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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF MEDICAID SERVICES

Lori A. Weaver
Commissioner

Henry D. Lipman
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9422 1-800-852-3345 Ext. 9422
Fax: 603-271-8431 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

May 10, 2024

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Medicaid Services, to amend an existing contract with University of Massachusetts (VC #177576), Worcester, MA to continue providing policy and technical consulting services for the Disproportionate Share Hospital Program, by exercising a contract renewal option by increasing the price limitation by $211,343 from $450,070 to $661,413 and by extending the completion date from June 30, 2024 to June 30, 2026 effective July 1, 2024, upon Governor and Council approval. 50% Federal Funds. 50% Other Funds (Medicaid Enhancement Tax).

The original contract was approved by Governor and Council on November 25, 2019, item #7; and amended with Governor and Council approval on June 29, 2022, item #13.

Funds are available in the following account for State Fiscal Year 2025 and are anticipated to be available in State Fiscal Year 2026, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-47-470010-79430000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HHS, DIVISION OF MEDICAID, OFC MEDICAID SERVICES, UNCOMPENSATED CARE FUND

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Opr Svc	47000004	$83,991	$0	$83,991
2021	102-500731	Contracts for Opr Svc	47000004	$85,607	$0	$85,607
2022	102-500731	Contracts for Opr Svc	47000004	$87,288	$0	$87,288
2023	102-500731	Contracts for Opr Svc	47000004	$95,000	$0	$95,000
2024	102-500731	Contracts for Opr Svc	47000004	$98,184	$0	$98,184

2025	102-500731	Contracts for Opr Svc	47000004	$0	$103,094	$103,094
2026	102-500731	Contracts for Opr Svc	47000004	$0	$108,249	$108,249
			Total	**$450,070**	**$211,343**	**$661,413**

EXPLANATION

The purpose of this request is for the Contractor to continue providing policy and technical consulting services for the Department's Disproportionate Share Hospital (DSH) Program. The Contractor will continue to assist the Department with developing, updating, and issuing the Uncompensated Care Cost form; and collaborate with the Department on revising administrative rules, interpreting State and Federal law and court orders, writing State Plan Amendments notices, and answering federal funding questions. Additionally, the Contractor calculates DSH payments and identifies deemed DSHs.

In 2009, the New Hampshire Legislature enacted Chapter 144:212 (HB 2), which required the Department to redesign the DSH Program within the parameters of State and federal law. Since the legislation was passed in 2009, the State's DSH Program has undergone significant scrutiny, analysis, and modification to comply with State and federal law. House Bill 1817, Laws of 2018, codified the State's updated settlement agreement with New Hampshire hospitals for a five (5)-year term of DSH payments. However, in July 2019, a federal appellate court overturned the invalidation of the Centers for Medicare & Medicaid Services (CMS) rule, thereby changing the federal definition of Uncompensated Care.

The Contractor is also responsible for managing the audit program for the Department's DSH auditors. The Contractor supports the auditors by completing the DSH exam for twenty-six (26) New Hampshire Hospitals, which includes writing the State response, and providing general advice and analysis of the DSH program when questions arise from the Department, Legislature, and/or Governor's Office of Department of Justice.

The Department will continue to monitor Contracted services to ensure:

- Department phone calls and emails are acknowledged to within 48 hours.
- Policy memos are completed within two (2) weeks of the date requested by the Department;
- CMS questions are responded to within an agreed-upon timeframe; and
- The Department is notified within thirty (30) days of a change to federal policy or court order resulting in any necessary changes to State Law or Administrative Rule.

As referenced in Exhibit C-1, Revisions to Standard Contract Language, Section 3. Renewal, of the original agreement, the parties have the option to extend the agreement for up to five (5) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for two (2) Years of the remaining three (3) Years available.

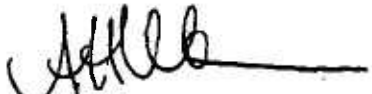
Should the Governor and Council not authorize this request, the State has increased technical risk with CMS regulations that could affect the level of federal match and the state statute that applies to the twenty-six (26) New Hampshire hospitals for DSH payments for uncompensated care to Medicaid and uninsured patients.

Area served: Statewide.

Source of Federal Funds: Assistance Listing Number 93.778, FAIN 2405NH5ADM

In the event the Federal or Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Lori A. Weaver
FOR Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #2

This Amendment to the Disproportionate Share Hospital Program Consultant contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and University of Massachusetts ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on November 25, 2019 (Item #7), as amended on June 29, 2022 (Item #13), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:

   June 30, 2026

2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:

   $661,413

3. Modify Exhibit B, Amendment #1, Methods and Conditions Precedent to Payment, Section 1, to read:

   1. This Agreement is funded by:

      1.1. 50% Federal funds from U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, Medical Assistance Program, Assistance Listing Number (ALN) 93.778, FAIN 2205NH5ADM as awarded on October 1, 2021; and FAIN 2405NH5ADM as awarded on October 1, 2023.

      1.2. 50% Other funds (Medicaid Enhancement Tax).

4. Modify Exhibit B, Amendment #1, Methods and Conditions Precedent to Payment, Section 4, to read:

   4. The State may request up to fifty (50) additional contingency hours each State Fiscal of the Contract Period.

5. Modify Exhibit B, Amendment #1, Methods and Conditions Precedent to Payment, Section 9, to read:

   9. The rate of compensation for State Fiscal Year (SFY) 2024 is an all-inclusive hourly rate as described below not to exceed $98,184 including contingency hours. The State may request additional contingency hours when the total amount of cumulative invoices for SFY 2024equals a minimum of $87,318.

Staff Position	SFY 2024 Hourly Rate	Contingency Hourly Rate**
Principal	$239.00	$167.30
Senior Consultant*	$324.00	$226.80
Principal (JD)	$244.00	$170.80
Senior Associate	$208.00	$145.60
Associate/Senior Analyst	$171.00	$119.70
Analyst	$104.00	$72.80
Medicare cost report expert	$166.00	$116.20

9a. The rate of compensation for SFY 2025 is an all-inclusive hourly rate as described below not to exceed $103,094 including contingency hours. The State may request additional contingency hours when the total amount of cumulative invoices for SFY 2025 equals a minimum of $103,094.

Staff Position	SFY 2025 Hourly Rate	Contingency Hourly Rate**
Executive Director	$250.00	$175.00
Senior Consultant*	$340.00	$238.00
Senior Associate	$220.00	$154.00
Associate/Senior Analyst	$180.00	$126.00
Analyst	$110.00	$77.00
Medicare cost report expert	$175.00	$122.50

9b. The rate of compensation for SFY 2026 is an all-inclusive hourly rate as described below not to exceed $108,249 including contingency hours. The State may request additional contingency hours when the total amount of cumulative invoices for SFY 2026 equals a minimum of $108,249.

Staff Position	SFY 2026 Hourly Rate	Contingency Hourly Rate**
Executive Director	$260.00	$182.00
Senior Consultant*	$355.00	$249.00
Senior Associate	$230.00	$161.00
Associate/Senior Analyst	$190.00	$133.00
Analyst	$115.00	$80.50
Medicare cost report expert	$180.00	$126.00

10. Modify Exhibit B, Amendment #1, Methods and Conditions Precedent to Payment, Section 10.7, to read:

10.7. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit A, Scope of Services, and in this Exhibit B, Amendment #1.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2024, upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

5/13/2024
Date

DocuSigned by:
Henry D. Lipman
Name: Henry D. Lipman
Title: Medicaid Director

University of Massachusetts

5/10/2024
Date

DocuSigned by:
Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

5/21/2024
Date

DocuSigned by:
Robyn Guarino
Robyn Guarino
Name:
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

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EXTRACT FROM THE RECORDS OF
UNIVERSITY OF MASSACHUSETTS

Granting Authority to Execute Contracts and All Other Instruments

I, Zunilka Barrett, Secretary of the Board of Trustees of the University of Massachusetts, do hereby certify that the following is a true and complete copy of a vote duly adopted by the Board of Trustees of the University of Massachusetts at a meeting duly called and held on the fifth day of February, nineteen hundred and ninety-seven at the University of Massachusetts, Chancellor's Conference Room, Boston, Massachusetts:

"Further, to affirm that, except as to matters governed by the University of Massachusetts Intellectual Property Policy (Doc. T96-040), the Treasurer of the University of Massachusetts or his designee shall be the sole contracting officer of the University with the Authority to execute all contract, grants, restricted gifts (excluding endowments), and amendments thereto for sponsored programs in instruction, research, or public service, unless and until otherwise voted by the Board of Trustees."

I further certify that the Senior Vice President for Administration & Finance and Treasurer of the University, Lisa A. Calise, has retained the right to remain the sole contracting officer of the University of Massachusetts, but in her absence, she has designated Andrew W. Russell, Senior Assistant Vice President of Operations and Associate Treasurer.

I further certify that effective May 04, 2023, the following is a list of designated individuals authorized in accordance with the afore referenced votes to review and execute all grants and contracts for sponsored programs in instruction, research and public service that are applicable to and received on behalf of the University of Massachusetts for their respective campuses.

Amherst Campus
Kumble R. Subbaswamy, Chancellor, Amherst Campus, Amherst, Massachusetts,
Michael F. Malone, Vice Chancellor, Research and Engagement Amherst Campus, Amherst, Massachusetts,
Jennifer A. Donais, Assistant Vice Chancellor, Research and Engagement and Director of Research Compliance, Amherst Campus, Amherst, Massachusetts,
Marcia Day, Director, Office of Pre-Award Services, Amherst Campus,Amherst, Massachusetts
Laura J. Howard, Associate Director, Division of Continuing Education, Amherst Campus, Amherst, Massachusetts
Steven D. Goodwin, Deputy Chancellor, Amherst Campus, Amherst, Massachusetts
John Fillio, Assistant Director for the Office of Post Award Management, Amherst Campus, Amherst, Massachusetts
Alene Denson, Director, Office of Post Award Management, Amherst Campus, Amherst, Massachusetts,

Boston Campus
Marcelo Suárez-Orozco, Chancellor, Boston Campus, Boston, Massachusetts,
Kathleen Kirleis, Vice Chancellor for Administration and Finance, Boston Campus, Boston, Massachusetts,
Joseph Berger, Provost & Vice Chancellor for Academic Affairs, Boston Campus, Boston,

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Massachusetts,
Bala Sundaram, Vice Provost for Research and Strategic Initiatives and Dean of Graduate Studies, Boston Campus, Boston, Massachusetts,
Matthew L. Meyer, Associate Vice Provost for Research and Director of the Office of Research & Sponsored Programs, Boston Campus, Boston, Massachusetts,
Shala A. Bonyun, Assistant Director for the Office of Research and Sponsored Programs, Boston Campus, Boston, Massachusetts,

Dartmouth Campus
Mark Fuller Chancellor, Dartmouth Campus, Dartmouth, Massachusetts,
Michael Goodman, Acting Provost & Vice Chancellor for Academic Affairs, Dartmouth Campus, Dartmouth, Massachusetts,
Michelle M. Plaud, Manager of Pre and Post Award Administration, Dartmouth Campus, Dartmouth, Massachusetts,
Megan Hennessey-Greene, Director, Office of Research Administration, Dartmouth Campus, Dartmouth Massachusetts,
Ramprasad Balasubramanian, Vice Provost for Research and Academic Affairs, Dartmouth Campus, Dartmouth, Massachusetts,

Lowell Campus
Julie Chen, Chancellor, Lowell Campus, Lowell, Massachusetts,
Joseph Hartman, Provost and Vice Chancellor for Academic and Student Affairs, Lowell Campus, Lowell, Massachusetts,
Steven O'Riordan, Vice Chancellor for Finance and Operations, Lowell Campus, Lowell, Massachusetts,
Susan Puryear, Associate Vice Chancellor for Research Administration, Integrity and Development, Lowell Campus, Lowell, Massachusetts,
Anne Maglia, Vice Chancellor for Research & Innovation, Lowell Campus, Lowell, Massachusetts,
Jacqueline Black, Director, Grants & Contracts Administration, Lowell Campus, Lowell, Massachusetts,

President's Office
Eric Heller, Executive Director of the University of Massachusetts Donahue Institute .

Worcester
Michael F. Collins, M.D., Chancellor, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Terence R. Flotte, M.D., Dean, School of Medicine, Provost and Executive Deputy Chancellor, University of Massachusetts Chan Medical School, Worcester, Massachusetts
John C. Lindstedt, Executive Vice Chancellor for Administration & Finance, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Marcy Culverwell, Sr. Associate Vice Chancellor for Administration & Finance, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Parth Chakrabarti, Executive Vice Chancellor, Office of Innovation & Business Development, University of Massachusetts Chan Medical School, Worcester, Massachusetts
George Xixis, Associate Vice Chancellor, Head of Transactions, Office of Innovation and Business Development, University of Massachusetts Chan Medical School, Worcester, Massachusetts

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Lisa M. Colombo, DNP, MHA, RN, Executive Vice Chancellor, ForHealth Consulting at University of Massachusetts Chan Medical School, Worcester, Massachusetts
Patti Onorato RN, ANP, MS, Deputy Executive Vice Chancellor for Operations, ForHealth Consulting at University of Massachusetts Chan Medical School, Worcester, Massachusetts
Mireli Fino, Executive Vice Chancellor for MassBiologics at University of Massachusetts Chan Medical School, Worcester, Massachusetts
Katherine Luzuriaga, M.D., Vice Provost for Research, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Danielle Howard, Director, Clinical Research Operations, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Amy Miarecki, Associate Vice Chancellor, Grants and Contracts Administration, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Elizabeth Giehl, Director of Grant Accounting and Compliance, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Cheikh Camara, Director of Sponsored Programs, University of Massachusetts Chan Medical School, Worcester, Massachusetts
Karen Gardiner, Assistant Director of Sponsored Programs, University of Massachusetts Chan Medical School, Worcester, Massachusetts
James G. Healy, JD, Deputy Executive Vice Chancellor for Management, University of Massachusetts Chan Medical School, Worcester, Massachusetts .

I further certify that Lisa A. Calise, Andrew W. Russell, Kumble R. Subbaswamy, Michael F. Malone, Jennifer A. Donais, Marcia Day, Laura J. Howard, Steven D. Goodwin, John Fillio, Alene Denson, Marcelo Suárez-Orozco, Kathleen Kirleis, Joseph Berger, Bala Sundaram, Matthew L. Meyer, Shala A. Bonyun, Mark Fuller, Michael Goodman, Megan Hennessey- Greene, Ramprasad Balasubramanian, Michelle M. Plaud, Steven O'Riordan, Julie Chen, Joseph Hartman, Anne Maglia, Susan Puryear, Jacqueline Black, Eric Heller, Michael F. Collins, Terence R. Flotte, John C. Lindstedt, Marcy Culverwell, Parth Chakrabarti, George Xixis, Lisa M. Colombo, Patti Onorato, Mireli Fino, Cheikh Camara , Katherine Luzuriaga, Danielle Howard, Amy Miarecki, Elizabeth Giehl, and James G. Healy, are members of the University Administration with its principal office located at 50 Washington Street, Westborough, County of Worcester, in the Commonwealth of Massachusetts.

Date: May 15, 2024

Cunilka Barrett, Secretary to the Board of Trustees

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/3/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Arthur J. Gallagher Risk Management Services, LLC
470 Atlantic Avenue
Boston MA 02210

License#: BR-724491

CONTACT NAME:
PHONE (A/C, No, Ext): 617-261-6700
FAX (A/C, No): 617-646-0400
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : United Educators Ins, a Reciprocal Risk Retention	10020
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
University of Mass System
50 Washington St
Westborough MA 01581

UNIVOFM-21

COVERAGES — CERTIFICATE NUMBER: 1575061558 — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			U40-75A	5/1/2024	5/1/2025	EACH OCCURRENCE	$ 500,000
	CLAIMS-MADE / X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ Included
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$ Included
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$ Included
	OTHER:						Retention	$ 500,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability Limit of Insurance is $1M per Occurrence and $2M Aggregate. UMass self-insures the first $500,000 of General Liability. The United Educators policy provides an additional $500,000 in coverage for a total liability limit of $1M per occurrence

CERTIFICATE HOLDER

State of New Hampshire
Dept. of Health & Human Services
129 Pleasant Street
Concord NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Patrick J. Veale

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UMASS

University of Massachusetts

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To Whom It May Concern:

The University of Massachusetts, as an entity of the Commonwealth of Massachusetts, is self-insured for Worker's Compensation in accordance with Chapter 152 of the Massachusetts General Laws.

If you have any questions or concerns, please contact me at 774-455-7616. Thank you.

Sincerely,

Joshua Tucker
Insurance Risk Analyst

333 South Street, Suite 450 I Shrewsbury MA 01545-4176 I Tel: (774) 455-7616 I Fax: (774) 455-7574 I
www.umassp.edu

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forHealth CONSULTING
at UMass Chan Medical School

Michael Grenier, MPA

Education

University of Massachusetts, Amherst, Amherst, MA:
Master of Public Administration

University of Massachusetts, Lowell, Lowell, MA:
BA, Political Science

Awards

Commonwealth Medicine/UMass:
Pride in Performance Award (1997, 2005, 2007, 2008)

Michael Grenier has nearly 30 years of experience with Medicaid/CHIP policy development, health care financing, and data and financial analysis. He has expertise in managing payment policy and rate development for Medicaid and Health Safety Net programs, analyzing health care services, hospitals, nursing facilities, and community-based providers. Michael excels in conducting data collection and analysis for compliance, financial modeling, and policy support. Michael has a strong track record in providing technical assistance and expertise to state agencies, ensuring program alignment with federal and state policy requirements.

Experience

ForHealth Consulting, UMass Chan Medical School

(Formerly Commonwealth Medicine)

Charlestown, MA ..... 2012 – Present

Executive Director, Health Payment Strategy & Analytics ..... *2023 - Present*

- Oversees the full spectrum of activities of a university-based health policy consulting group serving public agencies, foundations, not-for-profit organizations and private firms engaged in health system reform and improvement. Consulting activities include:
  - Concurrent short-term and multi-year projects performed by a multi-disciplinary staff of 5 professionals
  - Responsibility for budgeting, hiring and retaining staff, cultivating and maintaining client relationships, strategic planning, and delivering quality work
- Member of the ForHealth Consulting operational leadership team

Principal, Health Law & Policy ..... *2015 – 2023*

Senior Associate, Center for Health Law and Economics ..... *2012 – 2015*

Senior team member of a university-based center providing consulting services in health financing and public policy analysis to government and not-for-profit clients; clients and projects include:

- Virginia Department of Medical Services (in collaboration with Guidehouse, Inc.) (January 2023 – June 2023)
  - Under a subcontract to Guidehouse, Inc., led ForHealth Consulting policy team to support the development of a report providing rate and policy recommendations for three new brain injury programs, including a targeted case management, home and community-based waiver services, and an institutionally based neurobehavioral treatment service for individuals with brain injury and neurocognitive disorders.

- MassHealth Office Long Term Services and Supports (July 2016–present)
  - Manage data collection from over 350 nursing facilities and completed analysis to determine compliance with the state mandated nursing facility

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direct care requirements, including the direct care add-on program, which required nursing facilities to spend $35.5 million to increase the wages and benefits of direct care workers, and the direct care cost quotient incentive, which provided a payment incentive to spend 75% of facility revenue on direct care expenses
  - Provided consultative services to MassHealth workgroup to support the Commonwealth's transition to the Patient Driven Payment Model (PDPM) payment system for nursing facilities.
  - Managed data collection and analysis to determine compliance with the MassHealth COVID-19 supplemental payments requirements
  - Conducted research and financial modeling to support rate-setting activities for nursing facilities, including analysis of federal Minimum Data Set data.

- New Hampshire Office of Health and Human Services (January 2013–Present)
  - Develop financial models on behalf of New Hampshire to pay New Hampshire hospitals that provide high volumes of uncompensated care. Provide technical assistance to the Medicaid staff on federal policy requirements for disproportionate share programs, supplemental payments and health care related taxes, which produce revenues and funding for over $380 million in state programs annually.

- Massachusetts Executive Office of Health and Human Services (July 2015-June 2016)
  - Completed financial modeling to support Mass Health's 1115 Waiver negotiations with the Centers for Medicare and Medicaid Services. Modeling included financial estimates of a proposed increase in the state's hospital health care related tax and analysis of uncompensated care at hospitals.
  - Provided financial analysis support and technical expertise to complete federally required cost limit calculations for acute and psychiatric hospitals. Provided cost limit and cost report trainings sessions to hospital representatives.

- Vermont Department of Disabilities, Aging, and Independent Living (October 2014–September 2017)
  - Directed project to create a profile of current and future population demographics and service utilization of Vermont residents who are aged or have a disability. Final report will be used by the state and other interested parties to support planning for long-term services and supports.

- Blue Cross Blue Shield of Massachusetts Foundation (August 2016–January 2017)
  - Completed research and drafted sections of a policy brief summarizing the MassHealth 2016 1115 Waiver Extension entitled, The MassHealth Waiver 2016–2022: Delivering Reform.

- Massachusetts Executive Office of Health and Human Services (November 2013–June 2016)

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- Provided analysis and technical advice on the Commonwealth's nursing facility $220 million provider tax program. Presented recommendations to senior policymakers, including Governor's staff, Secretary of Health and Human Services, and Medicaid Director.

- New Hampshire Insurance Department, HealthCost Analytics (April 2014–September 2015)
  - Directed project to recommend and calculate commercial provider prices to be included in the New Hampshire HealthCost website, which allows consumers to compare prices from health care providers on various medical procedures.

- Massachusetts Executive Office of Health and Human Services (January 2013–September 2014)
  - Managed cost weight development and provided technical expertise to support the Massachusetts Medicaid program in implementing a Diagnosis-Related Group (DRG) payment model for its $600 million in payments to acute hospitals. Provided technical assistance for implementation of the Enhanced Ambulatory Patient Grouping (EAPG) outpatient payment model.

- Massachusetts Center for Health Information and Analysis (April 2012–June 2014)
  - Developed methods and completed preliminary calculations to ensure that all Massachusetts facilities receiving Safety Net Care Pool payments are within limitations requirements under the federal Section 1115 MassHealth waiver. Provided technical assistance to support state negotiations with federal officials regarding implementation of federal waiver protocols. Completed calculation of the federal Medicaid upper payment limitation for Massachusetts hospitals for fiscal year 2012.

- Vermont Green Mountain Care Board (November 2013–June 2014)
  - Directed analysis to evaluate the variation in commercial carrier prices paid for professional services in Vermont. Provided technical expertise to this public board on developing and implementing a statewide payment reform model.

- New Hampshire Insurance Department, Insurance Market Analysis (January 2013–June 2013)
  - Directed project to review New Hampshire's health insurance payment system, including factors that affect premium rates and health care costs. Project included analysis of claims data from the New Hampshire Comprehensive Health Care Information System and interviews with market stakeholders.

- Vermont Agency for Administration (July 2012–January 2013)
  - Member of team that developed a financing plan for the State of Vermont for health reform in 2017. Created models to estimate administrative costs and savings under health reform and projections of federal revenues in

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2017. Provided technical assistance on development of single payer health reform to Vermont cabinet officials and Governor's staff.

Massachusetts Division of Health Care Finance and Policy
Boston, MA.....1995 - 2012

Pricing Policy Manager.....*2001 – 2012*

- Managed data analytics, rate development and drafting of regulatory policy for over $2 billion in payments from the MassHealth program and other public payers for a wide range of health care services, including nursing facilities, hospitals, and other community-based providers, as well as collection of $220 million in annual nursing facility provider taxes.
- Provided analytical support for various health policy initiatives, including the Special Commission on the Health Care Payment System (2009) and the Special Commission on Provider Price Reform (2011); these commissions examined alternative payment methods, factors that contribute to rising health care costs, and price variation among Massachusetts hospitals.
- Managed staff of 10, including two associate managers, five health policy analysts, and three auditors.
- Determined rates, developed payment policies, and oversaw the implementation of Medicare-based payment methods for hospital services paid by the $240 million Health Safety Net program.
- Managed the development of data collection policies for total medical expense and relative price data submitted by health insurers. Frequently met with insurers and other stakeholders to discuss technical issues relating to data collection and methods.

Senior Health Policy Analyst.....*1997 – 2001*

Health Policy Analyst.....*1995 – 1997*

- Calculated payment rates for the MassHealth program for hospital, nursing facility, home health, temporary nursing, and dental service programs.
- Completed reviews of proposed legislation, including calculations of fiscal impacts, drafting summaries of costs and benefits, and making recommendations to senior staff.
- Drafted amendments to state regulations and presented staff testimony at public hearings.
- Analyzed hospital, nursing facility, and home health cost data derived from Massachusetts and Medicare cost reports and other sources. Researched health policies of other states, including programs for the uninsured and payment policies for acute hospital services. Presented findings orally and in writing.
- Completed research, analyzed data, and drafted text for the report of the Special Commission on Uncompensated Care.

Select Publications/Presentations

- "MassHealth Waiver 2016–2022: Delivering Reform," prepared for the Blue Cross Blue Shield of Massachusetts Foundation, January 2017. (contributing author)

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- "The MassHealth Waiver Extension for State Fiscal Years 2015–2019: Foundation for Coverage, Engine for Innovation" prepared for the Massachusetts Medicaid Policy Institute, February 2015. (contributing author)
- "New Hampshire's Health Insurance Market and Provider Payment System: An Analysis of Stakeholder Views," prepared for the New Hampshire Insurance Department, June 2013. (project lead, editor)
- "State of Vermont Health Care Financing Plan Beginning Calendar Year 2017," prepared for the Vermont Agency of Administration, January 2013. (contributing author)
- "Analysis of Price Variations in New Hampshire Hospitals," prepared for the New Hampshire Insurance Department, April 2012. (contributing author)
- "Emerging Trends in Long Term Care," Healthpoint, Massachusetts Division of Health Care Finance and Policy, July 2001. (author)

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Ryan W. Mylrea

PROFESSIONAL EXPERIENCE

Senior Healthcare Cost Analyst. March 2022 – Present. Remote Employment
UMass Chan Medical School – ForHealth Consulting.

- Use Excel to perform complex financial calculations, mostly related to government funding for healthcare facilities.
- Build financial models that compare outcomes from multiple possible scenarios, and make recommendations to clients based on my evaluation of potential costs and benefits.
- Consolidate, evaluate, and analyze data from disparate sources in order to support financial determinations.
- Manage, track, and analyze financial filings from every hospital in Massachusetts.
- Support a variety of financial and policy-oriented projects according to organizational needs.

Assistant Director of Fiscal Policy and Analytics. October 2017 – March 2022. Boston, Massachusetts
Massachusetts Department of Public Health, Bureau of Substance Addiction Services.

- Created financial models in Excel to predict the financial impacts of changes in policy and utilization rates.
- Queried billing and accounting databases to obtain service utilization data for specific services and time periods.
- Led the roll-out of a new annual provider revenue reporting requirement. My responsibilities included: designing a customer-facing survey tool, gathering and quality-checking data submissions, responding to user inquiries, determining which metrics were useful for policy decisions, and creating charts and tables to present findings.
- Managed the annual earmark funding obligation: $3 million in non-recurring grants distributed among 40 recipients.
- Supervised the bureau's billing department (three direct reports; one indirect).
- Assisted in the formulation of payment rates for new human services offered by the Department.
- Reviewed and approved invoice payments and employee travel reimbursements.

Audit Supervisor, October 2015 – October 2017. Boston, Massachusetts
State Auditor's Office, Medicaid Audit Unit.

- Supervised audit teams that found $15.2 million in improper billings for adult foster care services, as well as deficiencies in addiction treatment counseling services for MassHealth (Medicaid) members.
- Advanced skills in MS Excel, including: V/H lookup, pivot tables, regression, Benford analysis, and charts/graphs.
- Active participant in mentoring and career path development programs for new employees. Trained new staff.

Healthcare Financial Analyst, May 2014 – October 2015. Boston, Massachusetts
Center for Health Information & Analysis.

- Used Excel and Statistical Analysis Software (SAS) to query and analyze hospital discharge and finance data.
- Created an Excel template that tracked the quarterly financial condition of Massachusetts hospitals.
- Updated and improved an Excel template that generated a publication of a two-page data sheets for each acute hospital in Massachusetts ("2014 Hospital Profiles").

Senior Data Analytics Fraud Examiner. November 2012 – April 2014. Boston, Massachusetts
State Auditor's Office, Bureau of Special Investigations.

- Led several MassHealth data analysis projects, including one that identified $1.97 million in Medicaid fraud.
- Queried databases, checked data quality/integrity, and performed statistical/quantitative analysis.

Field Auditor. September 2011 – November 2012. Boston, Massachusetts
State Auditor's Office, Medicaid Audit Unit.

- Researched healthcare best practices and used data-driven auditing techniques to identify $14.2 million in improper payments and wasteful spending involved in Medicaid's urine drug testing program.

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EDUCATION:

Master of Business Administration, Finance Emphasis. Tulane University. New Orleans, Louisiana

Juris Doctor, Tulane University. New Orleans, Louisiana

Bachelor of Science, University of Wisconsin. Madison, Wisconsin

Majors: Economics, Legal Studies, Political Science.

Accounting Courses, University of Massachusetts-Lowell. Lowell, Massachusetts

PUBLICATIONS:

A Growing Body of Law: Obesity, Disability, & the Airline Industry, 18 TUL. J. INT'L & COMP. L. 207 (2009).

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NH Department of Health and Human Services

KEY PERSONNEL

List those primarily responsible for meeting the terms and conditions of the agreement.

Job descriptions not required for vacant positions.

Contractor Name: UMass Chan Medical School

NAME	JOB TITLE	ANNUAL AMOUNT PAID FROM THIS CONTRACT	ANNUAL SALARY
Michael Grenier	Executive Director HPSA	$15,500.00	$175,000.00
Ryan Mylrea	Sr. Cost Analyst	$31,500.00	$79,950.00
		$0.00	$0.00
		$0.00	$0.00
		$0.00	$0.00
		$0.00	$0.00

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF MEDICAID SERVICES

Lori A. Shibinette
Commissioner

Henry D. Lipman
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9422 1-800-852-3345 Ext. 9422
Fax: 603-271-8431 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

June 7, 2022

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Medicaid Services, to amend an existing contract with University of Massachusetts (VC#117576), Worcester, MA, for policy and technical consulting services for the Disproportionate Share Hospital Program, by exercising a renewal option by increasing the price limitation by $193,184 from $256,886 to $450,070 and by extending the completion date from June 30, 2022 to June 30, 2024, effective July 1, 2022, upon Governor and Council approval. 50% Federal Funds. 50% Other Funds (Medicaid Enhancement Tax).

The original contract was approved by Governor and Council on November 25, 2019, Item #7.

Funds are available in the following accounts for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Year 2024, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-47-470010-79430000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVC, HHS; DIVISION OF MEDICAID, UNCOMPENSATED CARE FUND

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2020	102-500731	Contracts for Prog Svc	47000004	$83,991	$0	$83,991
2021	102-500731	Contracts for Prog Svc	47000004	$85,607	$0	$85,607
2022	102-500731	Contracts for Prog Svc	47000004	$87,288	$0	$87,288
2023	102-500731	Contracts for Prog Svc	47000004	$0	$95,000	$95,000
2024	102-500731	Contracts for Prog Svc	47000004	$0	$98,184	$98,184
			Subtotal	***$256,886***	***$193,184***	***$450,070***

EXPLANATION

The purpose of this request is for the Contractor to continue to provide policy and technical consulting services for the Department's Disproportionate Share Hospital Program. In 2009, the New Hampshire Legislature enacted Chapter 144:212 (HB 2), which required the Department of Health and Human Services to redesign the Disproportionate Share Hospital Program within the parameters of State and federal law. Since the legislation was passed in 2009, New Hampshire's Disproportionate Share Hospital Program has undergone significant scrutiny, analysis, and modification in order to comply with State and federal law. House Bill 1817, Laws of 2018, codified the State's updated court-approved settlement agreement with New Hampshire hospitals for a five-year term of DSH payments. However, in July 2019, a federal appellate court overturned the invalidation of CMS rule, thereby changing the federal definition of Uncompensated Care.

The Contractor will continue to assist the Department in developing, updating, and issuing the Uncompensated Care Cost form. The Contractor will continue to collaborate with the Department on revising administrative rules, interpreting State and Federal law and court orders, writing State Plan Amendments notices and answering federal funding questions. The Contractor calculates Disproportionate Share Hospital payments and identifying deemed Disproportionate Share Hospitals. The Contractor is also responsible for managing the audit program for the Department's Disproportionate Share Hospital auditors. The Contractor supports the auditors by completing the Disproportionate Share Hospital exam in twenty-six (26) New Hampshire Hospitals, which includes writing the State response, and providing general advice and analysis of the Disproportionate Share Hospital program, when questions arise from the Department, Legislature, and Governor's Office of Department of Justice.

The Department will monitor the effectiveness of the Contractor by:

- Acknowledging the Department's phone calls and emails within 48 hours;
- Completing policy memos within two weeks form the date it is requested;
- Answering questions from CMS within an agreed timeframe and
- Notifying the Department within thirty (30) days if any State Law or Administrative Rule changes are necessary as result of a change in federal policy or court order.

As referenced in Exhibit C-1, the parties have the option to extend the agreement for up to five (5) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for two (2) of the five (5) years available.

Should the Governor and Council not authorize this request, the State risks not being in compliance with the legislative-approved Settlement Agreement with twenty six (26) New Hampshire hospitals for Disproportionate Share Hospital payments for uncompensated care to Medicaid and uninsured patients.

Area served: Statewide

Source of Federal Funds: Assistance Listing Number #93.778, FAIN #2205NH5ADM

In the event that the Federal or Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Lori A. Shibinette
Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #1

This Amendment to the Disproportionate Share Hospital Program Consultant contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and University of Massachusetts ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on November 25, 2019, (Item 7), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement and increase the price limitation to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37, General Provisions, Block 1.7, Completion Date, to read:

   June 30, 2024.

2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:

   $450,070.

3. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:

   Robert W. Moore, Director.

4. Modify Exhibit B, Method and Conditions Precedent to Payment, in its entirety by replacing it with Exhibit B, Method and Conditions Precedent to Payment, Amendment #1, which is attached hereto and incorporated by reference herein.

All terms and conditions of the Contract not modified by this Amendment remain in full force and effect. This Amendment shall be effective July 1, 2022, upon Governor and Council approval. .

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

6/13/2022
Date

DocuSigned by:
Henry D. Lipman
Name: Henry D. Lipman
Title: Medicaid Director

University of Massachusetts

6/10/2022
Date

DocuSigned by:
Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

DocuSigned by:
Takhmina Rakhmatova

6/14/2022

Date

Name: Takhmina Rakhmatova
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

New Hampshire Department of Health and Human Services
Disproportionate Share Hospital Program Consultant

Exhibit B, Amendment #1

Method and Conditions Precedent to Payment

1. This Agreement is funded by:
   1.1. 50% Federal funds from U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, Medical Assistance Program, Catalogue of Family and Domestic Assistance, CFDA 93.778, FAIN 2205NH5ADM.
   1.2. 50% Other funds (Medicaid Enhancement Tax).
2. For the purposes of this Agreement the Department has identified:
   2.1. The Contractor as a Contractor, in accordance with 2 CFR 200.331.
   2.2. The Agreement as NON-R&D, in accordance with 2 CFR §200.332.
3. The State shall pay the Contractor an amount not to exceed the Form P-37, Block 1.8, Price Limitation for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.
4. The State may request up to fifty (50) additional contingency hours per State Fiscal Year 2020, 2021, 2022, 2023, and 2024.
5. The rate of compensation for State Fiscal Year 2020 is an all-inclusive hourly rate as described below, not to exceed $83,991 for State Fiscal Year 2020 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2020 equal $74,716.

Staff Position	Hourly rate	Contingency Hourly Rate**
Principal	$205	$143.50
Senior Consultant*	$265	$185.50
Senior Associate	$185	$129.50
Associate	$150	$105.00
Senior Analyst	$110	$77.00
Analyst	$90	$63.00
Medicare cost report expert	$145	$101.50

6. The rate of compensation for State Fiscal Year 2021 is an all-inclusive hourly rate as described below not to exceed $85,607 for State Fiscal Year 2021 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2021 equal $76,157.

Staff position	Hourly rate	Contingency Hourly Rate**
Principal	$209	$146.50
Senior Consultant*	$270	$189.00

Exhibit B, Amendment #1

Senior Associate	$190	$133.00
Associate	$153	$107.10
Senior Analyst	$112	$78.40
Analyst	$92	$64.40
Medicare cost report expert	$148	$103.60

7. The rate of compensation for State Fiscal Year 2022 is an all-inclusive hourly rate of as described below not to exceed $87,288 for State Fiscal Year 2022 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2022 equal $77,628.

Staff position	Hourly rate	Contingency Hourly Rate**
Principal	$213	$149.10
Senior Consultant*	$276	$193.20
Senior Associate	$192	$134.40
Associate	$156	$109.20
Senior Analyst	$114	$79.80
Analyst	$94	$65.80
Medicare cost report expert	$151	$105.70

8. The rate of compensation for State Fiscal Year 2023 is an all-inclusive hourly rate of as described below not to exceed $95,000 for State Fiscal Year 2023 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2023 equal $84,513.

Staff Position	Hourly Rate	Contingency Hourly Rate**
Principal	$230	$161
Senior Consultant*	$315	$220.50
Principal (JD)	$235	$164.50
Senior Associate	$200	$140
Associate/Senior Analyst	$164	$114.80
Analyst	$100	$70
Medicare cost report expert	$160	$112

9. The rate of compensation for State Fiscal Year 2024 is an all-inclusive hourly rate as described below not to exceed $98,184 for State Fiscal Year 2024 including contingency

hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2024 equal $87,318.

Staff Position	Hourly Rate	Contingency Hourly Rate**
Principal	$239.00	$167.30
Senior Consultant*	$324.00	$226.80
Principal (JD)	$244.00	$170.80
Senior Associate	$208.00	$145.60
Associate/Senior Analyst	$171.00	$119.70
Analyst	$104.00	$72.80
Medicare cost report expert	$166.00	$116.20

10. Payment for said services shall be made as follows:

10.1. The Contractor shall submit monthly invoices for reimbursement for actual hours worked, no later than the 10th day of each month for services specified in Exhibit A, Scope of Services in a form satisfactory to the State, which identifies and requests reimbursement for authorized expenses incurred in the prior month.

10.2. The invoice must be completed, signed, dated and returned to the Department in order to initiate payment.

10.3. The Contractor agrees to keep records of their activities related to Department programs and services.

10.4. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.

10.5. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

10.6. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to DMSInvoices@dhhs.nh.govv or invoices may be mailed to:

Financial Administrator
Department of Health and Human Services
Division of Medicaid Services
129 Pleasant Street.
Concord, NH 03301

10.7. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit A, Scope of Services and in this Exhibit B.

Exhibit B, Amendment #1

11. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting amounts between budget line items, related items, amendments of related budget exhibits within the price limitation, and to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

12. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this Contract may be withheld, in whole or in part, in the event of noncompliance with any State or Federal law, rule or regulation applicable to the services provided, or if the said services have not been completed in accordance with the terms and conditions of this Agreement.

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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF MEDICAID SERVICES

Jeffrey A. Meyers
Commissioner

Henry D. Lipman
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9422 1-800-852-3345 Ext. 9422
Fax: 603-271-8431 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

October 23, 2019

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Medicaid Services, to enter into an agreement with University of Massachusetts Medical School, Center for Health Law and Economics, (Vender #177576), 55 Lake Avenue, Worcester, MA 01655 to provide policy and technical consulting services for Disproportionate Share Hospital (DSH) Program in an amount not to exceed $256,886, effective upon Governor and Executive Council approval, through June 30, 2022. 50% Federal Funds, 50% Other Funds.

Funds are available in the following account for State Fiscal Years 2020 and 2021 and are anticipated to be available in State Fiscal Year 2022, with authority to adjust budget line items within the price limitation and adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified.

05-95-47-470010-79430000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF MEDICAID, UNCOMPENSATED CARE FUND

State Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
2020	102-500731	Contracts for Prog Svc	47000004	$83,991
2021	102-500731	Contracts for Prog Svc	47000004	$85,607
2022	102-500731	Contracts for Prog Svc	47000004	$87,288
			Total	**$256,886**

EXPLANATION

The purpose of this request is to receive expert advice concerning New Hampshire and federal requirements for the DSH Program from the University of Massachusetts Medical School, Center for Health Law and Economics. In 2009, the New Hampshire Legislature enacted Chapter 133;212 (HB 2),

which required the Department of Health and Human Services to redesign the Disproportionate Share Hospital Program within the parameters of State and federal law.

The DSH program is a federal Medicaid program created in 1981 to compensate hospitals for their uncompensated care provided to Medicaid or uninsured patients. States are not obligated to participate in the DSH program. If States chose to participate, they are subject to numerous federal regulations and money distributed to hospitals is subject to recoupment upon audit. New Hampshire has chosen to participate, and has a signed agreement with New Hampshire hospitals structuring our State version of the program.

Since the legislation was passed in 2009, New Hampshire's Disproportionate Share Hospital Program has undergone significant scrutiny, analysis, and modification in order to comply with State and federal law. House Bill 1817, Laws of 2018, codified the State's updated court-approved settlement agreement with New Hampshire hospitals for a five-year term of DSH payments. However, in July 2019, a federal appellate court overturned the invalidation of CMS rule, thereby changing the federal definition of Uncompensated Care.

To accommodate the potential increased workload of interpreting and applying this policy change, the contract includes a State option to request and up to fifty (50) additional hours of services from the Contractor, in addition to the mutually agreed upon three hundred and forty nine (349) hours per fiscal year, per year. The Contractor will be providing these additional services at seventy percent (70%) of the negotiated hourly rate.

The University of Massachusetts Medical School will assist the State in developing, updating, and issuing the Uncompensated Care Cost (UCC) form. They will be revising administrative rules, interpreting State and Federal law and court orders, writing State Plan Amendments (SPAs) notices and answering federal funding questions. The contractor will be calculating DSH payments, calculate required recoupments or redistributions; reviewing and reporting supplement versus DSH payments; identifying deemed DSH hospitals. The Contractor is also responsible for managing the audit program for the State's DSH auditors (Myers and Stauffer) to complete the DSH exam of 26 New Hampshire Hospitals, to include writing the State response; and generally to provide advice and analysis of the DSH program whenever questions arise from the Department, Legislature, Governor's Office, or DOJ.

The Department will monitor the effectiveness of the Contractor and the delivery of services required under this agreement using the following performance measures:

- The Contractor will be acknowledging the Departments phone calls and emails within 48 hours;
- The Contractor will be completing policy memos within two weeks from the date is it requested;
- The Contractor will be answering questions from CMS within an agreed timeframe;
- The Contractor will notify the Department within thirty (30) days if any State Law or Administrative rule changes are necessary as a result of a change in federal policy or court order.

University of Massachusetts Medical School was selected for this project through a competitive bid process. A Request for Proposal was posted on the Department of Health and Human Services website from April 3, 2019 through July 8, 2019. The Department received two (2) proposals/applications. The proposals/applications were reviewed and scored by a team of individuals with program-specific knowledge. The Score Summary is attached.

As referenced in the Request for Proposal and in Exhibit C-1 of this contract, the parties have the option to extend contract services for up to five (5) additional years, contingent upon satisfactory delivery

of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

Should the Governor and Executive Council not authorize this request, the State risks not being in compliance with the court-approved Settlement Agreement with twenty-six New Hampshire hospitals for DSH payments for uncompensated care to Medicaid and uninsured patients.

Area served: Statewide

Source of Funds: 50% Other Funds, Medicaid Enhancement Tax funds and 50% Federal Funds, Medicaid Assistance Program, Catalog of Federal Domestic Assistance (CFDA) #93.778.

In the event that the Federal (or Other) Funds become no longer available, additional General Funds will not be requested to support this program.

Respectfully submitted,

Jeffrey A. Meyers
Commissioner

New Hampshire Department of Health and Human Services
Office of Business Operations
Contracts & Procurement Unit
Summary Scoring Sheet

New Hampshire Disproportionate Share Hospital Program Consultant
RFP Name

RFP-2020-DMS-01-DISPR
RFP Number

	Bidder Name	Pass/Fail	Maximum Points	Actual Points
1.	UMASS Medical School	320	415	260
2.	Public Consulting Group, Inc.	305	415	260
3.			415	0
4.			415	0
5.			415	0
6.			415	0
7.			415	0
8.			415	0
9.			415	0
10.			415	0

	Reviewer Names
1.	Meredith Telus, Director Program Planning Integrity
2.	Athena Gagnon, Medicaid Financial Manager
3.	Henry Lipman, Director
4.	Joseph Caristi, NHH Chief Financial Officer
5.	
6.	
7.	
8.	
9.	

FORM NUMBER P-37 (version 5/8/15)

Subject: Disproportionate Share Hospital Program Consultant (RFP-2020-DMS-01-DISPR)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name University of Massachusetts		1.4 Contractor Address 55 Lake Avenue, Worcester, MA 01655	
1.5 Contractor Phone Number 617-886-8160	1.6 Account Number 05-95-47-470010-79430000	1.7 Completion Date June 30, 2022	1.8 Price Limitation $256,886
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number 603-271-9631	
1.11 Contractor Signature Lisa M. Colombo		1.12 Name and Title of Contractor Signatory Lisa Colombo, Executive Vice Chancellor, Commonwealth Medicine	

1.13 Acknowledgement: State of MASSACHUSETTS, County of Worcester

On OCTOBER 17, 2019, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.

1.13.1 Signature of Notary Public or Justice of the Peace

Judith A. Nelson

[Seal]

JUDITH A. NELSON
Notary Public
Commonwealth of Massachusetts
My Commission Expires July 24, 2020

1.13.2 Name and Title of Notary or Justice of the Peace

JUDITH A. NELSON - NOTARY PUBLIC

1.14 State Agency Signature Meredith Telus Date: 10/22/19	1.15 Name and Title of State Agency Signatory Meredith Telus, Director Program Planning and Integrity

1.16 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*

By: Director, On:

1.17 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*

By: CATHERINE PINOS On: 10/24/19

1.18 Approval by the Governor and Executive Council *(if applicable)*

By: On:

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

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Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.
8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):
8.1.1 failure to perform the Services satisfactorily or on schedule;
8.1.2 failure to submit any report required hereunder; and/or
8.1.3 failure to perform any other covenant, term or condition of this Agreement.
8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.
9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.
9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.
9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.
The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.
14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000per occurrence and $2,000,000 aggregate ; and
14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.
14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

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14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.
15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*
15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

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Scope of Services

1. Provisions Applicable to All Services

1.1. The Contractor shall provide a detailed description of the language assistance services they will provide to persons with limited English proficiency to ensure meaningful access to their programs and/or services within ten (10) days of the contract effective date.

1.2. The Contractor agrees that, to the extent future legislative action by the New Hampshire General Court or federal or state court orders may have an impact on the Services described herein, the State Agency has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.

1.3. For the purposes of this Agreement, the Department has identified the Contractor as a Contractor, in accordance with 2 CFR 200.300.

2. Scope of Services

2.1. The Contractor shall provide policy and technical consulting services to the Department for the Disproportionate Share Hospital (DSH) Program, which includes, but is not limited to:

2.1.1. Technical assistance to participating hospitals by updating the NH Medicaid Uncompensated Care Cost Data Request Forms (UCC).

2.1.2. Technical assistance to the Department in the annual calculation of UCC and interim Disproportionate Share Hospital (DSH) payments.

2.1.3. Technical assistance to the Department in the annual redistribution of DSH payments for final payments as a result of the DSH exam current and past years.

2.1.4. Policy consulting services to the Department for the purposes of administering the DSH program.

2.1.5. Present to or prepare presentations on New Hampshire's DSH program to State and/or federal policymakers, including impacts of any proposed changes.

2.1.6. Education and on-site training as needed on federal DSH policy and national comparisons to other States and impact to New Hampshire as requested.

2.2. The Contractor shall, in collaboration with the Department, calculate the DSH payments, which includes, but is not limited to:

2.2.1. Utilizing hospital-submitted data on UCC forms to calculate interim DSH payments, subject to state and federal law; active settlement

agreements; or court orders.

2.2.2. Providing hospitals technical assistance in the completion of the UCC forms, which includes but is not limited to:

2.2.2.1. Definitions of allowable claims for DSH reimbursement.

2.2.2.2. Application/interpretation of hospital cost reports.

2.2.2.3. Related financial or claims information, as needed.

2.2.2.4. Utilize hospital-submitted data on UCC forms to identify deemed DSH hospitals.

2.2.2.5. Annually document procedures for the calculation of Uncompensated Care and DSH, to include a timeline.

2.2.2.6. Maintain complete and thorough records of submitted forms and calculations for the purpose of compliance with the DSH exam, and Single audit or other federal audits.

2.3. The Contractor shall, in consultation with the Department and based on federally-required independent DSH examinations by independent DSH exam contractor, under 42 CFR 455.300-304, calculate the required recoupments or redistributions for final DSH payments.

2.4. The Contractor shall advise the Department on federal or state funding implications resulting from proposed or actual changes in federal policy, or as a result of court orders.

2.5. The Contractor shall, advise the Department on State policy implications resulting from proposed or actual changes in federal policy or litigation, or as a result of court orders.

2.6. The Contractor shall, inform and advise the State on any potential areas of non-compliance.

2.7. The Contractor shall, provide advice and analysis to the DSH program whenever questions arise from the Department, Legislature, Governor's Office, or Department of Justice (DOJ).

2.8. The Contractor shall, in consultation with the Department, develop, update and revise administrative rules, which shall include, but not be limited to amending the UCC form in conformity with state and federal rules and court orders.

2.9. The Contractor shall, in consultation with the Department, write State Plan

Amendments (SPAs) and notices that include, but are not limited to:

2.9.1. Amend SPA provisions.

2.9.2. Advice on the need for new SPAs and notices.

2.9.3. Draft new SPAs and notices, as needed.

2.9.4. Calculate fiscal impact of proposed state plan amendments and justify to CMS as needed.

2.10. The Contractor shall, in consultation with the Department, answer federal funding questions, including, but not limited to:

2.10.1. Developing agenda and materials for Center for Medicaid and Medicare Services (CMS) conference calls to resolve CMS questions.

2.10.2. Responding to CMS Requests for Additional Information by email.

2.10.3. Participating in CMS conference calls and/or meetings to resolve CMS questions.

2.10.4. Negotiating with CMS staff and officials.

2.11. The Contractor shall, in consultation with the Department, manage the audit program for the State's DSH auditors to complete the DSH exam of New Hampshire hospitals, including, but not limited to:

2.11.1. Writing the State's response to the audit.

2.11.2. Developing new procedures to decrease audit findings.

2.11.3. Reducing the size and frequency of retroactive adjustments.

2.12. The Contractor shall, must provide advice, analysis, document drafting, meeting participation and presentations, as requested by the Department for:

2.12.1. Legislative Committees and/or Legislative leadership;

2.12.2. Executive Branch communications needs, including Governor's office or staff;

2.12.3. Department of Revenue (DRA) Officials;

2.12.4. Department of Justice attorneys; or

2.12.5. Other Department of the Executive Branch or the Department's leadership.

2.13. The Contractor shall provide advice, analysis document drafting, meeting participation and/or preparation, and presentations as requested for conference calls, negotiations or meetings with CMS staff and officials, the Secretary of the United States Department of Health and Human Services or other federal oversight agency.

2.14. The Contractor shall schedule a kick-off meeting with the Department within ten

(10) working days of the effective date of the contract.

2.15. The selected Contractor shall must assist in development of periodic reports, as requested.

2.16. Upon request, the Contractor shall develop and format all presentation materials for a provider/stakeholder forum with the Department officials, which may include, but not be limited to:

2.16.1. Review the past year's program, policy and process;

2.16.2. Develop an understanding of upcoming year's program requirements, policies, parameters and procedures; and

2.16.3. Solicit feedback on provider and stakeholder concerns

3. Performance Measures

3.1. The Contractor shall acknowledge Department phone calls or emails within 48 hours or two business days, with mutually agreed upon timeframes for deliverables.

3.2. The Contractor shall complete policy memos no more than two (2) weeks from the date requested, unless prior written approval is provided.

3.3. The Contractor shall complete meetings must be scheduled within two (2) business days of a request for meeting.

3.4. Responses to CMS questions whether formal or informal must be conducted within a mutually agreed upon timeframe.

3.5. The Contractor shall must notify the Department no later than thirty (30) days from the date of issuance when changes to State law or administrative rule is necessary, or in the case of proposed rules would be necessary, as a result of changes in federal law, rule, policy or as a result of court order.

Exhibit B

Method and Conditions Precedent to Payment

1. The State shall pay the Contractor an amount not to exceed the Form P-37, Block 1.8, Price Limitation for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.

2. The State may request up to fifty (50) additional contingency hours per State Fiscal Year 2020, 2021 and 2022.

3. The rate of compensation for State Fiscal Year 2020 is an all-inclusive hourly rate of as described below, not to exceed $83,991 for State Fiscal Year 2020 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2020 equal $74,716.

Staff Position	Hourly rate	Contingency Hourly Rate
Principal	$205	$143.50
Senior Consultant	$265	$185.50
Senior Associate	$185	$129.50
Associate	$150	$105.00
Senior Analyst	$110	$77.00
Analyst	$90	$63.00
Medicare cost report expert	$145	$101.50

4. The rate of compensation for State Fiscal Year 2021 is an all-inclusive hourly rate of as described below not to exceed $85,607 for State Fiscal Year 2021 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2021 equal $76,157.

Staff position	Hourly rate	Contingency Hourly Rate
Principal	$209	$146.50
Senior Consultant	$270	$189.00
Senior Associate	$190	$133.00
Associate	$153	$107.10
Senior Analyst	$112	$78.40
Analyst	$92	$64.40
Medicare cost report expert	$148	$103.60

5. The rate of compensation for State Fiscal Year 2022 is an all-inclusive hourly rate of as described below not to exceed $87,288 for State Fiscal Year 2022 including contingency hours. The State may request additional contingency hours when the amount of cumulative invoices for fiscal year 2022 equal $77,628.

Exhibit B

Staff position	Hourly rate	Contingency Hourly Rate
Principal	$213	$149.10
Senior Consultant	$276	$193.20
Senior Associate	$192	$134.40
Associate	$156	$109.20
Senior Analyst	$114	$79.80
Analyst	$94	$65.80
Medicare cost report expert	$151	$105.70

6. Payment for said services shall be made as follows:

6.1. The Contractor shall submit monthly invoices for reimbursement for actual hours worked, no later than the 10th day of each month for services specified in Exhibit A, Scope of Services in a form satisfactory to the State, which identifies and requests reimbursement for authorized expenses incurred in the prior month.

6.2. The invoice must be completed, signed, dated and returned to the Department in order to initiate payment.

6.3. The Contractor agrees to keep records of their activities related to Department programs and services.

6.4. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.

6.5. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

6.6. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to meredith.telus@dhhs.nh.gov and francene.brown@dhhs.nh.gov, or invoices may be mailed to:

Financial Administrator
Department of Health and Human Services
Division of Medicaid Services
129 Pleasant Street.
Concord, NH 03301

6.7. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit A, Scope of Services and in this Exhibit B.

7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting amounts between budget line items, related items, amendments of related budget exhibits within the price limitation, and to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

8. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this Contract may be withheld, in whole or in part, in the event of noncompliance with any State or Federal law, rule or regulation applicable to the services provided, or if the said services have not been completed in accordance with the terms and conditions of this Agreement.

SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.

2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.

3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.

4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.

5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.

6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.

7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:

   7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
   7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:

   8.1. Fiscal Records: books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

   8.2. Statistical Records: Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

   8.3. Medical Records: Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.

   9.1. Audit and Review: During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.

   9.2. Audit Liabilities: In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.

10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.

Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports:** Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.
    11.1. Interim Financial Reports: Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
    11.2. Final Report: A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

12. **Completion of Services:** Disallowance of Costs: Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
    13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.

15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

16. **Equal Employment Opportunity Plan (EEOP):** The Contractor will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of $500,000 or more. If the recipient receives $25,000 or more and has 50 or

more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than $25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.

18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, $150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
19.3. Monitor the subcontractor's performance on an ongoing basis

19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed

19.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

20. **Contract Definitions:**

20.1. COSTS: Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

20.2. DEPARTMENT: NH Department of Health and Human Services.

20.3. PROPOSAL: If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the services and/or goods to be provided by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

20.4. UNIT: For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

20.5. FEDERAL/STATE LAW: Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from time to time.

20.6. SUPPLANTING OTHER FEDERAL FUNDS: Funds provided to the Contractor under this Contract will not supplant any existing federal funds available for these services.

REVISIONS TO STANDARD CONTRACT LANGUAGE

1. **Revisions to Form P-37, General Provisions**

1.1. Section 4, Conditional Nature of Agreement, is replaced as follows:

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account in the event funds are reduced or unavailable.

1.2. Section 10, Termination, is amended by adding the following language:

10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.

10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.

10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.

10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.

10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

1.3 Section 13, Indemnification, is deleted in its entirety and replaced as follows:

Contractor shall comply with any and all requirements of this Agreement; in the event that the Contractor fails to comply with any such requirements, including, but not limited, to disclosure of any PHI in violation of this Agreement, the State may pursue all available remedies, at law and in equity, including without limitation any damages or losses it suffers from Contractor's breach of this Agreement. The respective rights and obligations of Contractor under this Agreement

shall survive termination of this Agreement. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of sovereign immunity.

1.4 Section 14, Insurance, Subparagraph 14.1, is deleted in its entirety and replaced as follows:

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, continuously throughout the term of this Agreement, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

Section 14, Insurance, Subparagraph 14.1.2, is deleted in its entirety and is replaced as follows:

14.1.2. The Contractor is self-insured against special cause of loss coverage, covering all property subject to subparagraph 9.2 through self-insurance.

Section 14, Insurance, Subparagraph 14.3 of Section 14, INSURANCE, is deleted in its entirety and is replaced as follows:

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificates(s) of insurance for all renewal(s) of insurance required under this Agreement within ten (10) business days after the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide notice in accordance with the policy provisions. The Contractor shall provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

2. Revisions to Standard Exhibits

Exhibit C, Special Provisions, is revised as follows:

2.1. Preamble, is deleted in its entirety and replaced as follows:

The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for service provided to the Department and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

2.2. Paragraph 1, Compliance with Federal and State Laws, is deleted in its entirety.

2.3. Paragraph 2, Time and Manner of Determination, is deleted in its entirety.

2.4. Paragraph 3, Documentation, is deleted in its entirety.

2.5. Paragraph 4, Fair Hearings, is deleted in its entirety.

2.6. Paragraph 7, Conditions of Purchase, is deleted in its entirety.

2.7. Paragraph 8, Maintenance of Records, Subparagraph 8.2, Statistical Records, is deleted and replaced as follows:

Statistical Records: The Contractor shall maintain records as specified in Exhibit A, Scope of Services.

Paragraph 8, Maintenance of Records, Subparagraph 8.3, Medical Records, is deleted in its entirety.

Exhibit I, Business Associate Agreement

Subparagraph 3(a) is deleted in its entirety and replaced as follows:

(a) The Business Associate shall notify the Covered Entity's Privacy Officer immediately upon the Business Associate determining Confidential Data may have been exposed or compromised and of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.

The last sentence of **Paragraph 3(b)** is deleted in its entirety and replaced as follows:

(b) The Business Associate shall complete the risk assessment without unreasonable delay and in no case later than three (3) business days of discovery of the breach and report the findings of the risk assessment in writing to the Covered Entity.

Paragraph 3 (e) is deleted in its entirety and replaced as follows:

(e) Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (l). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreements (as amended) for the purpose of use and disclosure of protected health information.

The first sentence of Paragraph 3(l) is deleted in its entirety and replaced as follows:

(l) Within thirty (30) days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI.

Paragraph 6(f) is deleted in its entirety and replaced as follows:

(f) Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement In section 3(l), the defense provisions of section 3(e) (as amended) and Paragraph 13 of the standard terms and conditions (P-37), (as amended) shall survive the termination of the Agreement.

3. **Renewal**

3.1. The Department reserves the right to extend this agreement for up to five (5) additional years, contingent upon satisfactory delivery of services, available funding, written agreement of the parties and approval of the Governor and Executive Council.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services
129 Pleasant Street,
Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
   1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
   1.2. Establishing an ongoing drug-free awareness program to inform employees about
      1.2.1. The dangers of drug abuse in the workplace;
      1.2.2. The grantee's policy of maintaining a drug-free workplace;
      1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
      1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
   1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
   1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
      1.4.1. Abide by the terms of the statement; and
      1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
   1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted

1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check ☐ if there are workplaces on file that are not identified here.

Vendor Name:

10/17/19
Date

Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

CERTIFICATION REGARDING LOBBYING

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):
*Temporary Assistance to Needy Families under Title IV-A
*Child Support Enforcement Program under Title IV-D
*Social Services Block Grant Program under Title XX
*Medicaid Program under Title XIX
*Community Services Block Grant under Title VI
*Child Care Development Block Grant under Title IV

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, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).

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 (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)

3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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 Section 1352, Title 31, U.S. Code. 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.

Vendor Name:

10/17/19
Date

Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.

6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).

9. 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.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
    - 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
    - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
    - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
    - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Vendor Name:

10/17/19
Date

Lisa Colombo

Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

Vendor Initials LC
Date 10/17/19

CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND WHISTLEBLOWER PROTECTIONS

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Vendor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;

- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;

- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);

- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;

- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;

- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;

- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;

- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;

- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Vendor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Vendor agrees to comply with the provisions indicated above.

Vendor Name:

10/17/19
Date

Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Vendor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Vendor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Vendor Name:

10/17/19
Date

Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

HEALTH INSURANCE PORTABILITY ACT BUSINESS ASSOCIATE AGREEMENT

The Vendor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Vendor and subcontractors and agents of the Vendor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1 Definitions.

a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.

e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.

f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.

g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, TitleXIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.

h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.

i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g):

j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.

o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH
Act.

(2) **Business Associate Use and Disclosure of Protected Health Information.**

a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

b. Business Associate may use or disclose PHI:
   I. For the proper management and administration of the Business Associate;
   II. As required by law, pursuant to the terms set forth in paragraph d. below; or
   III. For data aggregation purposes for the health care operations of Covered Entity.

c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) **Obligations and Activities of Business Associate.**

a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.

b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:

- The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person used the protected health information or to whom the disclosure was made;
- Whether the protected health information was actually acquired or viewed
- The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.

d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.

e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (l). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.

g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.

h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.

i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.

k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.

b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.

c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.

d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.

e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.

f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) l, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services	University of Massachusetts
The State	Name of the Vendor
Meredith Telus	Lisa Colombo
Signature of Authorized Representative	Signature of Authorized Representative
Meredith Telus	Lisa Colombo
Name of Authorized Representative	Name of Authorized Representative
Director	Executive Vice Chancellor, Commonwealth Medicine
Title of Authorized Representative	Title of Authorized Representative
10/22/19	10/17/19
Date	Date

CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than $25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of $25,000 or more. If the initial award is below $25,000 but subsequent grant modifications result in a total award equal to or over $25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.
In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
    - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than $25M annually and
    - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.
The Vendor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:
The below named Vendor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Vendor Name:

10/17/19
Date

Lisa Colombo
Name: Lisa Colombo
Title: Executive Vice Chancellor
Commonwealth Medicine

FORM A

As the Vendor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: 603847393

2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

   X NO _____ YES

   If the answer to #2 above is NO, stop here

   If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

   _____ NO _____ YES

   If the answer to #3 above is YES, stop here

   If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

Vendor Initials W
Date 10/17/19

A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information," Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.

3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

   Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.

5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.

6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes successful attempts to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the

processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.

8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.

11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.

12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
2. The Contractor must not disclose any Confidential Information in response to a request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.
3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.

5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail, UPS, or Federal Express (or other commercial carrier) within the continental U.S. and when sent to a named individual.
7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.
9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the Confidential Data and any derivative of the Confidential Data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the Confidential Data and any Confidential derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. If it is infeasible to return or destroy the Confidential Data, protections pursuant to this Information Security Requirements Exhibit survive this contract. To this end, the parties must:

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of

cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.

2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, must have aggressive intrusion-detection and firewall protection.
6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.

2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:

1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).
3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of

obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.

8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.

9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the scope of the engagement between the Department and the Contractor changes.

10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.

11. Data Security Breach Liability. In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

12. Contractor must comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.

13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of

security that is not less than the level and scope of security requirements set forth in the principles of the latest version of NIST 800-53, as defined by that Federal Standard at a Moderate level.

14. Contractor agrees to maintain a documented breach notification and incident response process. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.

15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.

16. The Contractor must ensure that all End Users:

    a. Comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.

    b. Safeguard this information at all times.

    c. Ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.

    d. Send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.

    e. Limit disclosure of the Confidential Information to the extent permitted by law.

    f. Confidential Information, received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).

    g. Only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.

    h. In all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.

    i. Understand that their user credentials (user name and password) must not be

shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract annually, upon thirty (30) days' notice, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract. Should a security incident or breach occur the Contractor agrees DHHS may conduct an onsite inspection, without notice, to monitor compliance with this Contract.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer, at the email addresses provided in Section VI, of any Security Incidents or Breaches immediately upon the Contractor determining Confidential Data may have been exposed or compromised.

The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and
5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov