis of Minnesota’s continuum of intensive mental health services for children, including residential treatment. This also includes recommendations for a sustainable and community-driven continuum of care for children with serious mental health needs.

Documentation through past reports and county and provider data of an underserved population supports the need for further analysis and stakeholder discussion to continue the policy and infrastructure development of intensive and community-based services. Many children and families do not have access to adequate mental health services to provide much needed mental health treatment.

Bringing together comprehensive stakeholder groups, (including family members, providers, counties, health plans, tribes, advocates and others) that will engage in discussion about the gaps in intensive and community-based services that meets the needs of children and youth who have serious or complex mental health conditions. It is expected that historically underserved communities and those experiencing profound socioeconomic and health disparities be a priority target group throughout the design of this work.

B. Objective of this RFP

The objective of this RFP is to contract with a qualified Responder(s) to conduct a study of publicly-financed intensive and residential mental health service delivery for persons under age 21 by performing the tasks and services set forth in this RFP. For the purposes of this RFP, “publicly-financed” means non-employer-based benefits covered by federal, state, and county funds. The term of any resulting contract is from April 6, 2018 until June 30, 2019.

The Department has estimated that the cost of this contract should not exceed $250,000. Price will be a factor in the evaluation of the Proposals. The official response to this RFP must be submitted and received in SWIFT no later than to be determined as set forth in the SWIFT [Event Details] applicable to this RFP. 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.

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.

C. Background

The 2016 Minnesota State Legislature directed the Department of Human Services, Mental Health Division, in consultation with stakeholders, to conduct a comprehensive analysis of Minnesota’s continuum of intensive mental health services. This includes recommendations for a sustainable and community-driven continuum of care for children with serious or complex mental health needs, including children currently in residential treatment. Minnesota Administrative Rule 9505.0372, Subpart 1.C (hyperlink: 9505.0372 - Minnesota Administrative Rules) defines complex needs as those caused by acuity of psychotic disorder; cognitive or neurocognitive impairment; need to consider past diagnoses and determine their current applicability; co-occurring substance abuse disorder; or disruptive or changing environments, communication barriers, or cultural considerations as documented in the assessment. Some of
the diagnostic complexity of this population may include symptoms of mental disorders as well as other factors and conditions requiring intensive mental health services or residential level of care. These may include, but are not limited to:

- Historical trauma and generational poverty
- Aggression, violent and/or self-injurious behavior
- Neurodevelopmental Disorders, such as Autism Spectrum Disorder (ASD), Intellectual Disabilities, Attention Deficit Hyperactivity Disorder
- Schizophrenia Spectrum Disorders, Bipolar and Depressive Disorders, Anxiety and Obsessive-Compulsive Disorders, Trauma and Stressor-Related Disorders, and/or other conditions identified in the Diagnostic and Statistical Manual of Mental Disorders, current edition (DSM-5)
- Co-occurring substance-related disorders
- Chronic, and/or complex medical conditions
- Traumatic Brain Injury (TBI)
- Fetal Alcohol Syndrome Disorder (FASD)
- Abuse or neglect, or trauma (including sexually exploited youth)
- Significant psychosocial stressors

The Mental Health Division is the State’s mental health authority for policy and development of a statewide infrastructure to develop a quality and accessible children’s mental health system of care for children with mental health conditions and their families, including intensive treatment services. The mental health system in Minnesota has been constructed on bases of mixed authority and funding with intermittent attempts to survey the resulting infrastructure to determine its adequacy, effectiveness, and stability. Findings of previous reports identify major gaps in the state’s system of care for children with mental illness. Summaries of these findings state that Minnesota has inadequate supports that can help children remain in their communities, lack of adequate capacity to serve children and youth who have complex mental health disorders and limited availability of intensive services that have research-based effectiveness and limitations in the availability of individual outcome data to assess effectiveness across the array of services.

Minnesota continues to build a quality children’s mental health system of care. By receiving the appropriate treatment to reduce symptoms and improve functionality and involvement with their families, children and youth will be able to stay in their homes, schools, and communities. However, according to past reports and documentation of unmet needs, children and families continue to struggle in accessing clinical mental health services to address serious or complex mental health conditions. Further analysis and stakeholder input is necessary to develop recommendations for reducing the impact of serious and complex mental health needs on children, youth, and their families.

The State places priority on addressing the impact of residential placements on diverse cultural groups and vulnerable individuals. Particular attention to the trauma of placement, and the experience of placement in a residential setting as re-traumatization, is essential to developing appropriate mental health services. The State intends to develop a system of care that supports children and families as engaged, productive members of their communities.

The Center for Medicaid and Medicare Services has concerns about our current residential treatment facilities, due to Institution for Mental Disease federal regulations, which may impact our current capacity for this service. This provides Minnesota an opportunity to examine our current continuum of intensive mental health treatment services to ensure children and families have access to quality mental health services that meet their needs statewide.

Minnesota is making incremental progress to address the gap in services for children with serious or complex mental health needs, but more policy and infrastructure development (including analysis) is required. With the addition of limited extended stay in hospital level of care, the development of a psychiatric residential treatment facility Medicaid benefit, and the roll out of intensive treatment in foster care services, Minnesota is taking steps to develop intensive mental health services. However, further analysis and stakeholder engagement is necessary to guide Minnesota in
making future policy and infrastructure investments to provide access to children’s mental health services that meet their needs.

II. Scope of Work

A. Overview: Goals of this Study

1. Assess the purpose, need, and appropriate role for children’s mental health residential treatment in Minnesota’s publicly-financed mental health continuum of care; distinguishing needs of specialized populations; and, further, distinguishing the need for intensive mental health and substance use services from the need for out-of-home living arrangements.
2. Evaluate the evidence base for Minnesota’s Rule 2960 residential treatment model, including evaluation of the \textit{therapeutic milieu} and its role in achieving positive therapeutic outcomes.
3. Establish criteria for \textit{effective care} and analyze the effectiveness of the State’s array of intensive mental health service-delivery in meeting the mental health and chemical health needs of persons under age 21 and their families.
4. Analyze and project resulting change in service delivery capacity if Rule 2960 residential treatment centers with more than 16 beds are determined (under federal Medicaid law) to be Institutes of Mental Disease, and no longer eligible for Federal Medical Assistance Percentage (FMAP); and recommend service-delivery and financing models capable of maintaining the projected capacity loses.
5. Recommend one or more children’s mental health intensive service-system and funding models, identifying specific service-delivery capabilities with financial resources and payment methodologies to sustain a continuum of mental health services that are measurably effective in meeting the needs of persons under age 21 with serious mental health disorders and co-occurring conditions, including the capability to provide multi-generational, family-building treatment approaches. Recommendations will include specific steps with alternative timelines for implementation of the recommended model(s).

B. Tasks/Deliverables

The following tasks and deliverables will be required under this project. The Responder must explain in their response how they will complete each deliverable and task to achieve Goals 1 through 5 in the overview above, if awarded the contract.

RESPONDER will conduct a comprehensive analysis of Minnesota’s continuum of mental health services and will develop recommendations to the STATE for a sustainable and community-driven continuum of care for children, adolescents, and youth to age 21 with serious mental health conditions and co-occurring substance use disorders, developmental disabilities, and chronic physical health conditions. Analysis and recommendations will include children currently being served in residential treatment. Analysis will compare alternative financing and service delivery models, including models used in other states or nations; and treatment methods and practice models supported by scientific research. Working with stakeholders and State Staff, the RESPONDER will:

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\textsuperscript{1} This RFP will use the term “Rule 2960 residential treatment centers” or facilities with reference to facilities licensed under Minnesota Rules, Parts 2960.0580 to 2960.0700, “Residential mental health treatment for children with severe emotional disturbance.” This is to distinguish them from the newer, more intensive Pediatric Residential Treatment Facilities (PRTF), where patients receive Medicaid-eligible \textit{Psychiatric Services for Individuals Under Age 21} benefit.

\textsuperscript{2} \textit{Therapeutic milieu} means the arrangement of an individual’s environment to reinforce the achievement of treatment goals. The milieu includes the physical environment, daily activities, and relationships with staff and other residents. The concept of the residential facility milieu serving as a treatment modality, arose to counteract the regressive effects of institutionalization.
**Deliverable #1:** Describe how RESPONDER will conduct comparative demographic, diagnostic, level-of-care, and service-needs profiles of MHCP recipients under age 21 who are receiving mental health treatment and support services. Responder will construct profiles by the service categories and intensity-of-need levels. Responder will base profiles on Minnesota Health Care Programs fee-for-service and managed care claims and encounter data and other databases as needed. The successful Responder will be required to execute a data sharing and business associate agreement with the Minnesota Department of Human Services for access to the State databases.

**Deliverable #2:** Describe how Responder will review individual case files and construct demographic and clinical profiles for subpopulations of persons under age 21, who are residing voluntarily or under court order, in facilities of the following types:

- *Residential mental health treatment facility for children with severe emotional disturbance*, licensed under Minnesota Rules, Parts 2960.0580 to 2960.0700; including secure treatment setting;
- *Pediatric Residential Treatment Facilities* (PRTF), licensed by the commissioner of human services;
- *Correctional programs* for juveniles, licensed by the Commissioner of Corrections under Minnesota Rules, Parts 2960.0040 to 2960.0570.

In particular, the Responder will describe its process and product for subpopulation profiles comparing persons with mental disorders and trauma history or co-occurring traumatic brain injury or Fetal Alcohol Syndrome (FAS) or harmful sexualized behavior.

**Deliverable #3:** Describe how it will evaluate the evidence base for Minnesota’s Rule 2960 residential treatment model. The successful Responder will conduct analysis on data related to child and family access to, utilization of, efficacy of, and outcomes resulting from, treatment services and supports prior to, during, and after voluntary or court-ordered placement in a *children’s mental health residential treatment facility for children with severe emotional disturbance*, licensed under Minnesota Rules, Parts 2960.0580 to 2960.0700, or a state or tribally-licensed foster care home. Analysis will cover a five-calendar-year period.

**Tasks:**

1. Describe Responder’s study design, including the methodology and process to be used in the collection of specific data elements and including data sources and a timeline.
   - Access (regarding both geographic location of treatment facility relative to a child’s family home and regarding non-geographic barriers to access)
   - Utilization (in-home services, length of stay, transfers, discharges, readmissions, recurring placements, types of service)
   - Demographics
   - Service models (interventions, treatment methods and components, including culturally-responsive practices and trauma-informed care)
   - Efficacy (whether and how facilities and programs measure efficacy; level of functioning after discharge)
   - Outcomes (clinical outcomes; reintegration into home, school, and community; employment; housing; relationships; and outcome measures promulgated under Minnesota Rules, Chapter 2960.0060)
2. Provide a description of the summary format of the specific data elements that will be included in the report.

**Deliverable #4:** Describe and provide an analysis of the potential expansion of the state’s psychiatric residential treatment facility (PRTF) capacity, including increasing the number and location of PRTF beds and conversion of existing children’s mental health residential treatment facilities into PRTF’s.

**Tasks:**

1. Describe the methodology and overall design in the analysis.
2. Provide for geographic distribution statewide
3. Provide the number of potential of PRTF beds

**Deliverable #5:** Describe and provide written recommendations, based on the latest available evidence, for expanding alternative community-based services models to meet the needs of children with serious mental health disorders who...
would otherwise require residential treatment and potential service models that could be utilized, including data related to access, utilization, efficacy, and outcomes.

**Tasks:**
1. Provide a geographic distribution of expanding alternative community-based service models
2. Provide a definition of community-based services
3. Provide the methodology and sources of data above related to access, utilization, efficacy and outcomes

**Deliverable #6:** Describe and provide an analysis of the capacity need for PRTFs and other group residential settings within the state if adequate community-based alternatives are accessible, equitable, and effective statewide.

**Tasks:**
1. Provide the methodology and process in determining capacity need for PRTFs.
2. Provide a definition of other group residential settings in the analysis
3. Describe the methodology and process in determining if community-based alternatives are accessible, equitable and effective statewide, including service and support gaps and barriers that exist.

**Deliverable #7:** Provide research and analysis of intensive treatment service and financing models in other states, including models that involve inpatient admission or out-of-home placement.

1. Provide a definition of intensive treatment services for each model considered.
2. Compare intensive treatment services as delivered in other states.
3. Include the following factors in the analysis:
   a. Access (geographic location of treatment services relative to client’s homes and non-geographic barriers to access);
   b. Utilization (length of stay, transfers, discharges, readmissions, recurring placements, types of service);
   c. Service models, (interventions, treatment methods and components, including culturally-responsive practices and trauma-informed care);
   d. Efficacy (how are facilities and programs measuring the ability to produce their desired or intended result – or not; level of functioning post-discharge);
   e. Outcomes (individual clinical outcomes, as well as reintegration into home, school community, employment, housing, relationships); and
   f. Demographics of Minnesota’s residential treatment population compared to populations served by intensive treatment service models in other states.

4. Compare criteria sets utilized by other states to determine that an out-of-home admission or placement is indicated.

**Deliverable #8:** Describe and provide analysis of specific recommendations for the design and implementation of new service models.

1. Provide service program and client outcomes of new service models
2. List the sources of new service models including cost for implementation and ongoing operations
3. Include evidence-based practices or support information/data indicating successful models
4. Include specific professional and other staffing for new service models
5. Include analysis of costs to inform rate setting
   a. Parameters of the service, including qualifications of providers, type of service, procedure codes, staffing model, etc.

**Deliverable #9:** Describe how the RESPONDER will assess the clinical, social, and financial impacts of a State determination that Rule 2960 residential treatment centers are Institutions of Mental Disease (IMDs), as defined in federal law.
Deliverable #10: Describe the strategies, intentional outreach, location, agendas, and time frames to convene an extensive stakeholder engagement process using interviews and regional listening sessions with the following:

**Stakeholder Focus Groups**
1. Individuals receiving intensive treatment services and their families
2. Providers of mental health services and mental health advocates
3. Health Plans, county child welfare agencies, and juvenile corrections agencies
4. Tribal mental health and child welfare agencies

Each group must represent the diversity of its category. Cultural and ethnic minority populations must be over-sampled for focus group membership.

**Stakeholder Topics**—Qualitative questions to be addressed by each stakeholder group. Responder may propose additional topics.

a. What is the purpose of residential treatment?
b. How are families engaged in the treatment process? How should families be engaged in the treatment process? 
c. What are the expected outcomes of treatment? What are the actual outcomes of treatment? 
d. How do families access residential treatment? 
e. How are services determined for each individual? What oversight is provided? 
f. What components of an intensive mental health system are missing in Minnesota? 
g. Describe the clinical services provided in residential treatment. 
h. Describe the “treatment milieu” /therapeutic community and describe how it benefits individuals and their treatment goals. 
i. Describe what services or supports are offered and provided to address each child’s age, gender, race/ethnicity, sexual identity, and religion.

**Tasks:**
1. Identify the name and roles of individuals to participate as stakeholders
2. Secure locations for meeting to include metro and greater Minnesota participants 
3. Create agenda for all meetings
4. Document detailed minutes of all meetings and distribute to stakeholder participants
5. Describe your interview methodology in engaging stakeholder participants. 
6. Describe your methodology and process for regional listening session

**Deliverable #11:** Describe how Responder will provide a preliminary written report of the above deliverables with specific recommendations and timelines for implementation to the Department of Human Services by October 31, 2018 and a final written report by January 19, 2019.

**Tasks:**
1. Describe the report format of recommendations and timelines
2. Proposed schedule for regular conferences and submission of progress reports with contract manager/state staff to review progress of study, 
3. Submit an initial draft of the report for review by the State by a date specified in a subsequent Contract.

**Deliverable #12:** Describe how Responder will assess alternative reimbursement options for the following facilities costs: room and board; health and safety-related facility modifications; building modifications as needed to enhance the therapeutic milieu; and other facilities costs that are not federally-allowable expenses.

**Deliverable #13:** Describe how Responder will make recommendations to the STATE on alternative reimbursement methodologies that allow providers to flexibly respond to the variable severity and acuity of persons served (e.g., a tiered rate structure).
Deliverable #14: For children or youth who need an out-of-home living arrangement unrelated to treatment modality, describe how Responder will make recommendations for alternative living arrangements compatible with intensive service delivery, and compliant with federal Medicaid regulations.

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 non-responsiveness. 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). The Trade Secret/Confidential Data Notification and Cost Proposal must be submitted in SWIFT as separately attached documents. If paper courtesy copies are provided, the cost proposal must be provided as a separate sealed document and any materials constituting TRADE SECRET must be clearly marked as such.

A. Table of Contents

B. Technical Proposal Requirements
   1. Statement of Understanding
   2. Proposed Work Plan
   3. Relevant Responder Experience/Resumes of Lead Responder Staff
   4. Financial Stability and Professional Responsibility of Responder

C. Description of how the Responder will complete all tasks and deliverables required under this project.

D. Required Statements
   1. Responder Information and Declarations
   2. Exceptions to Terms and Conditions
   3. Affidavit of Noncollusion

E. Potentially Applicable Forms
   1. Affirmative Action Data Page (if proposal is over $100,000)
   2. Equal Pay Certificate Form (if proposal is over $500,000)
   3. Certification and Restriction on Lobbying (if proposal is over $100,000)
   4. Veteran-Owned Preference Form
   5. Resident Vendor Form
   6. Preference to Targeted Group and Economically Disadvantaged Business and Individuals

F. Cost Proposal

G. Appendix (If Applicable). Any additional information thought to be relevant, but not applicable to the prescribed format, may be included in the Appendix of your Proposal.
B. Technical Proposal Requirements

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

1. **Statement of Understanding.** This component of the Proposal should demonstrate the Responder's conceptualization of the purpose and goals of the this RFP, and of the methods it will use to achieve the goals and deliverables. The Proposal should demonstrate the Responder’s understanding of the nature of the contract and any problems anticipated in accomplishing the work. Specifically, the Proposal should demonstrate the Responder’s familiarity with the project elements, a summary of its solution(s) to the problems presented and knowledge of the requested services and/or deliverables.

2. **Proposed Work Plan.** The Responder should provide a description of the deliverables to be provided along with a detailed work plan that identifies how the major tasks are to be accomplished. The work plan should provide sufficient information to be used as a scheduling and managing tool. The work plan should show the Responder’s overall design of the project in response to achieving the deliverables as defined in this RFP. Responder should include proposed staffing for the project. Responder should include its risk assessment/management plan.

3. **Relevant Responder Experience, Resumes of Lead Responder Staff.** The STATE expects the RESPONDER to dedicate staff with significant clinical knowledge and practice experience working with children, adolescents, and youth to age 21, including at least one Minnesota-licensed mental health professional in a leading role. The Responder should demonstrate the length, depth, and applicability of prior experience in providing the requested services and, in particular, must show publication of qualitative and quantitative research methods and demonstrate experience interviewing diverse focus groups. The Responder should also demonstrate competence in using predictive analytics to produce a healthcare or social solution. This component of the Proposal must include previous experiences that will demonstrate the Responder's ability to deliver the services requested in this RFP. Responder must identify entities for which it has supplied similar services to those requested in the RFP. Responder should include each identified organization’s name and address, and the name, title and telephone number of a contact of each organization. Responder should also provide a narrative description of the actual services provided to the organization(s). Describe what role staff proposed for this project had in the referenced service. Letters of reference must be included.

The Responder should also demonstrate the skill and experience of proposed lead staff. At a minimum, resumes must be provided for employees who would be assigned lead responsibilities on this Project, including both the clinical lead and the analytics lead. Resumes should describe the education, professional affiliations, and other relevant background of the lead staff to be assigned to this project. No change in the Successful Responder’s personnel assigned to this project will be permitted without the prior approval of the State Program Manager.

4. **Financial Stability and Professional Responsibility of the Responder.** It is crucial that the State locate reliable vendors to serve our clients. The Successful Responder must be both fiscally and professionally responsible. Therefore, Responders must include in their Proposals both sufficient financial documentation to establish their financial stability and satisfactory information regarding their professional responsibility.

Financial information may include a current Financial Statement, a copy of an independent audit conducted within the last year, documentations of cash reserves to carry you through shortages or delays in receipt of revenue, and/or other documents sufficient to substantiate responsible fiscal management. 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. Please also include information about any pending major accusations that could affect your financial stability.

Professional responsibility information includes providing information concerning any complaints filed with or by professional and/or state or federal licensing/regulatory organizations within the past six years against your organization or its employees relating to the provision of services. If such complaints exist, please include the date of the complaint(s), the nature of the complaint(s), and the resolution/status of the complaint(s), including any disciplinary actions taken.

All Proposals must also include information about pending litigation and/or litigation resolved within the past two years that relates to the provision of services by your organization and/or its employees. If such litigation exists, please include the date of the lawsuit, nature of the lawsuit, and the dollar amount being requested as damages, and if resolved, what the resolution was (e.g. settled, dismissed, withdrawn by plaintiff, verdict for plaintiff with $x damages awarded, verdict for Responder, etc.).

Responder should also submit information which demonstrates recognition of their professional responsibility. This may include awards, certifications, and/or professional memberships.

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 DHS who may be involved in the decision-making process, and/or with other persons as authorized by law. You are not required to provide any of the above information. However, if you choose not to provide the requested information, your organization’s Proposal may 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 and professional status.

C. Required Statements

The following are required statements that must be included with your Proposal. Complete the correlating forms found in the RFP Appendix and submit them as the “Required Statements” section of your Proposal.

1. **Responder Information and Declarations (Appendix A).** 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 (Appendix B).** 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, Contract is attached for your reference.
Requests for Proposals

Form B (Rev. 08.02.16)

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 and failing this component. Proposals being declared nonresponsive 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 (Appendix C).** 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. **Trade Secret/Confidential Data Notification (Appendix D).** 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 State 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 Contract or by law.

If the Responder submits information in response to this RFP that it believes to be trade secret/confidential materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. §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. NOTE: all non-public/trade secret data must be posted to the “Add Non Public/Trade Secret Data” link on the Event Information page in SWIFT. The State is unable to ensure the protection of non-public/trade secret data contained in any other attachment

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. Use of generic trade secret/confidential 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/confidential 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 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.

**E. Potentially Applicable Forms**

1. **Workforce Certificate (Appendix E).** For all contracts estimated to be in excess of $100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by Minnesota Rule 5000.3600, “It is hereby agreed between the parties that Minnesota Statute § 363A.36 and Minnesota Rule 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 Statute § 363A.36 and Minnesota Rule 5000.3400 - 5000.3600 are available upon request from the contracting agency.”

2. **Certification Regarding Lobbying (Appendix G).** Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Responder must complete and submit the attached “Certification Regarding Lobbying” form.

3. **Veteran-Owned Preference (Appendix H).** Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, subd. 6a, the Commissioner of Administration will award a 6% preference in the amount bid on state procurement to certified small businesses that are majority owned and operated by veterans.

A small business qualifies for the veteran-owned preference when it meets one of the following requirements. 1) The business has been certified by the Department of Administration/Materials Management Division as being a veteran-owned or service-disabled veteran-owned small business. 2) The principal place of business is in Minnesota AND the United States Department of Veterans Affairs verifies the business as being a veteran-owned or service-disabled veteran-owned small business under Public Law 109-461 and Code of Federal Regulations, title 38, part 74 (Supported By Documentation). See Minn. Stat. § 16C.19(d).

Submit the appropriate documentation with the solicitation response to claim the veteran-owned preference. Statutory requirements and documentation must be met by the solicitation response due date and time to be awarded the preference.
4. **Resident Vendor Form (Appendix I).** In accordance with Laws of Minnesota 2013, Chapter 142, Article 3, Section 16, amending Minn. Stat. § 16C.02, subd. 13, eligible responders may claim resident vendor status. To do so, eligible resident vendors should complete and sign the Resident Vendor Status form in this solicitation. Only qualifying businesses that provide the required documentation, per the form, will be given the status. Resident vendor status may be considered for purposes of resolving tied low bids or the application of a reciprocal preference.

5. **Preference to Targeted Group and Economically Disadvantaged Business and Individuals.** In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal. Eligible TG businesses must be currently certified by the Materials Management Division prior to the solicitation opening date and time. In order to qualify for these preference points, a responder should submit a statement certifying its current MMD-certification as a TGED business. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by email atmmdhelp.line@state.mn.us. For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

**F. Cost Proposal (Appendix J)**

Responders must use the attached “Cost Proposal Sheet” form to submit their Cost Proposal. The Cost Proposal must be loaded and submitted in SWIFT as a separate document(s) from your technical response. If paper courtesy copies are provided, the cost proposal must be provided as a separate sealed document. Cost proposals will not be reviewed by the evaluation team prior to the qualification scores being finalized. **Do not include any cost information in the Technical Requirements part of the Proposal.** The Technical and Cost Proposals must be open for acceptance until a contract is approved, the RFP is cancelled, or 180 days after the submission deadline for the RFP, whichever comes first.

The rate(s) identified in the Cost Proposal must reflect all costs, including but not limited to: mass mailings, fees, commissions, compensation, equipment and other charges by the Responder for the service and/or deliverable. For purposes of completing the Cost Proposal, Responder should know that the State does not make regular payments based solely upon the passage of time; it only pays for services performed or work delivered after it is accomplished. The contract will contain no cost-of-living adjustment provision.

**IV. RFP Process**

**A. Responders’ Questions**

Responders’ questions regarding this RFP must be submitted in writing prior to 4:00 p.m. Central Time on January 23, 2018. All questions must be addressed to:

Request for Proposal Response  
Attention: Bill Wyss  
Mental Health Division  
Department of Human Services
Questions may also be e-mailed to bill.wyss@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 distributed to all identified prospective Responders. Every attempt will be made to provide answers timely, with the intent that they are sent no later than February 5, 2018 via an addendum to the RFP in SWIFT.

B. Proposal Submission

1. Official Responses

All responses to this RFP (termed an “Event” within SWIFT) must be submitted through SWIFT using the Supplier portal (http://supplier.swift.state.mn.us/). Training and documentation on how to submit your response is available through the Supplier portal link above.

All responses to this RFP must be submitted and received in SWIFT no later than the Event End Date and time as set forth in the SWIFT Event Details applicable to this RFP.

Interested responders may begin preparing and entering their response into SWIFT as soon as they have downloaded the RFP. Electronic submissions to the State will be accepted beginning on the SWIFT Start Date for this RFP. Cost information must be loaded into the system as a separate document(s) from your technical response.

All proposals will be automatically time and date stamped internal to the SWIFT system when they are received. Proposals received after End Date above will not be considered. The State shall not be responsible for any errors or delays caused by technology-related issues, even if they are caused by the State.

NOTE: If you are reviewing this RFP in the SWIFT system or downloaded the RFP from the SWIFT system, you are likely already a registered vendor with the State. If you are reviewing this RFP in paper form, you may need to register as a vendor by going to http://www.mmb.state.mn.us/vendorresources. For new vendors, please note that approval of your registration may take 3 – 4 business days. If you need assistance obtaining a vendor ID or completing the registration process, please call 651-201-8100, Option 1.

Late proposals will not be considered.

All costs incurred in responding to this RFP will be borne by the responder.

2. Paper Courtesy Copies

Your official response must be submitted and received in SWIFT.
To aid the State in reviewing and evaluating your proposal, we request that you submit the number of paper courtesy copies specified in the RFP Summary to the following address:

Attention: Bill Wyss  
Mental Health Division  
Department of Human Services  
444 Lafayette Rd. N.  
St. Paul, MN 55155  
Phone (651) 431-2364

Provided paper courtesy copies must be content identical to the official response but may include binders, tabbed dividers or other indexing or organizational aids helpful in the review of the proposal. The Cost Proposal must be sealed and in a separate envelope or container within the Proposal package or container. Please make sure that no cost information is included with the Technical Proposal.

Faxed and e-mailed proposals will not be accepted or considered. Paper courtesy copies of proposals will not be considered as an official response to this RFP.

V. Proposal Evaluation and Selection

A. Overview of Evaluation Methodology

1. All responsive 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 (70 possible technical points and 30 possible cost points). The evaluation will be conducted in four phases:

   a. Phase I Required Statements Review  
   b. Phase II Evaluation of Technical Proposal  
   c. Phase III Evaluation of Cost Proposals  
   d. Phase IV Selection of the Successful Responder

2. All responsive Proposals will be scored on their technical response. The evaluation committee will look for a natural break in scoring and create a short-list of the top-scoring vendors to move on to the cost proposal scoring. The highest possible technical score will be 70 points.

3. The proposals will then be scored on their pricing. The highest possible pricing score will be 30 points.

4. For each of the top qualifying Proposals, the technical and pricing scores will be summed (added) to determine the award. The highest possible technical score-plus-pricing score will be 100 points.

5. During the evaluation process, all information concerning the Proposals submitted, except identity of Responders, will remain non-public.

6. 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 its 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. A 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.

C. Evaluation Phases

At any time during the evaluation phases, the State may, at the State’s discretion, contact Responders 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 Technical Proposals

a. Points have been assigned to the non-cost component areas. The total possible points for the non-cost component areas are as follows:

<table>
<thead>
<tr>
<th>Technical Proposal Component</th>
<th>Possible Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Statement of Understanding</td>
<td>15</td>
</tr>
<tr>
<td>2. Proposed Workplan</td>
<td>25</td>
</tr>
<tr>
<td>3. Relevant Responder/Worker Experience</td>
<td>20</td>
</tr>
<tr>
<td>4. Financial Stability and Professional Responsibility</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>70</strong></td>
</tr>
</tbody>
</table>

b. The evaluation team will review the components of each responsive Proposal submitted. Each component will be evaluated on the team’s evaluation of 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:
<table>
<thead>
<tr>
<th>Technical Proposal Component Rating</th>
<th>Point Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent</td>
<td>1.000</td>
</tr>
<tr>
<td>Very Good</td>
<td>0.875</td>
</tr>
<tr>
<td>Good</td>
<td>0.750</td>
</tr>
<tr>
<td>Satisfactory</td>
<td>0.625</td>
</tr>
<tr>
<td>Poor</td>
<td>0.500</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>0.000</td>
</tr>
</tbody>
</table>

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 25 points would receive a score of 21.875 (25 x 0.875 = 21.875).

All component scores will then be averaged to create a proposal’s total technical score.

3. **Phase III - Evaluation of Cost Proposals**

   a. Prior to evaluation in Phase III, no Cost Proposal will be reviewed and all will remain sealed.

   b. Only the Proposals found to be responsive under Phases I and II will be considered in Phase III.

   c. Cost Proposals will be examined to determine if they are complete, in compliance with the requirements of this RFP, accurate in their calculation, and rationally related to their technical counterpart and contract requirements. Any Cost Proposal that does not meet these criteria may be considered nonresponsive and rejected.

   d. Cost will be of significant importance in selecting a Responder(s) deemed qualified to provide all the requested services, but will not be the sole determining factor.

   e. Points for Cost Proposals will be awarded as follows:

      Lowest cost will be determined by the Cost Proposal rate submitted by the Responder. The Proposal with the lowest cost will receive 100% of the available points. The other Proposals will receive points using the following formula:

      \[
      \text{Points Awarded} = \left( \frac{\text{Proposal Price}}{\text{Lowest Proposal Price}} \right) \times \text{Maximum Available Points}
      \]

      EXAMPLE (Using 30 points as maximum): If Responder A submitted the lowest rate of $175,000, and Responder B submitted a rate of $200,000 Responder A would receive 30 points and Responder B would receive 25 points (175,000 ÷ 200,000 x 30 = 26)

   f. In the case of a tie between best scores, the State may request Responders to submit a “Best and Final” offer on price or technical requirements, or both. A Responder’s total technical or cost proposal score may be revised based on its Best and Final offer.

4. **Phase IV - Selection of the Successful Responder(s)**

   a. Only the Proposals found to be responsive under Phases I, II, and III will be considered in Phase IV.
b. The evaluation team will review the Proposal scores in making its recommendations of the Successful Responder(s). A Responder’s total score will be the sum of the scores received for the Technical Proposal and the Cost Proposal, along with any points awarded as bonus and/or for being a Targeted Group and Economically Disadvantaged Business and Individuals, an eligible veteran-owned businesses.

c. The evaluation team will make its recommendation based on the above-described evaluation process. The Successful Responder(s), if any, will be selected approximately 3 weeks after the Proposal submission due date.

d. The final award decision will be made by the Commissioner of the Minnesota Department of Human Services or his or her authorized designee (“Commissioner”) in accordance with Minnesota Statutes chapter 16C and any other applicable law. The Commissioner may accept or reject the recommendation of the evaluation team.

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). The final award decision will be made by the Commissioner. The Commissioner may accept or reject any subsequent recommendation of the evaluation team.

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 Terms and Conditions

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

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 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 contractor as a result of the 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 contact will be done only to the extent the Responder voluntarily assumes risk of non-payment.

E. **Contingency Fees Prohibited.** Pursuant to Minn. Stat. §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. **Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** Federal money may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must certify the following, as required by the regulations implementing Executive Order 12549.

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

Instructions for Certification

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

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the
eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

G. Insurance Requirements. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

1. Workers’ Compensation Insurance: Except as provided below, Contractor must provide Workers’ Compensation insurance for all its employees and, in case any work is subcontracted, Contractor 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 limits 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 Contractor from Workers’ Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers’ Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers’ Compensation, the Contractor must comply with the Workers’ Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.
2. **Commercial General Liability Insurance:** Contractor 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 Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** limits 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

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

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

The retroactive or prior acts date of such coverage shall not be after the effective date of this contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If Contractor discontinues such insurance, then extended reporting period coverage must be purchased to fulfill this requirement.

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

Contractor is required to carry the following **minimum** limits:

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

Any deductible will be the sole responsibility of the Contractor and may not exceed $50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a
The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

5. Additional Insurance Conditions:

- Contractor’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 Contractor’s performance under this contract.

- If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Contractor’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;

- Contractor is responsible for payment of Contract related insurance premiums and deductibles;

- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;

- Contractor’s policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance listed in VI.G.2.d. above;

- Contractor shall obtain insurance policy(ies) from insurance company(ies) having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and

- An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor’s policy limits to satisfy the full policy limits required by the Contract.

6. The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. 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.

7. 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 contract.

I. E-Verify Certification (In accordance with Minn. Stat. §16C.075). By submission of a proposal for services in excess of $50,000, CONTRACTOR certifies that as of the date of services performed on behalf of the STATE, CONTRACTOR and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the STATE.
In the event of contract award, CONTRACTOR shall be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at

http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc  All subcontractor certifications must be kept on file with CONTRACTOR and made available to the STATE upon request.

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. At its sole discretion, reserve the right to waive any non-material deviations from the requirements and procedures of this RFP;

   F. Extend the contract, in increments determined by the State, not to exceed a total contract term of five years; and

   G. Cancel the Request for Proposal at any time and for any reason with no cost or penalty to the State.

   H. Correct or amend the RFP at any time before proposals are due with no cost or penalty to the State.

   I. The State will not be liable for any errors in the RFP or other responses related to the RFP.

   J. Alter the composition of the evaluation team and their specific responsibilities in accordance with Minnesota Statutes chapter 16C and any applicable law.
APPENDICES
Appendix A: Responder Information/Declarations Form

Responder Information

Responder Name: ____________________________________________________________

Website: __________________________________________________________________

Address: _____________________________________________________________________

Telephone Number: __________________________________________________________

Contract Information

Contact Name: _____________________________________________________________________

Title: ________________________________________________________________________

Telephone Number: _________________________________________________________________________

Fax Number: __________________________________________________________________________

E-mail: __________________________________________________________________________

Name(s) of individuals involved with the preparation of this proposal (to assist in determining potential conflict of interest):

The above-named responder submits the attached proposal in response to the following Minnesota Department of Human Services Request for Proposals (state which RFP you are responding to):

By submission of this proposal, responder warrants that:

1. The information provided is true, correct and reliable for purposes of evaluation for potential contract award. Responder understands that the submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the Responder to suspension or debarment proceedings as well as other remedies available by law.

2. It is competent to provide all the services set forth in its Proposal.

3. Each person signing a section of this Proposal is authorized to make decisions as to the prices quoted and/or duties proposed and is legally authorized to bind the company to those decisions.

4. If it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals, Responder will provide, along with this form, a list containing the names of the entities, the relationship, and a discussion of the conflict.

5. To the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor’s objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. Responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing will be made to the Assistant Director of the Department of Administration’s Materials Management Division (“MMD”) which will include a description of the action which Responder has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the Responder was aware of an organizational conflict of interest
prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms “contract,” “contractor,” and “contracting officer” modified appropriately to preserve the State’s rights.

6. No attempt has been made or will be made by Responder to induce any other person or firm to submit or not to submit a Proposal.

7. In connection with this procurement, the prices proposed have been arrived at independently, without consultation, communication, or agreement, for the purpose of restriction of competition, as to any other Responder or with any competitor; and that unless otherwise required by law, the prices quoted have not been knowingly disclosed by Responder prior to award, either directly or indirectly, to any other Responder or competitor.

8. The services and prices stated in this Proposal (both Technical and Cost Proposals) will remain open for acceptance by the State until a contract is awarded, the RFP is cancelled, or 180 days after the deadline for Proposal submission, whichever comes first.

9. Any proposed subcontractors will be identified in the RFP and the percentage of work under the contract to be performed by the prime contractor and each subcontractor will be indicated.

10. If there is a reasonable expectation that the Responder is or would be associated with any parent, affiliate, or subsidiary organization in order to supply any service, supplies or equipment to comply with the performance requirements under the resulting contract of the RFP, Responder must include with this form written authorization from the parent, affiliate, or subsidiary organization granting the right to examine directly, pertinent books, documents, papers, and records involving such transactions that are related to the resulting contract. This right will be given to the Minnesota Department of Human Services, U.S. Department of Health and Human Services, and Comptroller General of the United States.

11. If, at any time after a Proposal is submitted and a contract has been awarded, such an association arises as described in the paragraph above, Responder will obtain a similar certification and authorization from the parent, affiliate, or subsidiary organization within ten (10) working days after forming the relationship.

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of, and legally bind, the Responder.

Authorized Signature: _____________________________________________________________

Printed Name: ________________________________________________________________

Title: __________________________________________________________________________

Date: __________________________ Telephone Number: ____________________________

Authorized Signature: _____________________________________________________________

Printed Name: ________________________________________________________________

Title: __________________________________________________________________________

Date: __________________________ Telephone Number: ____________________________
Appendix B: Exceptions to Terms and Conditions Form

A responder shall be presumed to be in agreement with the terms and conditions of the RFP unless the responder takes specific exception to one or more of the conditions on this form.

RESPONDERS ARE CAUTIONED THAT BY TAKING ANY EXCEPTION THEY MAY BE MATERIALLY DEVIATING FROM THE RFP SPECIFICATIONS. IF A RESPONDER MATERIALLY DEVIATES FROM A RFP SPECIFICATION, ITS PROPOSAL MAY BE REJECTED.

A material deviation is an exception to a specification which 1) affords the responder taking the exception a competitive advantage over other Responders, or 2) gives the State something significantly different than the State requested.

INSTRUCTIONS: Responders must explicitly list all exceptions to State terms and conditions (including those found in the attached sample contract in the Appendix, if any. Reference the actual number of the State's term and condition and page number for which an exception(s) is being taken. If no exceptions exist, state "NONE" specifically on the form below. Whether or not exceptions are taken, the responder must sign and date this form and submit it as part of their proposal. (Add additional pages if necessary.)

Responser Name: ____________________________________________________________

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<th>Term and Condition Number/Provision</th>
<th>Explanation of Exception</th>
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By signing this form, I acknowledge that the above named responder accepts, without qualification, all terms and conditions stated in this RFP (including the sample contract) except those clearly outlined as exceptions above.

Signature: _____________________________________________________________

Printed Name: __________________________________________________________

Title: __________________________________________________________________

Date: ___________________________________________________________________
Appendix C: Affidavit of Noncollusion

I swear (or affirm) under the penalty of perjury:

1. That I am the responder (if the responder is an individual), a partner in the company (if the responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the responder is a corporation);

2. That the attached proposal submitted in response to the ___________________________ Request for Proposals has been arrived at by the responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;

3. That the contents of the proposal have not been communicated by the responder or its employees or agents to any person not an employee or agent of the responder and will not be communicated to any such persons prior to the official opening of the proposals; and

4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder’s Firm Name: ____________________________________

Authorized Signature: _____________________________________________

Date: __________________

Subscribed and sworn to me this ________ day of ___________

____________________________________________
Notary Public

My commission expires: ___________
Appendix D: Trade Secret/Confidential Data Notice

Responder/Company Name: ______________________________

Signature: _______________________________________________________________________________________

Printed Name: ______________________________________________________________________________________

Title: ___________________________________________________________________________________________

Date: _____________________________________________________________________________________________

* Whether or not protected information is provided, the Responder must sign and date this form and submit it with the “Required Statements”.
Appendix E: STATE OF MINNESOTA – WORKFORCE CERTIFICATE INFORMATION

Required by state law for ALL bids or proposals that could exceed $100,000

Complete this form and return it with your bid or proposal. The State of Minnesota is under no obligation to delay proceeding with a contract until a company becomes compliant with the Workforce Certification requirements in Minn. Stat. §363A.36.

BOX A – MINNESOTA COMPANIES that have employed more than 40 full-time employees within this state on any single working day during the previous 12 months, check one option below:

☐ Attached is our current Workforce Certificate issued by the Minnesota Department of Human Rights (MDHR).

☐ Attached is confirmation that MDHR received our application for a Minnesota Workforce Certificate on ________________ (date).

BOX B – NON-MINNESOTA COMPANIES that have employed more than 40 full-time employees on a single working day during the previous 12 months in the state where it has its primary place of business, check one option below:

☐ Attached is our current Workforce Certificate issued by MDHR.

☐ We certify we are in compliance with federal affirmative action requirements. Upon notification of contract award, you must send your federal or municipal certificate to MDHR at compliance.MDHR@state.mn.us. If you are unable to send either certificate, MDHR may contact you to request evidence of federal compliance. The inability to provide sufficient documentation may prohibit contract execution.

BOX C – EXEMPT COMPANIES that have not employed more than 40 full-time employees on a single working day in any state during the previous 12 months, check option below if applicable:

☐ We attest we are exempt. If our company is awarded a contract, we will submit to MDHR within 5 business days after the contract is fully signed, the names of our employees during the previous 12 months, the date of separation, if applicable, and the state in which the persons were employed. Send to compliance.MDHR@state.mn.us.

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of your company.

Name of Company: ___________________________ Date ________________

Authorized Signature: ___________________________ Telephone number: ___________________________

Printed Name: ___________________________ Title: ___________________________

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services


Email: compliance.mdhr@state.mn.us TTY: 651-296-1283
Appendix F: Equal Pay Certificate

If your response could be in excess of $500,000, please complete and submit this form with your submission. **It is your sole responsibility to provide the information requested and when necessary to obtain an Equal Pay Certificate** (Equal Pay Certificate) from the Minnesota Department of Human Rights (MDHR) prior to contract execution. You must supply this document with your submission. Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or at compliance.MDHR@state.mn.us.

**Option A** – If you have employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the applicable box below:

A. Attached is our current MDHR Equal Pay Certificate.

B. Attached is MDHR’s confirmation of our Equal Pay Certificate application.

**Option B** – If you have not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the box below.

C. We are exempt. We agree that if we are selected we will submit to MDHR within five (5) business days of final contract execution, the names of our employees during the previous 12 months, date of separation if applicable, and the state in which the persons were employed. Documentation should be sent to compliance.MDHR@state.mn.us.

The State of Minnesota reserves the right to request additional information from you. **If you are unable to check any of the preceding boxes, please contact MDHR to avoid a determination that a contract with your organization cannot be executed.**

Your signature certifies that you are authorized to make the representations, the information provided is accurate, the State of Minnesota can rely upon the information provided, and the State of Minnesota may take action to suspend or revoke any agreement with you for any false information provided.

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<th>Authorized Signature</th>
<th>Printed Name</th>
<th>Title</th>
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<tr>
<td>Organization</td>
<td>MN/FED Tax ID#</td>
<td>Date</td>
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<th>Issuing Entity</th>
<th>Project # or Lease Address</th>
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Appendix G: Certificate Regarding Lobbying

For State of Minnesota Contracts and Grants over $100,000

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 31 U.S.C. §1352. 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.

__________________________________________
Organization Name

__________________________________________
Name and Title of Official Signing for Organization

By: _______________________________________
Signature of Official

__________________________________________
Date
Appendix H: Veteran-Owned Preference Form

Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. §16C.16, subd. 6a, the state will award a 6% preference on state procurement to certified small businesses that are majority owned and operated by veterans.

Veteran-Owned Preference Requirements - See Minn. Stat. § 16C.19(d):

- The business has been certified by the Department of Administration/Materials Management Division as being a veteran-owned or service-disabled veteran-owned small business.

  or

- The principal place of business is in Minnesota AND the United States Department of Veterans Affairs verifies the business as being a veteran-owned or service-disabled veteran-owned small business under Public Law 109-461 and Code of Federal Regulations, title 38, part 74 (Supported By Documentation).

Statutory requirements and appropriate documentation must be met by the solicitation response due date and time to be awarded the veteran-owned preference.

Claim the Preference. By signing below I confirm that:

My company is claiming the veteran-owned preference afforded by Minn. Stat. § 16C.16, subd. 6a. By making this claim, I verify that:

i. The business has been certified by the Department of Administration/Materials Management Division as being a veteran-owned or service-disabled veteran-owned small business.

  or

ii. My company’s principal place of business is in Minnesota and the United States Department of Veteran’s Affairs verifies my company as being a veteran-owned or service-disabled veteran-owned small business (Supported By Attached Documentation).

Name of Company: ________________________________________________________

Date: ____________________________________________________________________

Authorized Signature: ______________________________________________________

Telephone: __________________________________________________________________

Printed Name: ______________________________________________________________

Title: _____________________________________________________________________

Attach documentation, sign, and return this form with your solicitation response to claim the veteran-owned preference.

Appendix I: Resident Vendor Form
In accordance with Laws of Minnesota 2013, Chapter 142, Article 3, Section 16, amending Minn. Stat. § 16C.02, subd. 13, a “Resident Vendor” means a person, firm, or corporation that:

(1) is authorized to conduct business in the state of Minnesota on the date a solicitation for a contract is first advertised or announced. It includes a foreign corporation duly authorized to engage in business in Minnesota;
(2) has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought;
(3) has a business address in the state; and
(4) has affirmatively claimed that status in the bid or proposal submission.

To receive recognition as a Minnesota Resident Vendor (“Resident Vendor”), your company must meet each element of the statutory definition above by the solicitation opening date and time. If you wish to affirmatively claim Resident Vendor status, you should do so by submitting this form with your bid or proposal.

Resident Vendor status may be considered for purposes of resolving tied low bids or the application of a reciprocal preference.

I HEREBY CERTIFY THAT THE COMPANY LISTED BELOW:

1. Is authorized to conduct business in the State of Minnesota on the date a solicitation for a contract is first advertised or announced. 
   (This includes a foreign corporation duly authorized to engage in business in Minnesota.)
   ___Yes ___No (must check yes or no)

2. Has paid unemployment taxes or income taxes in the State of Minnesota during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought.
   ___Yes ___No (must check yes or no)

3. Has a business address in the State of Minnesota.
   ___Yes ___No (must check yes or no)

4. Agrees to submit documentation, if requested, as part of the bid or proposal process, to verify compliance with the above statutory requirements.
   ___Yes ___No (must check yes or no)

BY SIGNING BELOW, you are certifying your compliance with the requirements set forth herein and claiming Resident Vendor status in your bid or proposal submission.

Name of Company: ________________________________________________________
Date: ___________________________________________________________________
Authorized Signature: _____________________________________________________
Telephone: __________________________________________________________________
Printed Name: _____________________________________________________________
Title: ___________________________________________________________________

IF YOU ARE CLAIMING RESIDENT VENDOR STATUS, SIGN AND RETURN THIS FORM WITH YOUR BID OR PROPOSAL SUBMISSION.
Appendix J: Cost Proposal Sheet- Proposed Rate

This form must be completed and **submitted separately** as the sealed Cost Proposal for the entire Project. **Do not include this form in the appendix or elsewhere in the Technical Proposal.**

The Successful Responder will not receive any other compensation as a result of this RFP. Therefore, the Responder must consider all costs it will incur (including mass mailing costs, services, equipment, travel costs, fees, commissions, etc.) in determining the proposed rate(s). **The rate proposed by the Responder will be the full consideration paid for that specified period of time covered by the contract.** Any assumptions made regarding the impact of inflationary factors during the term of the agreement are the sole responsibility of the Responder. The contract will contain no cost-of-living adjustment provision.

This form must be signed by an individual authorized to legally bind the Responder. The title of the person signing and the date this form was signed must be entered. The cost Proposal must be open for acceptance until a contract is signed, the RFP is cancelled, or 180 days from the final submission date of the RFP, whichever is first.

**RFP responding to:** __________________________________________________________

**Company Name and Address:** __________________________________________________

**Rate(s):** $_________________________

**Attach a breakdown of costs that resulted in this rate.**

*By signing this Cost Proposal, I do hereby certify the Responder named above wishes to enter a price for the services requested by the Minnesota Department of Human Services in the correlating RFP. This cost or price data submitted with this Proposal is accurate, complete and current as of the following date. This cost or pricing data shall remain current and is open for acceptance by the State until a Contract is approved, the RFP is cancelled, or for a period of 180 days from the Proposal closing date, whichever comes first. If awarded a contract, the costs quoted above will remain in effect through the term of the contract, unless a change to the costs is mutually agreed to by the parties.*

**Signature:** ________________________________________________________________

**Title:** _____________________________________________________________________

**Date:** ______________________________________________________________________
Appendix K: Sample Professional Technical Services Contract

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its Department of Human Services, Health Care Administration (the “STATE”), and __________, an independent contractor, not an employee of the State of Minnesota (the “CONTRACTOR”).

Under Minnesota Statutes §§ 15.061 and 256.01, subd. 2, the STATE is empowered to enter into contracts to provide services and engage such assistance as deemed necessary to carry out its mission.

STATE is permitted to share information with CONTRACTOR in accordance with Minnesota Statutes, section 13.46.

The STATE is in need of the following services: _______________________________.

The CONTRACTOR represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the STATE.

The parties therefore agree as follows:

1. Term of Contract.

   1.1 Effective date. The effective date of this contract is (DATE), or the date that the STATE obtains all required signatures under Minn. Stat. §16C.05, subd. 2, whichever is later. The CONTRACTOR must not begin work under this contract until this contract is fully executed and CONTRACTOR has been notified by the STATE’S Authorized Representative to begin work.

   1.2 Expiration date. The expiration date of this contract is (DATE), or until all obligations have been satisfactorily fulfilled, whichever occurs first.


2. Contractor’s Duties. CONTRACTOR, who is not a state employee, will:

3. Time. CONTRACTOR will perform its duties within the time limits established in this contract unless prior approval is obtained from STATE. In performance of this contract, time is of the essence.

4. Consideration and Payment.

   4.1 Consideration. The STATE will pay for all services performed by the CONTRACTOR under this contract as follows:

      (a) Compensation. The CONTRACTOR will be paid as follows: __________.

      (b) Reimbursement. Reimbursement for travel and subsistence expenses actually and necessarily incurred by CONTRACTOR in performance of this contract in an amount not to exceed __________ dollars ($______.00); provided, that CONTRACTOR will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than is provided in the current “Commissioner’s Plan”, promulgated by the Commissioner of Minnesota Management and Budget, which is incorporated by reference. CONTRACTOR will not be reimbursed for travel and subsistence expense incurred outside the State of Minnesota unless it has received STATE’S prior written approval for such out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

      (c) Total Obligation. The total obligation of the STATE for all compensation and reimbursements to CONTRACTOR will not exceed __________ dollars ($______.00).
(d) **Withholding (If applicable).** For compensation payable under this contract, which is subject to withholding under state or federal law, appropriate amounts will be deducted and withheld by STATE as required.

4.2 **Payment.**

(a) **Invoices.** The STATE will promptly pay the CONTRACTOR after the CONTRACTOR presents itemized invoices for services performed and the STATE’S authorized representative accepts the invoiced services. Invoices will be submitted timely, in a form prescribed by the STATE and according to ____________.

(b) **Retainage.** Under Minnesota Statutes, section 16C.08, subdivision 2(10), no more than ninety (90%) percent of the compensation due under this contract may be paid until the final product(s) of the contract has been reviewed by the STATE and it has been determined that the CONTRACTOR has satisfactorily fulfilled all the terms of the contract. Accordingly, the STATE will withhold 10% of the total amount of each invoice submitted by CONTRACTOR for payment. The balance due will be paid when the STATE determines that the CONTRACTOR has satisfactorily fulfilled all the terms of this contract.

(c) **Federal funds.** (Where applicable. If blank or “N/A”, this section does not apply.) Payments under this contract will be made from federal funds obtained by the STATE through Title ________________, Catalog of Federal Domestic Assistance (CFDA) Number ________________, federal award name and number ________________-______________ of the _______ Act of (year)_______. The CONTRACTOR is responsible for compliance with all applicable federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by CONTRACTOR’S failure to comply with federal requirements. If at any time such funds become unavailable, this contract will be terminated immediately upon written notice of such fact by the STATE to the CONTRACTOR. In the event of such termination, CONTRACTOR will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

4.3 **Payments to Subcontractors.** (If Applicable) As required by Minn. Stat. §16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor’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) or any undisputed amount not paid on time to the subcontractor(s).

5. **Conditions of Payment.** All services provided by CONTRACTOR under this contract must be performed to the STATE’S satisfaction, as determined by the STATE’S authorized representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations including business registration requirements of the Office of the Secretary of State. CONTRACTOR will 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.

6. **Authorized Representatives and Responsible Authority.**

6.1 **State.** The STATE’S authorized representative is Name and division or title or his/her successor, who has the responsibility to monitor the CONTRACTOR’S performance and the authority to accept the services provided under this contract. If the services are satisfactory, the STATE’S Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 **Contractor.** The CONTRACTOR’S Authorized Representative is Name and title or his/her successor. If the CONTRACTOR’S Authorized Representative changes at any time during this contract, the CONTRACTOR must immediately notify STATE.

6.3 **Information Privacy and Security.** (If applicable) CONTRACTOR’S responsible authority for the purposes of complying with data privacy and security for this agreement is Name and title or his/her successor.

7. **Information Privacy and Security.** Information privacy and security shall be governed by the “Data Sharing Agreement and Business Associate Agreement Terms and Conditions” which is attached and incorporated into this Contract as Attachment.
intellectual property rights.

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

8.2 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 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 CONTRACTOR upon completion or cancellation of this 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, CONTRACTOR must cite the data, or make clear by referencing that STATE is the source.

8.3 Obligations.

(a) 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 Contractor, including its employees and subcontractors, and are created and paid for under this contract, the Contractor 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 CONTRACTOR will assign all right, title, and interest it may have in the Works and the Documents to the STATE.

(b) Filing and recording of ownership interests. The Contractor 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 contract. The CONTRACTOR 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 CONTRACTOR nor its employees, agents, or subcontractors retain any interest in and to these Works and Documents.

9. Workers’ Compensation and Other Insurance.

9.1 Workers’ Compensation. The CONTRACTOR certifies that, if applicable, it is in compliance with Minn. Stat. §176.181, subd. 2, pertaining to workers’ compensation insurance coverage. If CONTRACTOR is required to comply with the
above statute, CONTRACTOR must provide STATE with evidence of compliance. The CONTRACTOR’S employees and agents will not be considered employees of 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.

9.2 Other Insurance. Contractor certifies that it is in compliance with any insurance requirements specified in the solicitation document relevant to this Contract.

10. Indemnification. In the performance of this contract by CONTRACTOR, or CONTRACTOR’S agents or employees, the CONTRACTOR 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 CONTRACTOR’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 CONTRACTOR may have for the STATE’S failure to fulfill its obligation under this contract.

11. Affirmative Action and Non-Discrimination

11.1 Affirmative Action requirements for Contractors with more than 40 full-time employees and contract in excess of $100,000. (If this contract, including all amendments, does not exceed $100,000, this provision does not apply). If the Contract exceeds $100,000 and the CONTRACTOR employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the CONTRACTOR must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

11.2 Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the CONTRACTOR to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

11.3 Minn. R. parts 5000.3400-5000.3600.

(a) General. Minn. R. parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552-5000.3559.

(b) Disabled Workers. The CONTRACTOR must comply with the following affirmative action requirements for disabled workers:

(1) The CONTRACTOR 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 CONTRACTOR 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.

(2) The CONTRACTOR agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(3) In the event of the CONTRACTOR’S noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. §363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(4) The CONTRACTOR 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 must state the CONTRACTOR’S obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(5) The CONTRACTOR must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat. §363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

(c) Consequences. The consequences for the CONTRACTOR’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the STATE.

(d) Certification. The CONTRACTOR hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. parts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

11.4 Common or Skilled Labor. In accordance with Minn. Stat. § 181.59, if this contract is for materials, supplies, or construction, CONTRACTOR agrees:

(a) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

(b) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (a) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;

(c) That a violation of this section is a misdemeanor; and

(d) That this contract may be canceled or terminated, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

12. Publicity and Endorsement.

12.1 Publicity. Any publicity regarding the subject matter of this contract must identify the STATE as the sponsoring agency and must not be released without prior written approval from the STATE’S authorized representative. For purposes of this provision, publicity includes, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the CONTRACTOR or its employees individually or jointly with
others or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

12.3 **Endorsement.** The CONTRACTOR must not claim that the STATE endorses its products or services.

13. **Voter Registration Requirement.** CONTRACTOR certifies that if it is a not-for-profit business or governmental agency it will comply with Minn. Stat. § 201.162 by providing voter registration services for CONTRACTOR’S employees and for the public served by the CONTRACTOR.

14. **Audit Requirements and Contractor Debarment Information.**

14.1 **State Audits.** Under Minn. Stat. §16C.05, subd. 5, the books, records, documents, and accounting procedures and practices of the CONTRACTOR and its employees, agents, or subcontractors relevant to this contract will 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 contract.

14.2 **Compliance with Single Audit Act.** All sub-recipients receiving $500,000 or more of federal assistance in a fiscal year will obtain a financial and compliance audit made in accordance with the Single Audit Act, and Code of Federal Regulations, title 2, subtitle A, chapter II, part 200. CONTRACTOR certifies it will comply with the Single Audit Act, and Code of Federal Regulations, title 2, subtitle A, chapter II, part 200, if applicable. Failure to comply with these requirements could result in forfeiture of federal funds.

14.3 **Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions.** CONTRACTOR 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. CONTRACTOR’S certification is a material representation upon which the contract award was based. CONTRACTOR 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.

14.4 **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 contract, therefore CONTRACTOR 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. CONTRACTOR’S certification is a material representation upon which the contract award was based.

15. **Data Disclosure.** Under Minn. Stat. §270C.65, subd. 3, and other applicable law, the CONTRACTOR consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, to the STATE, to federal and state agencies and state personnel involved in the approval and payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the CONTRACTOR to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities. This contract will not be approved unless these numbers are provided.

16. **Prohibition on Weapons.** CONTRACTOR agrees to comply with all terms of the Department of Human Services’ policy prohibiting carrying or possessing weapons wherever and whenever the CONTRACTOR is performing services within the scope of this contract. This policy, which is located at the business location of the STATE and is available to CONTRACTOR upon request, is incorporated by reference into this contract. Any violations of this policy by CONTRACTOR or CONTRACTOR’S employees may be grounds for immediate suspension or termination of the contract.

17. **Severability.** If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the parties’ intention. All remaining provisions of this Contract shall remain in full force and effect.

18. **Cancellation or Termination.**

18.1 **Cancellation.** This contract may be canceled by the STATE or the Minnesota Commissioner of Administration at any time, with or without cause, upon thirty (30) days written notice to the CONTRACTOR. In the event of such a
Cancellation, CONTRACTOR will be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

18.2 **Insufficient Funding.** Notwithstanding clause 18.1, the STATE may immediately terminate this 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 CONTRACTOR. The STATE is not obligated to pay for any services that are provided after notice and effective date of termination. However, the CONTRACTOR 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 contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The STATE must provide the CONTRACTOR notice of the lack of funding within a reasonable time of the STATE’S receiving that notice.

18.3 **Breach.** Notwithstanding clause 18.1, upon STATE’s knowledge of a curable material breach of this Agreement by CONTRACTOR, STATE shall provide CONTRACTOR written notice of the breach and ten (10) days to cure the breach. If CONTRACTOR does not cure the breach within the time allowed, CONTRACTOR will be in default of this agreement and STATE may cancel the contract immediately thereafter. If CONTRACTOR has breached a material term of this Agreement and cure is not possible, STATE may immediately terminate this Agreement.

19. **Governing Law, Jurisdiction and Venue.** Minnesota law, without regard to its choice of law provisions, governs this contract, and amendments and supplements thereto. Venue for all legal proceedings arising out of this contract, or breach thereof, will be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

20. **Assignment, Amendments, Waiver, and Contract Complete.**

20.1 **Assignment.** The CONTRACTOR may neither assign nor transfer any rights or obligations under this contract without the prior consent of the STATE and a fully executed Assignment Agreement, approved by the same parties who executed and approved this contract, or their successors in office.

20.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

20.3 **Waiver.** If the STATE fails to enforce any provision of this contract, that failure does not waive the provision or STATE’S right to enforce it.

20.4 **Contract Complete.** This contract contains all negotiations and agreements between the STATE and the CONTRACTOR. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

21. **Other Provisions.**

21.1 **Criminal Background Check Required.**

A. CONTRACTOR and CONTRACTOR’s employees, agents, independent contractors, or subcontractors performing services under this Contract shall execute and submit an informed consent form allowing State to conduct a criminal background check using a computerized criminal history system operated by the Minnesota Department of Public Safety’s Bureau of Criminal Apprehension (“CCH Background Check”) before work can begin under this Contract.

B. STATE will review the results of the CCH Background Check and evaluate any discovered conduct against potential disqualifying conduct or criminal offenses specified under Minnesota Statutes, section 245C.15.

C. STATE may, in its discretion, immediately terminate this Contract in accordance with Section 18 upon STATE’S determination that the results of the CCH Background Check constitutes a disqualifying crime or conduct under Minnesota Statutes, section 245C.14 and section 245C.15.
21.2  **E-Verify Certification (In accordance with Minn. Stat. §16C.075).** For services valued in excess of $50,000, CONTRACTOR certifies that as of the date of services performed on behalf of the STATE, CONTRACTOR and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the STATE. CONTRACTOR is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at [http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc](http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc). All subcontractor certifications must be kept on file with CONTRACTOR and made available to the STATE upon request.

22.  **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053)**
The following term applies to any contract for which the value, including all extensions, is $50,000 or more: Contractor certifies it does not engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
(Signature Page Follows)
IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

APPROVED:

1. STATE ENCUMBRANCE VERIFICATION
Individually certifies that funds have been encumbered as required by Minnesota Statutes, chapter 16A and section 16C.05.

   By: __________________________

   Date: _________________________

   Grant No: ______________________

2. CONTRACTOR
Contractor certifies that the appropriate person(s) have executed the contract on behalf of the CONTRACTOR as required by applicable articles, by-laws resolutions or ordinances.

   By: __________________________

   Title: __________________________

   Date: __________________________

3. STATE AGENCY
By (with delegated authority):____________________

   Title: __________________________

   Date: __________________________

4. STATE AGENCY (if over $100,000)

   By: __________________________

   Title: Assistant Commissioner

   Date: _________________________

4. DEPARTMENT OF ADMINISTRATION

   By: __________________________

   Date: __________________________

Distribution (One fully executed original contract each):
Dept. of Administration
Contracting, Procurement & Legal Compliance
Division
Agency
Contractor
This Attachment sets forth the terms and conditions in which STATE will share data with and permit CONTRACTOR to use or disclose Protected Information that the parties are legally required to safeguard pursuant to the Minnesota Data Practices Act under Minnesota Statutes, chapter 13, the Health Insurance Portability and Accountability Act rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“HIPAA”) and other applicable laws.

The parties agree to comply with all applicable provisions of the Minnesota Data Practices Act, HIPAA, and any other state and federal statutes that apply to the Protected Information.

General Description of Protected Information That Will Be Shared: For example, “Minnesota Health Programs claims data for fiscal years 2013 through 2014”; and

Purpose for Sharing Protected Information and Expected Outcomes: Please describe why sharing the information is necessary to accomplish the particular purpose of a grant, contract or other program mission. For example, “Review Minnesota Health Programs to program integrity, quality, and effectiveness.”

STATE is permitted to share the Protected Information with CONTRACTOR pursuant to [Legal Authority: The statutes, regulations, rules, and/or standards that allow the Protected Information to be shared. Include, if applicable in the case of a specific program area project or a grant contract, references to state or federal legislation authorizing the grant or project]

It is expressly agreed that CONTRACTOR is a “business associate” of STATE, as defined by HIPAA under 45 C.F.R. § 160.103. The disclosure of protected health information to GRANTEE that is subject to the Health Insurance Portability Accountability Act (HIPAA) is permitted by 45 C.F.R. § 164.502(e)(1)(i).

DEFINITIONS

D. "Agent" means CONTRACTOR'S employees, contractors, subcontractors, and other non-employees and representatives.

E. Applicable Safeguards” means the state and federal provisions listed in Section 2.1 of this Attachment.

F. “Breach” means the acquisition, access, use, or disclosure of unsecured protected health information in a manner not permitted by HIPAA, which compromises the security or privacy of protected health information.

G. “Business associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. § 160.103, and in reference to the party in the Contract and this Attachment, shall mean CONTRACTOR.

H. “Contract” means the Professional/Technical Contract between STATE and CONTRACTOR identified as PTK%XXXX

I. “Disclosure” means the release, transfer, provision of access to, or divulging in any manner of information by the entity in possession of the Protected Information.

J. “HIPAA” means the rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164.
K. “Individual” means the person who is the subject of protected information.

L. “Privacy incident” means a violation of an information privacy provision of any applicable state and federal law, statute, regulation, rule, or standard, including those listed in the Contract and this Attachment.

M. “Protected information” means any information that is or will be used by STATE or CONTRACTOR under the Contract that is protected by federal or state privacy laws, statutes, regulations or standards, including those listed in this Attachment. This includes, but is not limited to, individually identifiable information about a State, county or tribal human services agency client or a client’s family member. Protected information also includes, but is not limited to, protected health information, as defined below, and protected information maintained within or accessed via a State information management system, including a State “legacy system” and other State application.

N. “Protected health information” is a subset of “individually identifiable health information” in accordance with 45 C.F.R. § 160.103, but for purposes of this Attachment refers only to that information that is received, created, maintained, or transmitted by CONTRACTOR as a business associate on behalf of DHS. Protected health information is a specific subset of protected information as defined above.

O. “Security incident” means the attempted or successful unauthorized use or the interference with system operations in an information management system or application. Security incident does not include pings and other broadcast attacks on a system’s firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, provided that such activities do not result in the unauthorized use of Protected Information.

P. “Use” or “used” means any activity by the parties during the duration of the Contract involving protected information including its creation, collection, access, use, modification, employment, application, utilization, examination, analysis, manipulation, maintenance, dissemination, sharing, disclosure, transmission, or destruction. Use includes any of these activities whether conducted manually or by electronic or computerized means.

Q. “User” means an agent of either party, who has been authorized to use protected information.

1. INFORMATION EXCHANGED

1.1 This Attachment governs the data that will be exchanged pursuant to CONTRACTOR performing the services described in the Contract. The data exchanged under the Contract will include.

1.2 The data exchanges under the Contract is provided to CONTRACTOR in order for CONTRACTOR.

1.3 STATE is permitted to share the Protected Information with CONTRACTOR pursuant to.

2. INFORMATION PRIVACY AND SECURITY

CONTRACTOR and STATE must comply with the Minnesota Government Data Practices Act, Minn. Stat. § 13, and the Health Insurance Portability Accountability Act [“HIPAA”], 45 C.F.R. § 164.103, et seq., as it applies to all data provided by STATE under the Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by CONTRACTOR under the Contract. The civil remedies of Minn. Stat. § 13.08 apply to CONTRACTOR and STATE. Additionally, the remedies of HIPAA apply to the release of data governed by that Act.
2.1 Compliance with Applicable Safeguards.

A. State and Federal Safeguards. The parties acknowledge that the Protected Information to be shared under the terms of the Contract may be subject to one of the following laws, statutes, regulations, rules, and standards, as applicable (“Applicable Safeguards”). The parties agree to comply with all rules, regulations and laws, including as amended or revised, applicable to the exchange, use and disclosure of data under the Contract.

2. Minnesota Government Data Practices Act (Minn. Stat. Chapter 13);
3. Minnesota Health Records Act (Minn. Stat. §144.291 - 144.298);
4. Confidentiality of Alcohol and Drug Abuse Patient Records (42 U.S.C. § 290dd-2 and 42 C.F.R. § 2.1 to §2.67);
5. Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. 6103 and Publication 1075);
6. U.S. Privacy Act of 1974;
7. Computer Matching Requirements (5 U.S.C. 552a);
8. Social Security Data Disclosure (section 1106 of the Social Security Act);
9. Disclosure of Information to Federal, State and Local Agencies (DIFSLA Handbook” Publication 3373);
10. Final Exchange Privacy Rule of the Affordable Care Act (45 C.F.R. § 155.260); and
11. NIST Special Publication 800-53, Revision 4 (NIST.SP.800-53r4).

B. Statutory Amendments and Other Changes to Applicable Safeguards. The Parties agree to take such action as is necessary to amend the Contract and this Attachment from time to time as is necessary to ensure, current, ongoing compliance with the requirements of the laws listed in this Section or in any other applicable law.

2.2 CONTRACTOR Data Responsibilities

A. Use Limitation.

1. Restrictions on Use and Disclosure of Protected Information. Except as otherwise authorized in the Contract or this Attachment, CONTRACTOR may only use or disclose Protected Information as necessary to provide the services to STATE as described herein, or as otherwise required by law, provided that such use or disclosure of Protected Information, if performed by STATE, would not violate the Contract, this Attachment, HIPAA, or other state and federal statutes or regulations that apply to the Protected Information.

2. Federal tax information. To the extent that Protected Information used under the Contract constitutes “federal tax information” (FTI), CONTRACTOR shall ensure that this data only be used as authorized under the Patient Protection and Affordable Care Act, the Internal Revenue Code, 26 U.S.C. § 6103(C), and IRS Publication 1075.

B. Individual Privacy Rights. CONTRACTOR shall ensure individuals are able to exercise their privacy rights regarding Protected Information, including but not limited to the following:
1. **Complaints.** CONTRACTOR shall work cooperatively with STATE to resolve complaints received from an individual; from an authorized representative; or from a state, federal, or other health oversight agency.

2. **Amendments to Protected Information Requested by Data Subject Generally.** Within ten (10) business days, CONTRACTOR must forward to STATE any request to make any amendment(s) to Protected Information in order for STATE to satisfy its obligations under Minn. Stat. § 13.04, subd. 4. If the request to amend Protected Information pertains to Protected Health Information, then CONTRACTOR must also make any amendment(s) to protected health information as directed or agreed to by STATE pursuant to 45 C.F.R. § 164.526 or otherwise act as necessary to satisfy STATE or CONTRACTOR’s obligations under 45 C.F.R. § 164.526 (including, as applicable, protected health information in a designated record set).

C. **Background Review and Reasonable Assurances Required of Agents.**

1. **Criminal Background Check Required.** CONTRACTOR and employees of CONTRACTOR accessing STATE’s Protected Information must submit to STATE or provide evidence of a computerized criminal history system background check (hereinafter “CCH background check”) performed within the last 12 months before work can begin under the Contract. “CCH background check” is defined as a background check including search of the computerized criminal history system of the Minnesota Department of Public Safety’s Bureau of Criminal Apprehension.

2. **Reasonable Assurances.** CONTRACTOR represents that, before its Agents are allowed to use or disclose Protected Information, CONTRACTOR has conducted and documented a background review of such Agents sufficient to provide CONTRACTOR with reasonable assurances that the Agent will comply with the terms of the Contract, this Attachment and Applicable Safeguards.

3. **Documentation.** CONTRACTOR shall make available documentation required by this Section upon request by STATE.

D. **Ongoing Responsibilities to Safeguard Protected Information.**

1. **Privacy and Security Policies.** CONTRACTOR shall develop, maintain, and enforce policies, procedures, and administrative, technical, and physical safeguards to ensure the privacy and security of the Protected Information.

2. **Electronic Protected Information.** CONTRACTOR shall implement and maintain appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 (HIPAA Security Rule) with respect to electronic Protected Information, including electronic Protected Health Information, to prevent the use or disclosure other than as provided for by the Contract or this Attachment.
3. **Monitoring Agents.** CONTRACTOR shall ensure that any contractor, subcontractor, or other agent to whom CONTRACTOR discloses Protected Information on behalf of STATE, or whom CONTRACTOR employs or retains to create, receive, use, store, disclose, or transmit Protected Information on behalf of STATE, agrees to the same restrictions and conditions that apply to CONTRACTOR under the Contract and this Attachment with respect to such Protected Information, and in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).

4. **Minimum Necessary Access to Protected Information.** CONTRACTOR shall ensure that its Agents use only the minimum necessary Protected Information needed to complete an authorized and legally permitted activity.

5. **Training.** CONTRACTOR shall ensure that Agents are properly trained and comply with all Applicable Safeguards and the terms of the Contract and this Attachment.

E. **Responding to Privacy Incidents, Security Incidents, and Breaches.** CONTRACTOR will comply with this Section for all protected information shared under the Contract. Additional obligations for specific kinds of protected information shared under the Contract are addressed in Section 2.2(F).

1. **Mitigation of harmful effects.** Upon discovery of any actual or suspected privacy incident, security incident, or breach, CONTRACTOR will mitigate, to the extent practicable, any harmful effect of the privacy incident, security incident, or breach. Mitigation may include, but is not limited to, notifying and providing credit monitoring to affected individuals.

2. **Investigation.** Upon discovery of any actual or suspected privacy incident, security incident, or breach, CONTRACTOR will investigate to (1) determine the root cause of the incident, (2) identify individuals affected, (3) determine the specific protected information impacted, and (4) comply with notification and reporting provisions of the Contract, this Attachment and applicable law.

3. **Corrective action.** Upon identifying the root cause of any privacy incident, security incident, or breach, CONTRACTOR will take corrective action to prevent, or reduce to the extent practicable, any possibility of recurrence. Corrective action may include, but is not limited to, patching information system security vulnerabilities, employee sanctions, or revising policies and procedures.

4. **Notification to individuals and others; costs incurred.**
   
   a. **Protected Information.** CONTRACTOR will determine whether notice to data subjects and/or any other external parties regarding any privacy incident or security incident is required by law. If such notice is required, CONTRACTOR will comply with STATE’s and CONTRACTOR’s obligations under any applicable law requiring notification, including, but not limited to, Minn. Stat. §§ 13.05 and 13.055.

   b. **Protected Health Information.** If a privacy incident or security incident results in a breach of protected health information, as these terms are defined in this Attachment, then CONTRACTOR will provide notice to individual data subjects under any applicable law requiring notification,
including but not limited to providing notice as outlined in 45 C.F.R. § 164.404.

c. **Failure to notify.** If CONTRACTOR fails to notify individual data subjects or other external parties under subparagraphs (a) and (b), then CONTRACTOR will reimburse STATE for any costs incurred as a result of CONTRACTOR’s failure to provide notification.

5. **Obligation to report to STATE.** Upon discovery of a privacy incident, security incident, or breach, CONTRACTOR will report to STATE in writing as specified in Section 2.2(F).

   a. **Communication with authorized representative.** CONTRACTOR will send any written reports to, and communicate and coordinate as necessary with, STATE’s authorized representative.

   b. **Cooperation of response.** CONTRACTOR will cooperate with requests and instructions received from STATE regarding activities related to investigation, containment, mitigation, and eradication of conditions that led to, or resulted from, the security incident, privacy incident, or breach.

   c. **Information to respond to inquiries about an investigation.** CONTRACTOR will, as soon as possible, but not later than forty-eight (48) hours after a request from STATE, provide STATE with any reports or information requested by STATE related to an investigation of a security incident, privacy incident, or breach.

6. **Documentation.** CONTRACTOR will document actions taken under paragraphs 1 through 5 of this Section, and provide such documentation to STATE upon request.

F. **Reporting Privacy Incidents, Security Incidents, and Breaches.** CONTRACTOR will comply with the reporting obligations of this Section as they apply to the kind of protected information involved. CONTRACTOR will also comply with Section 2.2(E) above in responding to any privacy incident, security incident, or breach.

1. **Federal Tax Information.** CONTRACTOR will report all actual or suspected unauthorized uses or disclosures of federal tax information (FTI). FTI is information protected by Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. § 6103 and Publication 1075).

   a. **Initial report.** CONTRACTOR will, in writing, immediately report all actual or suspected unauthorized uses or disclosures of FTI to STATE. CONTRACTOR will include in its initial report to STATE all information under Section 2.2(E)(1)-(4), of this Attachment that is available to CONTRACTOR at the time of the initial report.

   b. **Final report.** CONTRACTOR will, upon completion of its investigation of and response to any actual or suspected unauthorized uses or disclosures of FTI, or upon STATE’s request in accordance with Section 2.2(E)(5), submit in
writing a report to STATE documenting all actions taken under Section 2.2(E)(1)-(4), of this Attachment.

2. **Social Security Administration Data.** CONTRACTOR will report all actual or suspected unauthorized uses or disclosures of Social Security Administration (SSA) data. SSA data is information protected by section 1106 of the Social Security Act.

   a. **Initial report.** CONTRACTOR will, in writing, immediately report all actual or suspected unauthorized uses or disclosures of SSA data to STATE. CONTRACTOR will include in its initial report to STATE all information under Section 2.2(E)(1)-(4), of this Attachment that is available to CONTRACTOR at the time of the initial report.

   b. **Final report.** CONTRACTOR will, upon completion of its investigation of and response to any actual or suspected unauthorized uses or disclosures of SSA data, or upon STATE’s request in accordance with Section 2.2(E)(5), submit in writing a report to STATE documenting all actions taken under Section 2.2(E)(1)-(4), of this Attachment.

3. **Protected Health Information.** CONTRACTOR will report breaches and security incidents involving protected health information to STATE and other external parties. CONTRACTOR will notify STATE, in writing, of (1) any breach or suspected breach of protected health information; (2) any security incident; or (3) any violation of an individual’s privacy rights as they involve protected health information created, received, maintained, or transmitted by CONTRACTOR or its Agents on behalf of STATE.

   a. **Breach reporting.** CONTRACTOR will report, in writing, any breach of protected health information to STATE within five (5) business days of discovery, in accordance with 45 C.F.R § 164.410.

   **Content of report to STATE.** Reports to the authorized representative regarding breaches of protected health information will include:

   1. Identities of the individuals whose unsecured Protected Health Information has been breached.
   2. Date of the breach and date of its discovery.
   3. Description of the steps taken to investigate the breach, mitigate its effects, and prevent future breaches.
   4. Sanctions imposed on members of CONTRACTOR’s workforce involved in the breach.
   5. Other available information that is required to be included in notification to the individual under 45 C.F.R. § 164.404(c).
   6. Statement that CONTRACTOR has notified, or will notify, affected data subjects in accordance with 45 C.F.R. § 164.404.
b. **Security incidents resulting in a breach.** CONTRACTOR will report, in writing, any security incident that results in a breach, or suspected breach, of protected health information to STATE within five (5) business days of discovery, in accordance with 45 C.F.R § 164.314 and 45 C.F.R § 164.410.

c. **Security incidents that do not result in a breach.** CONTRACTOR will report all security incidents that do not result in a breach, but involve systems maintaining protected health information created, received, maintained, or transmitted by CONTRACTOR or its Agents on behalf of STATE, to STATE on a monthly basis, in accordance with 45 C.F.R § 164.314.

d. **Other violations.** CONTRACTOR will report any other violation of an individual’s privacy rights as it pertains to protected health information to STATE within five (5) business days of discovery. This includes, but is not limited to, violations of HIPAA data access or complaint provisions.

e. **Reporting to other external parties.** CONTRACTOR will report all breaches of protected health information to the federal Department of Health and Human Services, as specified under 45 C.F.R 164.408. If a breach of protected health information involves 500 or more individuals:
   1. CONTRACTOR will immediately notify STATE.
   2. CONTRACTOR will report to the news media and federal Department of Health and Human Services in accordance with 45 C.F.R. §§ 164.406-408.

4. **Other Protected Information.** CONTRACTOR will report all other privacy incidents and security incidents to STATE.
   
a. **Initial report.** CONTRACTOR will report all other privacy and security incidents to STATE, in writing, within five (5) days of discovery. If CONTRACTOR is unable to complete its investigation of, and response to, a privacy incident or security incident within five (5) days of discovery, then CONTRACTOR will provide STATE with all information under Section 2.2(E)(1)-(4), of this Attachment that are available to CONTRACTOR at the time of the initial report.

b. **Final report.** CONTRACTOR will, upon completion of its investigation of and response to a privacy incident or security incident, or upon STATE’s request in accordance with Section 2.2(E)(5) submit in writing a report to STATE documenting all actions taken under Section 2.2(E)(1)-(4), of this Attachment.

G. **Designated Record Set—Protected Health Information.** If, on behalf of STATE, CONTRACTOR maintains a complete or partial designated record set, as defined in 45 C.F.R. § 164.501, upon request by STATE, CONTRACTOR shall:

1. Provide the means for an individual to access, inspect, or receive copies of the individual’s Protected Health Information.
2. Provide the means for an individual to make an amendment to the individual’s Protected Health Information.

3. Provide the means for access and amendment in the time and manner that complies with HIPAA or as otherwise directed by STATE.

H. Access to Books and Records, Security Audits, and Remediation. CONTRACTOR shall conduct and submit to audits and necessary remediation as required by this Section to ensure compliance with all Applicable Safeguards and the terms of the Contract and this Attachment.

1. CONTRACTOR represents that it has audited and will continue to regularly audit the security of the systems and processes used to provide services under the Contract and this Attachment, including, as applicable, all data centers and cloud computing or hosting services under contract with CONTRACTOR. CONTRACTOR will conduct such audits in a manner sufficient to ensure compliance with the security standards referenced in this Attachment.

2. This security audit required above will be documented in a written audit report which will, to the extent permitted by applicable law, be deemed confidential security information and not public data under the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, subd. 1(a) and 2(a).

3. CONTRACTOR agrees to make its internal practices, books, and records related to its obligations under the Contract and this Attachment available to STATE or a STATE designee upon STATE’s request for purposes of conducting a financial or security audit, investigation, or assessment, or to determine CONTRACTOR’s or STATE’s compliance with Applicable Safeguards, the terms of this Attachment and accounting standards. For purposes of this provision, other authorized government officials includes, but is not limited to, the Secretary of the United States Department of Health and Human Services.

4. CONTRACTOR will make and document best efforts to remediate any control deficiencies identified during the course of its own audit(s), or upon request by STATE or other authorized government official(s), in a commercially reasonable timeframe.

I. Documentation Required. Any documentation required by this Attachment, or by applicable laws, standards, or policies, of activities including the fulfillment of requirements by CONTRACTOR, or of other matters pertinent to the execution of the Contract, must be securely maintained and retained by CONTRACTOR for a period of six years from the date of expiration or termination of the Contract, or longer if required by applicable law, after which the documentation must be disposed of consistent with Section 2.6 of this Attachment.

CONTRACTOR shall document disclosures of Protected Health Information made by CONTRACTOR that are subject to the accounting of disclosure requirement described in 45 C.R.F. 164.528, and shall provide to STATE such documentation in a time and manner designated by STATE at the time of the request.
J. Requests for Disclosure of Protected Information. If CONTRACTOR or one of its Agents receives a request to disclose Protected Information, CONTRACTOR shall inform STATE of the request and coordinate the appropriate response with STATE. If CONTRACTOR discloses Protected Information after coordination of a response with STATE, it shall document the authority used to authorize the disclosure, the information disclosed, the name of the receiving party, and the date of disclosure. All such documentation shall be maintained for the term of the Contract and shall be produced upon demand by STATE.

K. Conflicting Provisions. CONTRACTOR shall comply with all applicable provisions of HIPAA and with the Contract and this Attachment. To extent that the parties determine, following consultation, that the terms of this Attachment are less stringent than the Applicable Safeguards, CONTRACTOR must comply with the Applicable Safeguards. In the event of any conflict in the requirements of the Applicable Safeguards, CONTRACTOR must comply with the most stringent Applicable Safeguard.

L. Data Availability. CONTRACTOR, or any entity with legal control of any protected information provided by STATE, shall make any and all protected information under the Contract and this Attachment available to STATE upon request within a reasonable time as is necessary for STATE to comply with applicable law.

2.3 Data Security.

A. STATE Information Management System Access. If STATE grants CONTRACTOR access to Protected Information maintained in a STATE information management system (including a STATE “legacy” system) or in any other STATE application, computer, or storage device of any kind, then CONTRACTOR agrees to comply with any additional system- or application-specific requirements as directed by STATE.


C. Portable Media and Devices. The parties agree to encrypt Protected Information written to or stored on portable electronic media or computing devices in a manner that complies with NIST SP 800-111, Guide to Storage Encryption Technologies for End User Devices.

2.4 CONTRACTOR Permitted Uses and Responsibilities.

A. Management and Administration. Except as otherwise limited in the Contract or this Attachment, CONTRACTOR may:

1. Use Protected Health Information for the proper management and administration of CONTRACTOR or to carry out the legal responsibilities of CONTRACTOR.

2. Disclose Protected Health Information for the proper management and administration of CONTRACTOR, provided that:

   a. The disclosure is required by law; or
b. The disclosure is required to perform the services provided to or on behalf of STATE or the disclosure is otherwise authorized by STATE, and CONTRACTOR:

i. Obtains reasonable assurances, in the form of a data sharing agreement, from the entity to whom the Protected Health Information will be disclosed that the Protected Health Information will remain confidential, and will not be used or disclosed other than for the contracted services or the authorized purposes; and

ii. CONTRACTOR requires the entity to whom Protected Health Information is disclosed to notify CONTRACTOR of any compromise to the confidentiality of Protected Health Information of which it becomes aware.

B. Notice of Privacy Practices. If CONTRACTOR’s duties and responsibilities require it, on behalf of STATE, to obtain individually identifiable health information from individual(s), then CONTRACTOR shall, before obtaining the information, confer with STATE to ensure that any required Notice of Privacy Practices includes the appropriate terms and provisions.

C. De-identify Protected Health Information. CONTRACTOR may use Protected Health Information to create de-identified Protected Health Information provided that CONTRACTOR complies with the de-identification methods specified in 45 C.F.R. § 164.514.

D. Aggregate Protected Health Information. CONTRACTOR may use Protected Health Information to perform data aggregation services for STATE. The use of Protected Health Information by CONTRACTOR to perform data analysis or aggregation for parties other than STATE must be expressly approved by STATE.

2.5 STATE Data Responsibilities

A. STATE shall disclose Protected Information only as authorized by law to CONTRACTOR for its use or disclosure.

B. STATE shall obtain any consents or authorizations that may be necessary for it to disclose Protected Information with CONTRACTOR.

C. STATE shall notify CONTRACTOR of any limitations that apply to STATE’s use and disclosure of Protected Information that would also limit the use or disclosure of Protected Information by CONTRACTOR.

D. STATE shall refrain from requesting CONTRACTOR to use or disclose Protected Information in a manner that would violate applicable law or would be impermissible if the use or disclosure were performed by STATE.

2.6 Obligations of CONTRACTOR Upon Expiration or Cancellation of the Contract. Upon expiration or termination of the Contract for any reason:

A. CONTRACTOR shall retain only that Protected Health Information which is necessary for CONTRACTOR to continue its proper management and administration or to carry out its legal responsibilities, and maintain appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information to prevent the impermissible use or disclosure of any retained Protected Health Information for as long as CONTRACTOR retains the Protected Health Information.
B. For all other Protected Information, in compliance with the procedures found in the Applicable Safeguards listed in Section 2.1, or as otherwise required by applicable industry standards, or directed by STATE, CONTRACTOR shall immediately, destroy or sanitize (permanently de-identify without the possibility of re-identification), or return in a secure manner to STATE all Protected Information that it still maintains.

C. CONTRACTOR shall ensure and document that the same action is taken for all Protected Information shared by STATE that may be in the possession of its contractors, subcontractors, or agents. CONTRACTOR and its contractors, subcontractors, or agents shall not retain copies of any Protected Information.

D. In the event that CONTRACTOR cannot reasonably or does not return or destroy Protected Information, it shall notify STATE of the specific laws, rules or policies and specific circumstances applicable to its retention, and continue to extend the protections of the Contract and this Attachment and take all measures possible to limit further uses and disclosures of the client data for so long as CONTRACTOR or its contractors, subcontractors, or agents maintain the Protected Information.

E. CONTRACTOR shall document and verify in a report to STATE the disposition of Protected Information. The report shall include at a minimum the following information:

1. A description of all such information and the media in which it has been maintained that has been sanitized or destroyed, whether performed internally or by a service provider;

2. The method by which, and the date when, the data and media were destroyed, sanitized, or securely returned to STATE; and

3. The identity of organization name (if different than CONTRACTOR), and name, address, and phone number, and signature of individual, that performed the activities required by this Section.

F. Documentation required by this Section shall be made available upon demand by STATE.

G. Any costs incurred by CONTRACTOR in fulfilling its obligations under this Section will be the sole responsibility of CONTRACTOR.

3. INSURANCE REQUIREMENTS

3.1 Network Security and Privacy Liability Insurance. CONTRACTOR shall, at all times during the term of the Contract, keep in force a network security and privacy liability insurance policy. The coverage may be endorsed on another form of liability coverage or written on a standalone policy.

CONTRACTOR shall maintain insurance to cover claims which may arise from failure of CONTRACTOR’s security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. CONTRACTOR is required to carry the following minimum limits:

$2,000,000 per occurrence
$2,000,000 annual aggregate
3.2 **Privacy Liability Insurance.** The CONTRACTOR shall maintain insurance to cover claims which may arise from failure of the CONTRACTOR to ensure the security of not public data stored on the State’s documents, including but not limited to paper, microfilms, microfiche, magnetic computer tapes, cassette tapes, photographic negatives, photos, hard disks, floppy disks, and carbon sheets, while in the CONTRACTOR’s care, custody, and control. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. Contractor is required to carry the following **minimum** limits:

- $2,000,000 – Per Occurrence
- $2,000,000 – Annual Aggregate