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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lori A. Weaver
Commissioner

Melissa A. Hardy
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

November 13, 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 Long Term Supports and Services, to amend an existing contract with Myers and Stauffer LC (VC#230291), Kansas City, MO, to continue providing rate setting services to the Department, by exercising a contract renewal option extending the completion date from December 31, 2024 to November 30, 2025, with no change to the price limitation of \$1,136,637, effective January 1, 2025, upon Governor and Council approval. 100% General Funds.

The original contract was approved by the Governor and Executive Council on January 26, 2022 (Item #26) and amended on May 3, 2023 (Item #27).

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.

05-95-93-930010-7100 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT, HHS: DLTSS-DEVELOPMENTAL SVCS, DIV OF DEVELOPMENTAL SVCS, DEVELOPMENTAL SERVICES

| State Fiscal Year | Class / Account | Class Title | Job Number | Current Budget | Increased (Decreased) Amount | Revised Budget |
|-------------------|-----------------|------------------------|--------------|--------------------|------------------------------|--------------------|
| 2022 | 102-500731 | Contracts for Prog Svc | 93047100 | \$194,859 | \$0 | \$194,859 |
| 2023 | 102-500731 | Contracts for Prog Svc | 93047100 | \$527,219 | \$0 | \$527,219 |
| 2024 | 102-500731 | Contracts for Prog Svc | 93047100 | \$378,259 | (\$36,300) | \$341,959 |
| 2025 | 102-500731 | Contracts for Prog Svc | 93047100 | \$36,300 | \$0 | \$36,300 |
| 2026 | 102-500731 | Contracts for Prog Svc | 93047100 | \$0 | \$36,300 | \$36,300 |
| | | | TOTAL | \$1,136,637 | \$0 | \$1,136,637 |

EXPLANATION

The purpose of this request is for the Contractor to continue providing rate setting services to the Department for the Bureau of Developmental Services (BDS) §1915(c) Home and Community-Based Services (HCBS) Waivers, including the Developmental Disability (DD) waiver. The Contractor will continue to develop reimbursement rates for current, new, and revised BDS §1915(c) HCBS waiver services, which will be provided to approximately 5,130 individuals in need through November 30, 2025.

The Contractor will continue to participate in stakeholder engagement activities for cost report development and rate discussions and provide training to Department staff on new cost report methodologies. Additionally, the Contractor will continue to ensure rate-setting methodologies are based on costs, accounting for the differing levels of services and/or supports required by individuals receiving services. The payment terms are being adjusted with this amendment to streamline the payment method to ensure more efficient and effective delivery of services by realigning the structure to a more appropriate approach.

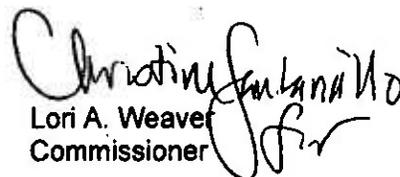
The Department will continue monitoring Contractor performance to ensure the work plan deliverables are met.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, of the original agreement, the parties have the option to extend the agreement for up to two (2) 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 the remaining eleven (11) months available.

Should the Governor and Council not authorize this request, the Department will not have the necessary support for rate setting and cost reporting methodologies, which may limit the Department's ability to structure reimbursement rates for home and community-based developmental services in an equitable manner.

Area served: Statewide.

Respectfully submitted,


Lori A. Weaver
Commissioner

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

This Amendment to the Rate Build Up Rate Setting contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Myers and Stauffer LC ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on January 26, 2022 (Item #26), as amended on May 3, 2023 (Item #27), 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, 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:
November 30, 2025
2. Modify Exhibit C, Payment Terms, by replacing it in its entirety with Exhibit C – Amendment #2, Payment Terms, which is attached hereto and incorporated by reference herein.

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 January 1, 2025, 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

11/14/2024
Date

DocuSigned by:
Melissa Hardy
Name: Melissa Hardy
Title: Director, DLSS

Myers and Stauffer LC

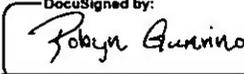
11/13/2024
Date

Signed by:
Krista Stephani
Name: Krista Stephani
Title: Member

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

OFFICE OF THE ATTORNEY GENERAL

11/14/2024
Date

DocuSigned by:

Name: Robyn Guarino
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
Rate Build Up Rate Setting**

EXHIBIT C - Amendment #2

Payment Terms

1. This Agreement is funded by:
 - 1.1. 82 % General funds.
 - 1.2. 18% Federal Funds from the Medicaid Assistance Program, as awarded by the Centers for Medicare and Medicaid Services, Assistance Listing Number 93.778, FAIN 2205NH5ADM.
2. For the purposes of this Agreement the Department has identified:
 - 2.1. The Contractor as a Contractor, based on criteria specified in 2 CFR 200.331.
 - 2.2. The Agreement as NON-R&D, in accordance with 2 CFR §200.332.
3. The Indirect Cost Rate for this Agreement as 0%.
4. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, and shall be in accordance with the approved line items, as specified in Exhibits C-1, Budget through Exhibit C-4 Budget until December 31, 2024.
5. Through December 31, 2024 the Contractor shall submit an invoice in a form satisfactory to the Department by the fifteenth (15th) working day of the following month, which identifies and requests rate reimbursement for time spent in the fulfillment of this agreement incurred in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
 - 5.1. The Contractor shall provide applicable backup documentation to support invoices upon request, including, but not limited to:
 - 5.1.1. Detailed information, including without limitation,; identification of each deliverable for which payment is sought.
 - 5.1.2. Receipts for expenses within the applicable state fiscal year for travel costs
 - 5.1.3. Other financial information as requested by the Department.
 - 5.1.4. Unallowable expenses that may not be invoiced include, but are not limited to:
 - 5.1.4.1. Amounts prior to effective date of Agreement.
 - 5.1.4.2. Construction or renovation expenses.
 - 5.1.4.3. Food or water for employees.
 - 5.1.4.4. Fines, fees, or penalties.
 - 5.1.4.5. Cell phones and cell phone minutes for clients.

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C - Amendment #2

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

BDS Financial Manager
Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

6. Effective January 1, 2025, payment shall be made based on a hourly rate for services provided in the fulfillment of this Agreement, as specified in Exhibit B Scope of Work and in accordance with (Table 1) below:

| TABLE 1 | |
|--|-------------|
| Title | Hourly Rate |
| Project Director | \$325.00 |
| Quality Assurance | \$250.00 |
| Project Manager/Analytic Lead | \$225.00 |
| Subject Matter Expert | \$250.00 |
| Senior Consultant | \$200.00 |
| Analyst/Senior Accountant /Senior Health Care Consultant | \$175.00 |
| Intern/Health Care consultant /Senior Specialist | \$115.00 |

Travel funds for two staff, the total expenses related to these trips are not to exceed \$21,000.

7. The Contractor shall submit an invoice to the Department no later than the fifteenth (15th) working day of the month following the month in which the services were provided. The Contractor shall ensure each invoice:

- 7.1. Includes the Contractor's Vendor Number issued upon registering with New Hampshire Department of Administrative Services.
- 7.2. Is submitted in a format as provided by or otherwise acceptable to the Department.
- 7.3. Identifies and requests payment in accordance with Section 3 above.
- 7.4. Is completed, dated and returned to the Department to initiate payment.
- 7.5. Is assigned an electronic signature and is emailed to bdsinvoices@dhhs.nh.gov or mailed to:

BDS Financial Manager
Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C - Amendment #2

8. The Department shall make payments to the Contractor within thirty (30) calendar days only upon receipt and approval of the submitted invoice and any required supporting documentation.
9. The final invoice and any required supporting documentation shall be due to the Department no later than forty (40) calendar days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
10. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting direct and indirect cost amounts within the price limitation between budget class lines, as well as adjusting encumbrances between State Fiscal Years through the Budget Office, may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.

11. Audits

11.1. The Contractor must email an annual audit to dhhs.act@dhhs.nh.gov if any of the following conditions exist:

11.1.1. Condition A - The Contractor is subject to a Single Audit pursuant to 2 CFR 200.501 Audit Requirements.

11.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b.

11.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.

11.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

11.2.1. The Contractor shall submit a copy of any Single Audit findings and any associated corrective action plans. The Contractor shall submit quarterly progress reports on the status of implementation of the corrective action plan.

11.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.

11.4. The Contractor, regardless of the funding source and/or whether Conditions A, B, or C exist, may be required to submit annual financial audits performed by an independent CPA upon request by the Department.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C - Amendment #2

- 11.5. In addition to, and not in any way in limitation of obligations of the Agreement, 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 Agreement to which exception has been taken, or which have been disallowed because of such an exception, within sixty (60) days.
12. If applicable, the Contractor must request disposition instructions from the Department for any equipment, as defined in 2 CFR 200.313, purchased using funds provided under this Agreement, including information technology systems.

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that MYERS AND STAUFFER LC is a Kansas Limited Liability Company registered to do business in New Hampshire as MYERS AND STAUFFER LLC on December 18, 1997. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 281856

Certificate Number: 0006803979



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed

the Seal of the State of New Hampshire,

this 5th day of November A.D. 2024.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan

Secretary of State

CERTIFICATE OF AUTHORITY

I, Charles T. Smith, III, hereby certify that:
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of Myers and Stauffer LC
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on November 6, 2024, at which a quorum of the Directors/shareholders were present and voting.
(Date)

VOTED: That Amy C. Perry and Krista Stephani (may list more than one person)
(Name and Title of Contract Signatory)

is duly authorized on behalf of Myers and Stauffer LC to enter into contracts or agreements with the State
(Name of Corporation/ LLC)

of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority **remains valid for thirty (30) days** from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: November 13, 2024



Signature of Elected Officer
Name: Charles T. Smith, III
Title: Member

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**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES**

Lori A. Weaver
Interim Commissioner

Melissa A. Hardy
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

April 14, 2023

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 Long Term Supports and Services, to amend an existing contract with Myers and Stauffer LC (VC# 230291), Kansas City, MO, to continue to provide rate build-up rate setting services, as applicable to the §1915(c) Home and Community-Based Services (HCBS) Waivers program for developmental services, by exercising a contract renewal option, by increasing the price limitation by \$731,028 from \$405,609 to \$1,136,637 and extending the completion date from November 30, 2023 to December 31, 2024, effective upon Governor and Council approval. 100% General Funds.

The original contract was approved by Governor and Council on January 26, 2022, item #26.

Funds are available in the following account for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Years 2024 and 2025, 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.

05-95-93-930010-7100 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT, HHS: DLTSS-DEVELOPMENTAL SVCS, DIV OF DEVELOPMENTAL SVCS, DEVELOPMENTAL SERVICES

| State Fiscal Year | Class / Account | Class Title | Job Number | Current Budget | Increased (Decreased) Amount | Revised Budget |
|-------------------|-----------------|------------------------|--------------|------------------|------------------------------|--------------------|
| 2022 | 102-500731 | Contracts for Prog Svc | 93047100 | \$194,859 | \$0 | \$194,859 |
| 2023 | 102-500731 | Contracts for Prog Svc | 93047100 | \$179,387 | \$347,832 | \$527,219 |
| 2024 | 102-500731 | Contracts for Prog Svc | 93047100 | \$31,363 | \$346,896 | \$378,259 |
| 2025 | 102-500731 | Contracts for Prog Svc | 93047100 | \$0 | \$36,300 | \$36,300 |
| | | | Total | \$405,609 | \$731,028 | \$1,136,637 |

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 2 of 2

EXPLANATION

The purpose of this request is for the Contractor to continue providing rate setting services for the Bureau of Developmental Services (BDS) §1915(c) Home and Community-Based Services (HCBS) Waivers, including waivers for Acquired Brain Disorder services, In Home Supports for Children with Developmental Disabilities, and People with Developmental Disabilities. The Contractor will develop reimbursement rates for current, new and revised BDS §1915(c) HCBS waiver services as part of the BDS System Redesign. In addition, the Contractor will provide additional staffing hours to support rate-setting activities.

The Contractor will provide additional stakeholder engagement activities for cost report development and cost rate discussions. Additionally, the Contractor will provide training to Department staff on new cost report methodologies.

Approximately 5,400 individuals will receive BDS services, based on the rates set, through December 31, 2024.

The Contractor will continue to ensure rate-setting methodologies are based on cost to account for differing levels of services and/or supports needed for individuals receiving services.

The Department will continue to monitor Contractor performance to ensure the work plan deliverables are met.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, of the original agreement, the parties have the option to extend the agreement for up to two (2) 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 one (1) year and one (1) month, of the two (2) years available.

Should the Governor and Council not authorize this request, the Department will be unable to receive cost rate support on new waivers or potential revisions to waivers and may not be able to structure reimbursement rates for developmental services delivery system home and community-based services in a fair and equitable manner, potentially resulting in individuals not having access to services.

Area served: Statewide

Respectfully submitted,


Lon A. Weaver
Interim Commissioner

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

This Amendment to the Rate Build-Up Rate Setting contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Myers and Stauffer LC ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on January 26, 2022 (Item #26), 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 17, and Exhibit A, Subsection 1.1, 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, increase the price limitation, and modify the scope of services 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:
December 31, 2024
2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:
\$1,136,637
3. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Robert W. Moore, Director
4. Modify Exhibit B Scope of Services, Paragraph 1.8.2, to read:
 - 1.8.2. Develop tiered reimbursement rates, defined as the current Bureau of Developmental Services (BDS) waiver services and the new or revised BDS waiver services, as part of the BDS System Redesign, as identified during stakeholder/provider engagement, to better align payment with level of need.
5. Modify Exhibit B Scope of Services, Subsection 1.31, to read:
 - 1.31. The Contractor shall train Department staff to:
 - 1.31.1. Use, implement and transition to the new cost reports.
 - 1.31.2. Conduct costs during cost report reviews, including the rules and guidelines that will be followed to determine Medicaid allowable and Medicaid non-allowable costs, and any other review methods recommended by the Contractor and approved by the Department.
 - 1.31.3. Review the new condensed cost report and surveys, including time studies, completed by all providers.
 - 1.31.4. Develop a methodology and schedule of when to update rates and rebase rates.

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6. Modify Exhibit B Scope of Services, by deleting Subsection 1.33 and Table 1.33.1-T Rate Build-Up Rate Setting Work Plan in its entirety, and replace with:
 - 1.33 The Contractor shall provide services in accordance with Exhibit B-1, Amendment #1 – Rate Build-Up Rate Setting Work Plan.
7. Modify Exhibit C Payment Terms, Section 1, to read:
 1. This agreement is funded by:
 - 1.1. 82% General Funds; and
 - 1.2. 18% Federal Funds from the Medicaid Assistance Program, as awarded by the Centers for Medicare and Medicaid Services, Assistance Listing Number 93.778, FAIN 2205NH5ADM.
8. Modify Exhibit C Payment Terms, Section 2, to read:
 2. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, and shall be in accordance with the approved line items, as specified in Exhibits C-1, Budget through Exhibit C-4 Budget – Amendment #1.
9. Add Exhibit B-1, Amendment #1 – Rate Build-Up Rate Setting Work Plan, which is attached hereto and incorporated by reference herein.
10. Modify Exhibit C-2, Budget by replacing it in its entirety with Exhibit C-1 Budget – Amendment #1, which is attached hereto and incorporated by reference herein.
11. Modify Exhibit C-3, Budget by replacing it in its entirety with Exhibit C-3 Budget – Amendment #1; which is attached hereto and incorporated by reference herein.
12. Add Exhibit C-4, Budget – 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 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,

4/11/2023

Date

DocuSigned by:

Melissa Hardy

1323A24040DF483

Name: Melissa Hardy

Title:

Director, DLTSS

Myers and Stauffer LC

4/11/2023

Date

DocuSigned by:

Amy Perry

FCDF2058A75C4F5

Name: Amy Perry

Title:

Member

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

OFFICE OF THE ATTORNEY GENERAL

4/12/2023

Date

DocuSigned by:
Robyn Guarino
748734844041460

Name: Robyn Guarino

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:

Exhibit B-1, Amendment #1 – Rate Build-Up Rate Setting Work Plan

| Task Name | Time Frames | | | Original Hours | Additional Hours | Total Revised Hours |
|--|----------------|---------------|-------------|----------------|------------------|---------------------|
| | Original Start | Projected End | Revised End | | | |
| Phase 1 - Research and Planning | 0 | 44 | 211 | 180 | 0 | 180 |
| 1.1 Ongoing Administrative Activities - work plan updates, maintain | 0 | 44 | 44 | 26 | | 26 |
| 1.2 Project planning and request for information. | 0 | 44 | 44 | 30 | | 30 |
| 1.2.1 Submit data request to State. | 7 | 7 | 7 | | | |
| 1.2.2 Review current waivers, SPA, rules, program service definitions, etc. | 0 | 30 | 30 | | | |
| 1.2.3 Submit project plan and decision matrix to state for approval. | 44 | 44 | 38 | | | |
| 1.3 Kick-off Meeting with BDS: introductions, knowledge transfer, project overview, things to be aware of, goals/objectives, timeline, etc. | 7 | 7 | 2 | 32 | | 32 |
| 1.4 Kick-off Meeting (#1) with Rate workgroup: introductions, background of workgroup, overview of rate setting methods, cost report development, solicit feedback on communication with stakeholders outside of workgroup, etc. | 9 | 9 | 10 | 32 | | 32 |
| 1.5 Review service descriptions and previously defined cost components to include in cost report. | 7 | 44 | 211 | 60 | | 60 |
| 1.5.1 Identify what is included/excluded in the service definitions and confirm how services are delivered. | 7 | 44 | 211 | | | |
| 1.5.2 Confirm services to be included in cost report and discuss current rate structure. | 7 | 44 | 211 | | | |
| 1.5.3 Identify requirements for rate basis (e.g., hourly, four hours, daily, etc.). | 7 | 44 | 211 | | | |
| 1.5.4 Identify training, education, and certification requirements for direct service staff. | 7 | 44 | 211 | | | |
| Phase 2 - Rate Methodology Evaluation and Data Collection Tools Development | 7 | 120 | 211 | 326 | 350 | 676 |
| 2.1 Ongoing Administrative Activities - work plan updates, maintain | 7 | 120 | 211 | 46 | | 46 |
| 2.2 Develop draft cost report. | 9 | 106 | 170 | | | |
| 2.2.1 Develop draft cost report and instructions. | 9 | 106 | 170 | 100 | 100 | 200 |
| 2.2.2 Rate Workgroup Meeting 2: Review draft cost report and instructions. | 44 | 44 | 170 | 45 | | 45 |
| 2.2.3 Collect feedback from workgroup on draft cost report and make changes for next meeting. | 64 | 61 | 170 | 15 | 125 | 140 |

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|---|--|-----|-----|-----|-----|-----|-----|
| 2.2.4 | Rate Workgroup; Meeting 3: Review revised draft cost report and instructions. | 72 | 72 | 170 | 45 | | 45 |
| 2.2.5 | Collect feedback from workgroup and make changes to draft cost report and instructions. | 89 | 89 | 170 | 15 | 125 | 140 |
| 2.2.6 | Prepare final draft of cost report and instructions for Steering Committee review and approval. | 99 | 106 | 170 | 20 | | 20 |
| 2.3 | Complete cost report, instructions, and training materials | 106 | 120 | 181 | | | |
| 2.3.1 | Develop additional training materials as needed. | 106 | 120 | 181 | 15 | | 15 |
| 2.3.2 | Finalize cost report and instructions based on Steering Committee feedback. | 106 | 120 | 181 | 15 | | 15 |
| 2.3.3 | Post cost report and instructions on the Myers and Stauffer website for providers to access. | 120 | 120 | 181 | 10 | | 10 |
| Phase 3 - Data Collection and Analysis | | 7 | 254 | 484 | 655 | 210 | 865 |
| 3.1 | Ongoing Administrative Activities - work plan updates, maintain | 7 | 254 | | 70 | | 70 |
| 3.2 | Deliver provider training for cost report completion and provide help | 139 | 191 | 181 | 0 | | 0 |
| 3.2.1 | Facilitate training webinar(s). | 139 | 139 | 261 | 24 | | 24 |
| 3.2.2 | Develop FAQ document. | 139 | 184 | 255 | 10 | | 10 |
| 3.2.3 | Monitor email and respond to provider questions. | 139 | 184 | 273 | 60 | | 60 |
| 3.2.4 | Monitor cost report response to determine services that need additional provider outreach. | 139 | 191 | 333 | 40 | | 40 |
| 3.3 | Review state information received. | 7 | 97 | 484 | | | 0 |
| 3.3.1 | Review BDS Program Change listing for impacts | 7 | 69 | 484 | 40 | | 40 |
| 3.3.2 | Review BDS expenditures and summarize for use in rate modeling | 372 | 97 | 484 | 80 | 50 | 130 |
| 3.3.3 | Review BDS fee schedule and summarize as a reference for rate modeling | 372 | 69 | 484 | 40 | 50 | 90 |
| 3.3.4 | Review assessment data and summarize for use in rate modeling | 372 | 97 | 484 | 56 | 50 | 106 |
| 3.4 | Collect cost information for analysis. | 120 | 254 | 392 | | | 0 |
| 3.4.1 | Prepare cost report data extractor. | 120 | 184 | 392 | 20 | | 20 |
| 3.4.2 | Conduct data validation activities, including follow up with providers as necessary | 184 | 254 | 392 | 100 | | 100 |
| 3.4.3 | Research national and state data (BLS, other wage/salary information, benefits) as necessary to supplement cost data | 7 | 69 | 392 | 20 | | 20 |
| 3.4.4 | Review staffing levels for each service | 184 | 254 | 392 | 20 | 40 | 60 |
| 3.4.5 | Conduct reasonableness checks for statistical outliers to be reviewed. | 184 | 254 | 392 | 25 | 10 | 35 |
| 3.4.6 | Create final database(s) for model development. | 184 | 254 | 392 | 50 | 10 | 60 |

03
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| | | | | | | | |
|--|--|------------|------------|------------|------------|-------------|-------------|
| Phase 4 - Rate Build Up Model, Fiscal Analysis Development and Implementation | | 38 | 454 | 560 | 704 | 1199 | 1903 |
| 4.1 | Ongoing Administrative Activities - work plan updates, maintain | 38 | 454 | 514 | 86 | 20 | 106 |
| 4.2 | Develop rate model | 38 | 254 | 514 | | | |
| 4.2.1 | Prepare rate model with component and service provision inputs. | 38 | 128 | 514 | 100 | 200 | 300 |
| 4.2.2 | Summarize final model options for rate development | 128 | 158 | 514 | 30 | 40 | 70 |
| 4.2.3 | Share final model options with BDS | 158 | 158 | 514 | 24 | 24 | 48 |
| 4.2.4 | Collect feedback from BDS on model options and make revisions. | 158 | 189 | 514 | 20 | 40 | 60 |
| 4.2.5 | Rate Workgroup Meeting #4: Review model assumptions. | 189 | 219 | 514 | 42 | 160 | 202 |
| 4.2.6 | Collect feedback from workgroup to make changes to final model assumptions. | 219 | 250 | 514 | 20 | 50 | 70 |
| 4.3 | Prepare Draft Rates and Fiscal Impact | 254 | 373 | 514 | | | |
| 4.3.1 | Develop rate recommendations and fiscal impact for review with State and work groups. Review for statistical outliers and determine need for policy adjustors. | 254 | 303 | 514 | 100 | 200 | 300 |
| 4.3.2 | Share draft model options and rate recommendations with BDS. | 303 | 317 | 514 | 32 | 40 | 72 |
| 4.3.3 | Collect feedback from BDS to make changes for draft rate calculations. | 303 | 317 | 514 | 20 | 40 | 60 |
| 4.3.4 | Rate Workgroup Meeting #5: Review rate calculations. | 317 | 331 | 514 | 42 | 160 | 202 |
| 4.3.5 | Collect feedback from workgroup for final rate calculations and make revisions as necessary. | 317 | 357 | 514 | 48 | 50 | 98 |
| 4.3.6 | Share final rate calculations and fiscal impact with BDS. | 357 | 357 | 514 | 16 | 16 | 32 |
| 4.3.7 | Collect feedback from BDS for final rate calculations and make revisions as necessary. | 357 | 373 | 514 | 20 | 40 | 60 |
| 4.3.8 | Finalize rate recommendations and fiscal impact. | 344 | 373 | 514 | 24 | 49 | 73 |
| 4.4 | Prepare Final Report | 254 | 454 | 560 | | | |
| 4.4.1 | Prepare Draft Final Report on rate model and rate recommendations. | 254 | 426 | 545 | 60 | 40 | 100 |
| 4.4.2 | Submit Draft Final Report to BDS for review. | 426 | 426 | 545 | | | 0 |
| 4.4.3 | Revise report based on feedback and submit final. | 426 | 449 | 560 | 20 | 30 | 50 |
| 4.4.4 | Initiate formal public comment process as needed. | TBD | TBD | TBD | | | 0 |
| 4.4.5 | Prepare provider briefings as needed. | TBD | TBD | TBD | | | 0 |
| 4.4.6 | Deliver final report | 480 | 480 | TBD | | | 0 |
| Phase 5 - Ongoing Maintenance | | TBD | TBD | | 75 | 25 | 100 |

| | | | | | | | |
|---|--|------------|------------|--|----------|-------------|-------------|
| Phase 6 - Rate Build Up Model, Fiscal Analysis Development and Implementation of New Waiver Services | | 577 | 880 | | 0 | 1518 | 1518 |
|---|--|------------|------------|--|----------|-------------|-------------|

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| | | | | | | | |
|------|--|-----|-----|--|--|-----|-----|
| 6.1 | Evaluate New Developmental Disability Waiver Services and Develop Rates. This includes draft calculations and sharing with BDS for feedback. Evaluate current services and determine if rate updates are necessary. Also includes final rate calculations. | 577 | 820 | | | 940 | 940 |
| 6.2 | Stakeholder Engagement - Present draft rates, collect feedback, and make revisions. | 577 | 820 | | | 503 | 503 |
| 6.2a | Optional Travel for In-Person Meetings | TBD | TBD | | | 0 | 0 |
| 6.3 | Prepare draft report, receive feedback, and finalize report | 820 | 880 | | | 75 | 75 |

| | | | | | | | |
|--|--|-----|-----|--|---|-----|-----|
| Phase 7 - Ongoing Maintenance for New Rates | | TBD | TBD | | 0 | 156 | 156 |
|--|--|-----|-----|--|---|-----|-----|

DS
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| New Hampshire Department of Health and Human Services | |
|---|-------------------------------|
| Contractor Name: <u>Myers and Stauffer LC</u> | |
| Budget Request for: <u>Rate Build Up Rate Setting, RFP-2022-DLTSS-06-RATEB-01-A01</u> | |
| Budget Period: <u>July 1, 2022 - June 30, 2023</u> | |
| Indirect Cost Rate (If applicable): <u>0.00%</u> | |
| Line Item | Program Cost - Funded by DHHS |
| 1. Salary & Wages | \$0 |
| 2. Fringe Benefits | \$0 |
| 3. Consultants | \$449,891 |
| 4. Equipment Indirect cost rate cannot be applied to equipment costs per 2 CFR 200.1 and Appendix IV to 2 CFR 200. | \$0 |
| 5.(a) Supplies - Educational | \$0 |
| 5.(b) Supplies - Lab | \$0 |
| 5.(c) Supplies - Pharmacy | \$0 |
| 5.(d) Supplies - Medical | \$0 |
| 5.(e) Supplies Office | \$0 |
| 6. Travel | \$0 |
| 7. Software | \$0 |
| 8. (a) Other - Marketing/ Communications | \$0 |
| 8. (b) Other - Education and Training | \$0 |
| 8. (c) Other - Other (specify below) | \$0 |
| Other (please specify) | \$0 |
| 9. Subrecipient Contracts | \$77,328 |
| Total Direct Costs | \$527,219 |
| Total Indirect Costs | \$0 |
| TOTAL | \$527,219 |

DS
AP

Contractor Initials

4/11/2023

Date

| New Hampshire Department of Health and Human Services | |
|--|--|
| Contractor Name: | Ayers and Boutin LC |
| Budget Request for: | Rate Build Up Rate Setting, RFP-2022-DLTSS-06-RATEB-01-A01 |
| Budget Period: | July 1, 2023 - June 30, 2024 |
| Indirect Cost Rate (if applicable): | 0.00% |
| Line Item | Program Cost - Funded by DHHS |
| 1. Salary & Wages | \$0 |
| 2. Fringe Benefits | \$0 |
| 3. Consultants | \$343,741 |
| 4. Equipment <small>Indirect cost rate cannot be applied to equipment costs per 2 CFR 200.1 and Appendix IV to 2 CFR 200.</small> | \$0 |
| 5(a) Supplies - Educational | \$0 |
| 5(b) Supplies - Lab | \$0 |
| 5(c) Supplies - Pharmacy | \$0 |
| 5(d) Supplies - Medical | \$0 |
| 5(e) Supplies Office | \$0 |
| 6. Travel | \$21,000 |
| 7. Software | \$0 |
| 8. (a) Other - Marketing/Communications | \$0 |
| 8. (b) Other - Education and Training | \$0 |
| 8. (c) Other - Other (specify below) | \$0 |
| Other (please specify) | \$0 |
| 9. Subrecipient Contracts | \$13,516 |
| Total Direct Costs | \$378,257 |
| Total Indirect Costs | \$0 |
| TOTAL | \$378,257 |

OS
ap

Contractor Initials _____

4/11/2023

Date _____

| New Hampshire Department of Health and Human Services | |
|--|-------------------------------|
| Contractor Name: Myers and Stauffer LLC | |
| Budget Request for: Rate Build Up Rate Setting, RFA 2022-DLSS-06-RATEB-01-A01 | |
| Budget Period: July 1, 2024 - December 31, 2024 | |
| Indirect Cost Rate (if applicable): 0.00% | |
| Line Item | Program Cost - Funded by DHHS |
| 1. Salary & Wages | \$0 |
| 2. Fringe Benefits | \$0 |
| 3. Consultants | \$26,300 |
| 4. Equipment <small>Indirect cost rate cannot be applied to equipment costs per 2 CFR 200.1 and Appendix IV to 2 CFR 200.</small> | \$0 |
| 5.(a) Supplies - Educational | \$0 |
| 5.(b) Supplies - Lab | \$0 |
| 5.(c) Supplies - Pharmacy | \$0 |
| 5.(d) Supplies - Medical | \$0 |
| 5.(e) Supplies Office | \$0 |
| 6. Travel | \$0 |
| 7. Software | \$0 |
| 8.(a) Other - Marketing/Communications | \$0 |
| 8.(b) Other - Education and Training | \$0 |
| 8.(c) Other - Other (specify below) | \$0 |
| Other (please specify) | \$0 |
| 9. Subrecipient Contracts | \$0 |
| Total Direct Costs | \$26,300 |
| Total Indirect Costs | \$0 |
| TOTAL | \$26,300 |

DS
AP

Contractor Initials _____
Date 4/11/2023

26
MAN



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lois A. Shilbrett
Commissioner

Nancy L. Reilly
Interim Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

January 4, 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 Long Term Supports and Services, to enter into a contract with Myers and Stauffer LC (VC# 230281 Kansas City, MO, in the amount of \$405,609 for rate build up rate setting services, as applicable to the §1915(c) Home and Community-Based Services (HCBS) Waivers program, with the option to renew for up to two (2) additional years, effective upon Governor and Council approval through November 30, 2023. 50% General Funds and 50% Federal Funds

Funds are available in the following accounts for State Fiscal Years 2022 and 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.

05-95-93-930010-7100 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT, NHS: DLTSS-DEVELOPMENTAL SVCS, DIV OF DEVELOPMENTAL SVCS, DEVELOPMENTAL SERVICES

| State Fiscal Year | Class / Account | Class Title | Job Number | Total Amount |
|-------------------|-----------------|------------------------|-----------------|------------------|
| 2022 | 102-500731 | Contracts for Prog Svc | 93047100 | \$194,859 |
| 2023 | 102-500731 | Contracts for Prog Svc | 93047100 | \$179,387 |
| 2024 | 102-500731 | Contracts for Prog Svc | 93047100 | \$31,363 |
| | | | Subtotal | \$405,609 |

EXPLANATION

The purpose of this request is to provide rate build up-rate setting services for the Bureau of Developmental Services as applicable to the §1915(c) HCBS Waivers, including waivers for Acquired Brain Disorder services, Home Supports for Children with Developmental Disabilities, and People with Developmental Disabilities.

Approximately 5,400 individuals will receive services delivered using the new rates in State Fiscal Year 2023.

Currently, there are ten (10) designated area agencies enrolled as Medicaid providers for Bureau of Developmental Services Medicaid Waiver services. The ten (10) designated area agencies

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
Page 2 of 2

independently contract with a network of approximately seventy (70) private vendors to increase service access and system capacity. The Department is in the process of finalizing the requirements for all the developmental services system waivers, to be used by these vendors.

The Contractor will develop a detailed plan to develop rates for the developmental services system waivers. The Contractor will ensure rate setting methodologies are based on actual costs, including for staffing, to account for differing levels of services and/or supports needed for individuals receiving services. The Contractor will develop an implementation strategy for the new reimbursement rates, in conjunction with a working group that includes developmental services delivery system home and community - based service providers, and the Department.

The Department will monitor Contractor performance by the Contractor's adherence to:

- Meeting the deliverables as described in the Contractor's work plan listed on the Rate Build Up Rate Setting Work Plan.
- Minimum staffing requirements, which include, but are not limited to:
 - A Project Director to oversee all aspects of the contracted services;
 - A Project Manager to manage all Contractor activities, and to act as a single point of contact for the Department;
 - Subject matter experts; and
 - Accountants and analysts.
- Required mandatory weekly meetings between the Department and the Contractor.

The Department selected the Contractor through a competitive bid process using a Request for Proposals (RFP) that was posted on the Department's website from September 28, 2021 through November 4, 2021. The Department received three (3) responses that were reviewed and scored by a team of qualified individuals. The Scoring Sheet is attached.

As referenced in Exhibit A, Revisions to Standard Agreement Provisions, Section 1, Revisions to Form P-37, General Provisions, subsection 1.1 of the attached agreement, the parties have the option to extend the agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and Governor and Council approval.

Should the Governor and Council not authorize this request, the Department may not be able to structure reimbursement rates for developmental services delivery system home and community-based services in a fair and equitable manner, which may result in individuals not having access to services. In addition, the Department may not be able to comply with the Center for Medicare and Medicaid Services' direct billing requirements by the due date.

Area served: Statewide

Source of Funds: 50% Federal Funds, 50% General Funds

Assistance Listing Number #93.778, FAIN 2205NH5ADM

Respectfully submitted,


Lori A. Shilbette
Commissioner

**New Hampshire Department of Health and Human Services
Division of Finance and Procurement
Bureau of Contracts and Procurement
Scoring Sheet**

| | |
|----------------------|-----------------------------------|
| Project ID # | RFP-2022-DLTSS-06-RATEB |
| Project Title | Rate Build Up Rate Setting |

| | Maximum Points Available | Guidehouse | Myers and Stauffer | Public Consulting Group |
|---|--------------------------|-------------|--------------------|-------------------------|
| Technical | | | | |
| 5.3.1. Use of Information (Q1) | 10 | 10 | 9 | 9 |
| 5.3.2. Knowledge (Q2) | 80 | 65 | 60 | 60 |
| 5.3.3. Stakeholder Engagement (Q3) | 80 | 70 | 75 | 65 |
| 5.3.4. Rate Methodology Experience (Q4) | 90 | 80 | 85 | 80 |
| 5.3.5. Cost Reporting (Q5) | 180 | 150 | 180 | 170 |
| 5.3.6. Use of Standard Assessments (Q6) | 80 | 70 | 65 | 80 |
| 5.3.7. Draft Cost Report (Q7) | 70 | 65 | 65 | 70 |
| 5.3.8. Proposed Project Plan (Q8) | 280 | 265 | 270 | 255 |
| 5.3.9. Staffing Plan (Q9) | 130 | 125 | 130 | 130 |
| Subtotal - Technical | 1000 | 900 | 939 | 919 |
| Cost | | | | |
| 5.5.1. Budget (Appendix D) | 100 | 70 | 80 | 50 |
| 5.5.2. Program Staff List (Appendix E) | 150 | 130 | 130 | 60 |
| Subtotal - Cost | 250 | 200 | 210 | 110 |
| TOTAL POINTS | 1250 | 1100 | 1149 | 1029 |

Reviewer Name

| | |
|---|---------------|
| 1 | Jennifer Doig |
| 2 | Sandy Hunt |
| 4 | Christy Roy |
| 5 | Alyssa Cohen |
| 6 | Susan Ryan |

Title

| |
|----------------------------------|
| Business Operations Admin. |
| Director, Developmental Services |
| Administrator |
| Deputy Director |
| Financial Analyst |

Subject: Rate Build Up Rate Setting (RFP-2022-DLTSS-06-RATEB-01)

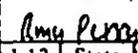
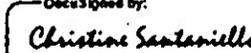
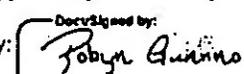
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

| | | | |
|---|---|---|-----------------------------------|
| 1.1 State Agency Name New Hampshire Department of Health and Human Services | | 1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857 | |
| 1.3 Contractor Name Myers and Stauffer LC | | 1.4 Contractor Address 700 W 47th Street, Ste. 1100 Kansas City, MO 64112 | |
| 1.5 Contractor Phone Number (800) 374-6858 | 1.6 Account Number 05-95-93-930010-7100-102-500731 | 1.7 Completion Date November 30, 2023 | 1.8 Price Limitation \$405,609 |
| 1.9 Contracting Officer for State Agency Nathan D. White, Director | | 1.10 State Agency Telephone Number (603) 271-9631 | |
| 1.11 Contractor Signature DocuSigned by:  Date: 1/3/2022 | | 1.12 Name and Title of Contractor Signatory Amy Perry Member | |
| 1.13 State Agency Signature DocuSigned by:  Date: 1/3/2022 | | 1.14 Name and Title of State Agency Signatory Christine Santaniello Christine.Santaniello@dhhs.nh.gov | |
| 1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____ | | | |
| 1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 1/4/2022 | | | |
| 1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____ | | | |

2. 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 B 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 1.17, 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 1.13 ("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 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 for Services provided in EXHIBIT B; in whole or in part. 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 reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source 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 C 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 applicable 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 employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property 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. The Contractor 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 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 cured, 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 give the Contractor a written notice specifying the Event of Default and 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 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. 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.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, 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 B. In addition, at the State's discretion, 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.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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.

10.2 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.

10.3 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.

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.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. 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 continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 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.

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 ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

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. The 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. 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.

17. 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.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 with respect to the subject matter hereof.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT A

Revisions to Standard Agreement Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date/Completion of Services, is amended by adding subparagraph 3.3 as follows:

3.3. The parties may extend the Agreement for up to two (2) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 12, Assignment/Delegation/Subcontracts, is amended by adding subparagraph 12.3 as follows:

12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

Scope of Services

1. Statement of Work

- 1.1. The Contractor shall ensure services are available Statewide.
- 1.2. For the purposes of this Agreement, all references to days shall mean calendar days.
- 1.3. The Contractor shall schedule and facilitate a kick-off meeting with the Department no less than seven (7) days from the Agreement Effective Date, which must include, but is not limited to:
 - 1.3.1. An introduction of the Contractor's project personnel;
 - 1.3.2. A review of recent activities completed by the Department, including:
 - 1.3.2.1. Stakeholder engagement activities with the Organized Health Care Delivery System for Developmental services, which includes the ten (10) Area Agencies, private providers, and independent case management agencies, as well as other key stakeholders, that include but are not limited to:
 - 1.3.2.1.1. NH Family Voices.
 - 1.3.2.1.2. Family Support Council members.
 - 1.3.2.1.3. The Disabilities Rights Center.
 - 1.3.2.2. A review of information from stakeholder engagement activities conducted by the Department, which includes, but is not limited to:
 - 1.3.2.2.1. Allowable costs for the Designated Area Agency Delivery System (DAADS) Medicaid Administrative rate;
 - 1.3.2.2.2. Administrative tasks for the Fiscal Management Services (FMS) Medicaid Administrative rate; and
 - 1.3.2.2.3. Administrative tasks for the Case Management (CM) Medicaid waiver rate.
 - 1.3.2.3. A review of historical data, including:
 - 1.3.2.3.1. Trends identified by the Department's review of six (6) years of historical claims data.
 - 1.3.3. Developing a schedule for a series of knowledge transfer meetings to discuss the history of the Department's transformation effort to extract out important service specific information that will help shape and improve the overall rate redesign process.

**New Hampshire Department of Health and Human Services
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EXHIBIT B

- 1.3.4. Reviewing state and federal statutory requirements; and
- 1.3.5. Defining project goals and objectives.
- 1.4. Based on the knowledge transfer meetings, the Contractor shall develop a decision/question matrix of outstanding items and questions for the Department's response, to facilitate the acquisition of background information and knowledge of the current reimbursement environment. The decision/question matrix will address areas that must include, but are not limited to:
 - 1.4.1. Potential waiver structure changes.
 - 1.4.2. Current and anticipated legislative or statutory mandates.
 - 1.4.3. Areas of strength on the current reimbursement methodology.
 - 1.4.4. Areas of weakness in the current reimbursement methodology.
 - 1.4.5. Budget considerations.
 - 1.4.6. Developing a plan for engagement with stakeholders and other system transformation contractors.
 - 1.4.7. Whether certain service types are struggling to attract providers or failing to provide sufficient services to beneficiaries.
 - 1.4.8. The status and effectiveness of various service types.
- 1.5. The Contractor shall develop a detailed Rate Project Plan that details ongoing project management supports that identify key milestones and ensures identified deliverables are met.
- 1.6. The Contractor shall work with the Department to develop a rate build up rate setting methodology that is based on key costs associated with developmental services delivery, and that can be replicated in the future to ensure the ability to adjust rates according to the types and intensity of services provided directly to, and in support of, individuals with disabilities and acquired brain disorder.
- 1.7. The Contractor shall ensure the rate build up rate setting is structured in a manner that can be adjusted due to changes in key factors that include, but are not limited to:
 - 1.7.1. Labor wages.
 - 1.7.2. Employee-related expenses.
 - 1.7.3. Productivity factors.
 - 1.7.4. Program support.
 - 1.7.5. Transportation.
 - 1.7.6. Administrative expenses.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

- 1.8. The Contractor shall:
- 1.8.1. Develop a rate setting methodology that takes into consideration a tiered waiver structure to identify, limit, and address instances where level of need does not align with current authorizations to promote equity.
 - 1.8.2. Develop tiered reimbursement rates to better align payment with level of need.
 - 1.8.3. Work with current BDS IT Remediation/Modernization contractor as their work intersects with the scope of this Agreement.
 - 1.8.4. Base the rate build up rate setting methodology on key costs associated with service delivery as provided to and in support of individuals with developmental disabilities and acquired brain disorders. The rate methodology must be able to be replicated by the State to ensure set rates are able to be adjusted with service types, intensity levels, and costs.
 - 1.8.5. Ensure provider rates adequately sustain needed provider capacity to transition to direct Medicaid billing.
 - 1.8.6. Ensure the system complies with federal waiver guidelines and allows for periodic objective assessments and updating of waiver rates and rate setting methodology.
- 1.9. The Contractor shall ensure the rate model results reflect the total amount of State funding necessary to fully fund services provided to individuals with developmental disabilities and acquired brain disorder. The Contractor shall ensure the model accounts for inflation and any future rate updates.
- 1.10. The Contractor shall use the Supports Intensity Scale (SIS) Health Risk Screening Tool (HRST), and/or additional standardized assessment tools or processes as approved by the Department, to assist in developing service agreements for individuals receiving services and funding allocations to set rates that maintain and incentivize the appropriate and needed service provider capacity. The Contractor shall:
- 1.10.1. Ensure the rate build up rate setting methodology provides flexibility in the support and services in order to ease financial concerns relative to care provided to individuals with developmental disabilities and acquired brain disorder.
 - 1.10.2. Ensure the rate build up rate setting methodology allows participants to relocate within the state without changes in service authorization, contract, or rate.
 - 1.10.3. Develop a model that increases providers' accountability and rate transparency with service authorizations and payments for direct support required for individuals within the developmental services

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

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system.

- 1.10.4. Develop a rate build up rate that promotes individual choice, to be approved by the Department.
- 1.11. The Contractor shall develop a rate build up rate setting impact analysis tool for use by the provider network to test proposed rates. The rate setting impact analysis tool must be designed to consider:
 - 1.11.1. Direct service professional wages based on:
 - 1.11.1.1. Data from a wage cost survey of providers;
 - 1.11.1.2. Bureau of Labor Statistics cost data;
 - 1.11.1.3. The Consumer Price Index; and
 - 1.11.1.4. A standardized assessment to reflect different levels of training and experience;
 - 1.11.2. Availability factors compiled from provider cost reports and informed by assumptions used for similar services in other states;
 - 1.11.3. Employee-related expenses;
 - 1.11.4. Program support costs;
 - 1.11.5. Administration costs compiled from provider cost reports;
 - 1.11.6. Staffing Ratios; and,
 - 1.11.7. Any other data points or factors that are approved by the Department.
- 1.12. The Contractor shall work with the provider network to ensure testing integrity.
- 1.13. The Contractor shall work with the Department to conduct an impact analysis to demonstrate the overall fiscal impact of new rates on program operations.
- 1.14. The Contractor shall collaborate with the Department to present findings from the rate build up rate setting process to key stakeholders that include, but are not limited to:
 - 1.14.1. Department leadership;
 - 1.14.2. New Hampshire Legislature;
 - 1.14.3. The Governor of the State of New Hampshire;
 - 1.14.4. Area Agencies and local service providers;
 - 1.14.5. Individuals with disabilities and acquired brain disorder and their families; and
 - 1.14.6. Other contractors working with the Department on related projects.
- 1.15. The Contractor shall ensure ongoing stakeholder engagement through

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facilitation of ongoing rate workgroup sessions with defined stakeholders in order to:

- 1.15.1. Inform and develop rate build up rate setting approaches, assumptions and activities;
 - 1.15.2. Design project goals that align with Department and stakeholder objectives;
 - 1.15.3. Define parameters for collecting data, and develop data benchmarks;
 - 1.15.4. Provide a forum for communication and collaboration between the Department and stakeholders;
 - 1.15.5. Provide a forum for additional provider community clinical experts as appropriate;
 - 1.15.6. Incorporate findings from the parallel waiver work group that affect rate setting; and
 - 1.15.7. Incorporate changes and/or updates from the parallel BDS IT Remediation/Modernization project that intersects with rate setting.
- 1.16. The Contractor shall use the following communication methods to receive and respond to questions and to provide information to stakeholders and the general public:
- 1.16.1. A dedicated email address; to be provided by the Department, for correspondence and questions;
 - 1.16.2. A secure file transfer protocol site (SFTP), provided by the Department,
 - 1.16.3. Documents with information pertinent to the rate build up and rate setting initiative, to be approved by the Department and published to the Department's website; and
 - 1.16.4. A list of frequently asked questions (FAQ), that will be updated and maintained by the Contractor, with input from stakeholders at workgroup sessions, to be approved by the Department and published to the Department's website.
- 1.17. The Contractor shall present preliminary rate models to provider workgroups, and other contractors working with the Department on related projects, with approval from the Department, to:
- 1.17.1. Ensure rate models capture the necessary elements of providing a unit of service;
 - 1.17.2. Understand the financial impact of the proposed rate model;
 - 1.17.3. Assess the accuracy rate model incentives or tiers, if applicable; and

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- 1.17.4. Document relevant feedback from providers.
- 1.18. The Contractor shall develop and analyze a cost reporting template that can be refined and standardized for Department use during and after the rate build up rate setting process, which must include, but is not limited to:
- 1.18.1.1. Direct staff wages for each staff level position.
 - 1.18.1.2. Employee-related expenses.
 - 1.18.1.3. Productivity factors.
 - 1.18.1.4. Program support expenses.
 - 1.18.1.5. Transportation expenses.
 - 1.18.1.6. Administrative expenses.
 - 1.18.1.7. Operating expenses.
 - 1.18.1.8. Non-reimbursable expenses.
- 1.19. The Contractor must work with the Department to develop rates to allow accurate cost reporting by service providers by:
- 1.19.1. Gathering feedback from the rate workgroup, including, but not limited to, input on:
 - 1.19.1.1. Labor costs, including employee-related expenses.
 - 1.19.1.2. Productivity models and estimates.
 - 1.19.1.3. Program support costs.
 - 1.19.1.4. Transportation costs.
 - 1.19.1.5. Administrative expenses.
- 1.20. The Contractor shall ensure the cost-reporting template identifies actual Medicaid allowable costs for providing and operating services provided to individuals for each qualifying service provider for the developmental services delivery system Home and Community-based care waivers.
- 1.21. The Contractor shall ensure rate build up rate setting methodologies, in the cost-reporting template, account for differing levels of services and/or supports needed for individuals receiving services.
- 1.22. The Contractor shall provide training on filing cost reports, and on rate methodology, for developmental services delivery system service providers, including, but not limited to:
- 1.22.1. Notifying developmental services delivery system service providers about the cost report, including the cost report filing due date.
 - 1.22.2. Providing instructions for downloading and completing the cost report, including providing any necessary back up data.

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- 1.22.3. Delivering presentations to providers across the care continuum.
- 1.22.4. Communicating with providers using methods to be approved by the Department to:
 - 1.22.4.1. Answer provider questions;
 - 1.22.4.2. Provide direction for accurate cost reporting;
 - 1.22.4.3. Address provider concerns during the filing process;
 - 1.22.4.4. Notify providers if filings are incomplete;
 - 1.22.4.5. Provide input to providers on their reported data;
 - 1.22.4.6. Disseminate any other information as requested and approved by the Department.
- 1.23. The Contractor shall provide developmental services delivery system service providers with:
 - 1.23.1. A schedule for planned cost report completion training and follow-up provider Q&A sessions; and
 - 1.23.2. A link to the internet site where frequently asked questions (FAQ) will be posted.
 - 1.23.3. Reminders to submit timely cost reports to the Department, when necessary.
 - 1.23.4. Additional training and question and answer sessions as needed, with approval from the Department
- 1.24. The Contractor shall track cost reports received by the Department from developmental services delivery system service providers using a status report document, which will be available to the Department upon request.
- 1.25. The Contractor shall develop and employ a data verification and analysis process for cost report data, to be approved by the Department, that includes, but is not limited to:
 - 1.25.1. Basic quality reviews, including, but not limited to:
 - 1.25.1.1. Re-footing.
 - 1.25.1.2. Checking formulas for accuracy.
 - 1.25.1.3. Reviewing filed cost reports to ensure they are complete.
 - 1.25.2. Tracing expenses in total to provider accounting records.
 - 1.25.3. Scanning account titles and excluding non-allowable expenses in accordance with the Provider Reimbursement Manual.
 - 1.25.4. Removing non-allowable expenses if needed, including a detailed explanation as to how and under what authority expenses are categorized as Medicaid non-allowable or Medicaid allowable.

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- 1.25.5. Scanning account titles to make sure the cost center classification is accurate.
- 1.25.6. Performing basic analytical procedures, including, but not limited to calculating total direct care wages and direct care hours.
- 1.25.7. Comparing hourly wages across filings to develop a range for consistency.
- 1.25.8. Establishing statewide cost element averages, and reviewing cost reports for outliers.
- 1.25.9. Benchmarking certain costs against specific data sources and like services as agreed upon with the rate work group and other external stakeholders.
- 1.25.10. Identifying anomalies in reported data and following up for clarification with the reporting developmental services delivery system service provider.
- 1.25.11. Updating data submitted by developmental services delivery system service providers based on the data verification procedures.
- 1.25.12. Flagging outlying cost or data elements for further review.
- 1.25.13. Excluding outlying cost report data, based on review of outlying data, as approved by the Department.
- 1.25.14. Compiling data results in a summary format for reporting purposes, with review and approval by the Department.
- 1.26. The Contractor shall validate claims data by comparing it to independent data sources, including, but not limited to:
 - 1.26.1. Provider cost data and supplement data collected through the cost report instrument.
 - 1.26.2. Department expenditures.
 - 1.26.3. The current fee schedule.
 - 1.26.4. Assessment data for the population served.
 - 1.26.5. Staffing Levels for Department services associated with the individual or setting if congregate services.
 - 1.26.6. The Bureau of Labor Statistics wage data for New Hampshire by region or area, and type of position for most recently available year.
- 1.27. The claims data validation process must include, but is not limited to:
 - 1.27.1. Volume and dollar checks over time to identify potential inconsistencies.
 - 1.27.2. Frequency analysis across all fields to fully account for the contents of the claims.

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- 1.27.3. Comparison to the same fee-for-service dataset for previous fiscal years.
- 1.28. The Contractor shall use a rate build up rate setting methodology selected by the Department, to provide a sample of the new rate methodology applied to one provider's cost, including:
 - 1.28.1. Modeling the provider's total expenditures, by service type, at a reimbursement level to be determined by the Department.
 - 1.28.2. Evaluating the direct impact of the selected rate methodology, and making adjustments to account for indirect changes, with approval from the Department, including, but not limited to, changes in consumer and provider behavior that may be caused by the projected rate changes.
 - 1.28.3. Developing a model to calculate the effect of potential behavioral changes, which must be done separately from reimbursement changes, to show the overall estimated impact to Department and provider budgets.
- 1.29. The Contractor shall develop new reimbursement rates, with approval from the Department, in conjunction with:
 - 1.29.1. Department staff, including the Department's Rate Setting unit; and
 - 1.29.2. Developmental services delivery system service providers through the provider workgroup.
- 1.30. The Contractor shall develop an implementation strategy for the new reimbursement rate in conjunction with developmental services delivery system service providers through the provider workgroup, with approval from the Department.
- 1.31. The Contractor shall train Department staff to:
 - 1.31.1. Use, implement and transition to the new cost reports, and
 - 1.31.2. Conduct costs during cost report reviews, including the rules and guidelines that will be followed to determine Medicaid allowable and Medicaid non-allowable costs.
- 1.32. The Contractor shall develop a final report, which must include, but is not limited to:
 - 1.32.1. An overview of each phase of the rate development process, including the methods and results of provider participation activities and how these activities shaped rate development.
 - 1.32.2. A description of the methods of data analysis performed on collected data and cost information.
 - 1.32.3. A description of the selected rate methodologies for each required service type, and the process for evaluating alternative

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methodologies.

1.32.4. An analysis of the process of developing rate models, selecting rate components and other necessary inputs, and the inclusion of any rate incentives.

1.32.5. A description of additional integrity measures taken to review and evaluate the service type rate models.

1.33. The Contractor shall provide services in accordance with Table 1.33.1-T, Work Plan below or as directed by the Department:

| Table 1.33.1-T | | | |
|---|--|---|-----------------|
| Rate Build-Up Rate Setting Work Plan | | | |
| Project Beginning on Agreement Effective Date through Completion Date | | | |
| Period: | | | |
| Calendar Days from Agreement Effective Date | | | |
| WBS | Deliverables | Task Name | Estimated Hours |
| Phase 1 - Research and Planning | | | 180 |
| 1.1 | Ongoing Administrative Activities - work plan updates, maintain decision matrix, and project status meetings. | | 26 |
| 1.2 | Project planning and request for information. | | 30 |
| 1.2.1 | | Submit data request to State. | |
| 1.2.2 | | Review current waivers, SPA, rules, program service definitions, etc. | |
| 1.2.3 | | Submit project plan and decision matrix to state for approval. | |
| 1.3 | Kick-off Meeting with BDS: Introductions, knowledge transfer, project overview, things to be aware of, goals/objectives, timeline, etc. | | 32 |
| 1.4 | Kick-off Meeting (#1) with Rate workgroup: introductions, background of workgroup, overview of rate setting methods, cost report development, solicit feedback on communication with stakeholders outside of workgroup, etc. | | 32 |
| 1.5 | Review service descriptions and previously defined cost components to include in cost report. | | 60 |
| 1.5.1 | | Identify what is included/excluded in the | |

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| | | service definitions and confirm how services are delivered. | | | |
| 1.5.2 | | Confirm services to be included in cost report and discuss current rate structure. | 7 | 44 | |
| 1.5.3 | | Identify requirements for rate basis (e.g., hourly, four hours, daily, etc.). | 7 | 44 | |
| 1.5.4 | | Identify training, education, and certification requirements for direct service staff. | 7 | 44 | |
| Phase 2 - Rate Methodology Evaluation and Data Collection Tools Development | | | 7 | 120 | 326 |
| 2.1 | Ongoing Administrative Activities - work plan updates, maintain decision matrix, and project status meetings. | | 7 | 120 | 46 |
| 2.2 | Develop draft cost report. | | 9 | 106 | |
| 2.2.1 | | Develop draft cost report and cost report instructions to include the rules/guidelines that will be followed in determining Medicaid allowable and Medicaid non-allowable costs during cost report review. | 9 | 106 | 100 |
| 2.2.2 | | Rate Workgroup Meeting 2: Review draft cost report and instructions. | 44 | 44 | 45 |
| 2.2.3 | | Collect feedback from workgroup on draft cost report and make changes for next meeting. | 61 | 61 | 15 |
| 2.2.4 | | Rate Workgroup; Meeting 3: Review revised draft cost report and instructions. | 72 | 72 | 45 |
| 2.2.5 | | Collect feedback from workgroup and make changes to draft cost report and instructions. | 89 | 89 | 15 |
| 2.2.6 | | Prepare final draft of cost report and instructions for Steering Committee review and approval. | 99 | 106 | 20 |
| 2.3 | Complete cost report, instructions, and training materials | | 106 | 120 | 0 |

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| 2.3.1 | Develop additional training materials as needed. | 106 | 120 | 15 |
| 2.3.2 | Finalize cost report and instructions based on Steering Committee feedback. | 106 | 120 | 15 |
| 2.3.3 | Post cost report and instructions on the Department's website for providers to access. | 120 | 120 | 10 |
| Phase B - Data Collection and Analysis | | 7 | 254 | 65 |
| B.1 | Ongoing Administrative Activities - work plan updates, maintain decision matrix, and project status meetings | 7 | 254 | 70 |
| B.2 | Deliver provider training for cost report completion and provide help desk for questions. | 139 | 191 | 0 |
| B.2.1 | Facilitate training webinar(s). | 139 | 139 | 24 |
| B.2.2 | Develop FAQ document. | 139 | 184 | 10 |
| B.2.3 | Monitor email and respond to provider questions. | 139 | 184 | 60 |
| B.2.4 | Monitor cost report response to determine services that need additional provider outreach. | 139 | 191 | 40 |
| B.3 | Review state information received. | 7 | 97 | |
| B.3.1 | Review BDS Program Change listing for impacts | 7 | 69 | 40 |
| B.3.2 | Review BDS expenditures and summarize for use in rate modeling | 7 | 97 | 80 |
| B.3.3 | Review BDS fee schedule and summarize as a reference for rate modeling | 7 | 69 | 40 |
| B.3.4 | Review assessment data and summarize for use in rate modeling | 7 | 97 | 56 |
| B.4 | Collect cost information for analysis. | 120 | 254 | |
| B.4.1 | Prepare cost report data extractor. | 120 | 184 | 20 |
| B.4.2 | Conduct data validation activities, including follow up with providers as necessary | 184 | 254 | 100 |
| B.4.3 | Research national and state data (BLS, other wage/salary, information, benefits) as | 7 | 69 | 20 |

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| | | necessary to supplement cost data | | | |
| 3.4.4 | | Review staffing levels for each service | 184 | 254 | 20 |
| 3.4.5 | | Conduct reasonableness checks for statistical outliers to be reviewed. | 184 | 254 | 25 |
| 3.4.6 | | Create final database(s) for model development. | 184 | 254 | 50 |
| Phase 4 - Rate Build Up Model, Fiscal Analysis Development and Implementation | | | 38 | 454 | 704 |
| 4.1 | Ongoing Administrative Activities - work plan updates, maintain decision matrix, and project status meetings | | 38 | 454 | 86 |
| 4.2 | Develop rate model | | 38 | 254 | |
| 4.2.1 | | Prepare rate model with component and service provision inputs. | 38 | 128 | 100 |
| 4.2.2 | | Summarize final model options for rate development | 128 | 158 | 30 |
| 4.2.3 | | Share final model options with BDS | 158 | 158 | 24 |
| 4.2.4 | | Collect feedback from BDS on model options and make revisions. | 158 | 189 | 20 |
| 4.2.5 | | Rate Workgroup Meeting #4: Review model assumptions. | 189 | 219 | 42 |
| 4.2.6 | | Collect feedback from workgroup to make changes to final model assumptions. | 219 | 250 | 20 |
| 4.3 | Prepare Draft Rates and Fiscal Impact | | 254 | 373 | 0 |
| 4.3.1 | | Develop rate recommendations and fiscal impact for review with State and work groups. Review for statistical outliers and determine need for policy adjustors. | 254 | 303 | 100 |
| 4.3.2 | | Share draft model options and rate recommendations with BDS | 303 | 317 | 32 |
| 4.3.3 | | Collect feedback from BDS to make changes for draft rate calculations. | 303 | 317 | 20 |
| 4.3.4 | | Rate Workgroup Meeting #5: Review rate calculations. | 317 | 331 | 42 |

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

| | | | | |
|--------------------------------------|--|-----|--------------|-------------|
| 4.3.5 | Collect feedback from workgroup for final rate calculations and make revisions as necessary. | 317 | 357 | 48 |
| 4.3.6 | Share final rate calculations and fiscal impact with BDS. | 357 | 357 | 16 |
| 4.3.7 | Collect feedback from BDS for final rate calculations and make revisions as necessary. | 357 | 373 | 20 |
| 4.3.8 | Finalize rate recommendations and fiscal impact. | 344 | 373 | 24 |
| 4.4 | Prepare Final Report | 254 | 454 | |
| 4.4.1 | Prepare Draft Final Report on rate model and rate recommendations. | 254 | 426 | 60 |
| 4.4.2 | Submit Draft Final Report to BDS for review. | 426 | 426 | |
| 4.4.3 | Revise report based on feedback and submit final. | 426 | 449 | 20 |
| 4.4.4 | Initiate formal public comment process as needed. | TBD | TBD | |
| 4.4.5 | Prepare provider briefings as needed. | TBD | TBD | |
| 4.4.6 | Deliver final report | 480 | 480 | |
| Phase 5 - Ongoing Maintenance | | TBD | TBD | 75 |
| | | | Total | 1940 |

- 1.34. The Contractor shall adhere to the following deliverables requirements:
 - 1.34.1. Deliverables due dates listed on the Rate Build-Up Rate Setting Work Plan in Table 1.33.1-T above or as determined by the Department.
 - 1.34.2. Staffing requirements as described in Subsection 1.39, below.
- 1.35. The Contractor shall actively and regularly collaborate with the Department to enhance contract management and improve results
- 1.36. The Contractor may be required to provide other key data and metrics to the Department, in a format specified by the Department.
- 1.37. The Contractor shall meet with the Department no less than once each week, which must include, but is not limited to:
 - 1.37.1. Participating in or facilitating meetings as requested by the Department.
 - 1.37.2. Developing an agenda for each meeting.
 - 1.37.3. Recommending materials for each meeting, when appropriate for

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

the specific meeting.

- 1.37.4. Providing summary sheets for each meeting that to describe specific topics for discussion, or options analyses that detail multiple options and the advantages and challenges of each option.
- 1.37.5. Maintaining the work plan and providing weekly project status updates to the Department.
- 1.38. The Contractor shall provide a written summary of each meeting to the Department no less than two (2) days after the meeting.
- 1.39. The Contractor shall provide a multidisciplinary team with subject matter expertise in Home and Community Based Care (HCBS) program policy and rate setting, state and federal policy and compliance, emerging health care programs, and payment transformation that must include, but is not limited to:
 - 1.39.1. A Project Director who shall:
 - 1.39.1.1.1. Oversee all aspects of services;
 - 1.39.1.1.2. Allocate necessary resources;
 - 1.39.1.1.3. Ensuring quality of all deliverables;
 - 1.39.1.1.4. Oversee operations; and
 - 1.39.1.1.5. Coordinate with other Contractor activities to avoid delays and bottlenecks.
 - 1.39.2. A Project Manager who shall:
 - 1.39.2.1. Act as the single point of contact for all Department communication;
 - 1.39.2.2. Provide daily oversight of Contractor activities;
 - 1.39.2.3. Manage all activities including, but not limited to:
 - 1.39.2.3.1. Communications.
 - 1.39.2.3.2. Staff assignments.
 - 1.39.2.3.3. Subcontracts.
 - 1.39.2.3.4. Scheduling.
 - 1.39.2.3.5. Planning.
 - 1.39.2.3.6. Implementation.
 - 1.39.2.3.7. Reporting.
 - 1.39.2.3.8. Communications.
 - 1.39.3. A Quality Assurance Manager who shall:

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

- 1.39.3.1. Perform quality assurance checks that promote adherence to contract compliance criteria and other management policies;
- 1.39.3.2. Oversee quality control reviews and processes;
- 1.39.3.3. Review deliverables; and
- 1.39.3.4. Monitor contract performance milestones.
- 1.39.4. A Senior Consultant who shall oversee the Contractor's project team and review deliverables.
- 1.39.5. A Senior Consultant who shall oversee subcontractor activities.
- 1.39.6. Five (5) Subject Matter Experts to provide subject matter expertise related to:
 - 1.39.6.1. Service delivery and design;
 - 1.39.6.2. Service definitions;
 - 1.39.6.3. Assessment and rate adjustments;
 - 1.39.6.4. Cost report design;
 - 1.39.6.5. Data analysis;
 - 1.39.6.6. Rate modeling;
 - 1.39.6.7. Modeling and designing variables; and
 - 1.39.6.8. Stakeholder communication plan development and implementation.
- 1.39.7. Two (2) Senior Accountants who shall:
 - 1.39.7.1. Perform testing procedures on various cost reports;
 - 1.39.7.2. Conduct supervisory reviews of staff accountant work; and
 - 1.39.7.3. Ensure rates are calculated in accordance with applicable regulatory requirements.
- 1.39.8. An Analytic Lead to lead rate model development who shall:
 - 1.39.8.1. Manage variables and design;
 - 1.39.8.2. Manage the stakeholder communication plan
 - 1.39.8.3. Manage rate modeling; and
 - 1.39.8.4. Perform reviews of analyst work.
- 1.39.9. A Consultant who shall:
 - 1.39.9.1. Lead development of deliverables;
 - 1.39.9.2. Create the stakeholder communication plan;

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

1.39.9.3. Support project management activities; and

1.39.9.4. Manage contract performance milestones.

1.39.10. An Analyst who shall:

1.39.10.1. Assist with rate model development;

1.39.10.2. Perform data intake and validation; and

1.39.10.3. Perform data analyses.

1.39.11. An Actuarial Analyst who shall:

1.39.11.1. Assist with rate model development;

1.39.11.2. Perform data intake and validation; and

1.39.11.3. Perform data analyses.

2. Exhibits Incorporated

2.1. The Contractor shall use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996; and in accordance with the attached Exhibit I, Business Associate Agreement, which has been executed by the parties.

2.2. The Contractor shall manage all confidential data related to this Agreement in accordance with the terms of Exhibit K, DHHS Information Security Requirements.

2.3. The Contractor shall comply with all Exhibits D through K, which are attached hereto and incorporated by reference herein.

3. Reporting Requirements

3.1. The Contractor shall submit monthly reports to the Department which include, but are not limited to:

3.1.1. A comprehensive summary of all deliverables and timelines on the project Work Plan, including, but not limited to:

3.1.1.1. Cumulative staff hours.

3.1.1.2. Estimated hours for the remainder of the project.

3.1.1.3. Any adjustments to staffing.

3.1.2. A description of any updates to or deviation from the Work Plan.

3.1.3. An estimation, in narrative form, of the effect of revisions to or deviations from the Work Plan on delivery of services.

3.1.4. A summary of activities planned for the next month.

3.1.5. A revised Work Plan for Department approval, when applicable.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

- 3.2. The Contractor shall submit a final report no later than 480 days after the Agreement Effective Date that must include, but is not limited to:
- 3.2.1. An overview of each phase of the rate development process, including the methods and results of provider participation activities and how these activities shaped rate development.
 - 3.2.2. A description of the methods of data analysis performed on collected data and cost information, including the rules/guidelines used to determine Medicaid allowable and Medicaid non-allowable costs on cost report review.
 - 3.2.3. A description of the selected rate methodologies for each required service type, and the process for evaluating alternative methodologies.
 - 3.2.4. An analysis of the process of developing rate models, selecting rate components and other necessary inputs, and the inclusion of any rate incentives.
 - 3.2.5. A description of additional integrity measures taken to review and evaluate the service type rate models.

4. Additional Terms

- 4.1. Impacts Resulting from Court Orders or Legislative Changes
- 4.1.1. The Contractor agrees that, to the extent future state or federal legislation or court orders may have an impact on the Services described herein, the State has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.
- 4.2. Federal Civil Rights Laws Compliance: Culturally and Linguistically Appropriate Programs and Services
- 4.2.1. The Contractor shall submit, within ten (10) days of the Agreement Effective Date, a detailed description of the communication access and language assistance services to be provided to ensure meaningful access to programs and/or services to individuals with limited English proficiency; individuals who are deaf or have hearing loss; individuals who are blind or have low vision; and individuals who have speech challenges.
- 4.3. Credits and Copyright Ownership
- 4.3.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Agreement shall include the following statement, "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 Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT B

New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services."

- 4.3.2. All materials produced or purchased under the Agreement shall have prior approval from the Department before printing, production, distribution or use.
- 4.3.3. The Department shall retain copyright ownership for any and all original materials produced, including, but not limited to:
 - 4.3.3.1. Brochures.
 - 4.3.3.2. Resource directories.
 - 4.3.3.3. Protocols or guidelines.
 - 4.3.3.4. Posters.
 - 4.3.3.5. Reports.
- 4.3.4. The Contractor shall not reproduce any materials produced under the Agreement without prior written approval from the Department.

5. Records

- 5.1. The Contractor shall keep records that include, but are not limited to:
 - 5.1.1. Books, records, documents and other electronic or physical 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.
 - 5.1.2. All records must 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.
- 5.2. During the term of this Agreement 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 Agreement for purposes of audit, examination, excerpts and transcripts. Upon the purchase by the Department of the maximum number of units provided for in the Agreement and upon payment of the price limitation hereunder, the Agreement and all the obligations of the parties hereunder (except such obligations as, by the terms of the Agreement are to be performed after the end of the term of this

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting.**

EXHIBIT B

Agreement and/or survive the termination of the Agreement) 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.

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C

Payment Terms

1. This Agreement is funded by general and federal funds as follows:
 - 1.1. 50% General funds.
 - 1.2. 50% Federal funds from the Medical Assistance Program, as awarded by the Centers for Medicare and Medicaid Services, CFDA #93.778, FAIN #2205NH5ADM.
2. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, and shall be in accordance with the approved line item, as specified in Exhibits C-1, Budget through Exhibit C-3, Budget.
3. The Contractor shall submit an invoice in a form satisfactory to the Department by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
4. The Contractor shall provide applicable backup documentation to support invoices upon request, including, but not limited to:
 - 4.1.1. General ledger showing revenue and expenses for the contract.
 - 4.1.2. Timesheets and/or time cards that support the hours employees worked for wages reported under this contract, subject to the following requirements:
 - 4.1.2.1. Per 45 CFR Part 75.430(i)(1) charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed; and
 - 4.1.2.2. Attestation and time tracking templates are approved by the Department.
 - 4.1.3. Invoices supporting expenses reported.
 - 4.1.4. Receipts for expenses within the applicable state fiscal year
 - 4.1.5. Cost center reports.
 - 4.1.6. Profit and loss report.
 - 4.1.7. Other financial information as requested by the Department.
 - 4.1.8. Unallowable expenses that may not be invoiced include, but are not limited to:
 - 4.1.8.1. Amounts prior to effective date of Agreement.
 - 4.1.8.2. Construction or renovation expenses.

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**New Hampshire Department of Health and Human Services
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EXHIBIT C

- 4.1.8.3. Food or water for employees.
- 4.1.8.4. Fines, fees, or penalties.
- 4.1.8.5. Cell phones and cell phone minutes for clients.
5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to dhhs.bdsinvoices@dhhs.nh.gov, or invoices may be mailed to:

BDS Financial Manager
Department of Health and Human Services
105 Pleasant Street
Concord, NH 03301
6. The Department 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, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.
7. The final invoice shall be due to the Department no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
8. The Contractor must provide the services in Exhibit B, Scope of Services, in compliance with funding requirements.
9. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services.
10. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.
11. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.
12. Audits
 - 12.1. The Contractor must email an annual audit to melissa.s.morin@dhhs.nh.gov if any of the following conditions exist:
 - 12.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C

- 12.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
- 12.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
- 12.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.
- 12.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.
- 12.4. In addition to, and not in any way in limitation of obligations of the Agreement, 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 Agreement to which exception has been taken, or which have been disallowed because of such an exception.
13. Maintenance of Fiscal Integrity:
- 13.1. In order to enable the Department to evaluate the Contractor's fiscal integrity, the Contractor agrees to submit to the Department monthly, the Balance Sheet, Profit and Loss Statement, and Cash Flow Statement for the Contractor and all related parties that are under the Parent Corporation. The Profit and Loss Statement shall include a budget column allowing for budget to actual analysis. These statements shall be individualized by providers, as well as a consolidated (combined) statement that includes all subsidiary organizations. Statements shall be submitted within thirty (30) calendar days after each month end.
- 13.2. The Contractor agrees to financial performance standards as follows:
- 13.2.1. Days of Cash on Hand:
- 13.2.1.1. Definition: The days of operating expenses that can be covered by the unrestricted cash on hand.
- 13.2.1.2. Formula: Cash, cash equivalents and short-term investments divided by total operating expenditures, less depreciation/amortization and in-kind plus principal payments on debt divided by

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C

days in the reporting period. The short-term investments as used above must mature within three (3) months and should not include common stock.

13.2.1.3. Performance Standard: The Contractor shall have enough cash and cash equivalents to cover expenditures for a minimum of thirty (30) calendar days with no variance allowed.

13.2.2. Current Ratio:

13.2.2.1. Definition: A measure of the Contractor's total current assets available to cover the cost of current liabilities.

13.2.2.2. Formula: Total current assets divided by total current liabilities.

13.2.2.3. Performance Standard: The Contractor shall maintain a minimum current ratio of 1.5:1 with 10% variance allowed.

13.2.3. Debt Service Coverage Ratio:

13.2.3.1. Rationale: This ratio illustrates the Contractor's ability to cover the cost of their current portion of their long-term debt.

13.2.3.2. Definition: The ratio of Net Income to the year to date debt service.

13.2.3.3. Formula: Net Income plus Depreciation/Amortization Expense plus Interest Expense divided by year to date debt service (principal and interest) over the next twelve (12) months.

13.2.3.4. Source of Data: The Contractor's Monthly Financial Statements identifying current portion of long-term debt payments (principal and interest).

13.2.3.5. Performance Standard: The Contractor shall maintain a minimum standard of 1.2:1 with no variance allowed.

13.2.4. Net Assets to Total Assets:

13.2.4.1. Rationale: This ratio is an indication of the Contractor's ability to cover their liabilities.

**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C

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- 13.2.4.2. Definition: The ratio of the Contractor's net assets to total assets.
 - 13.2.4.3. Formula: Net assets (total assets less total liabilities) divided by total assets.
 - 13.2.4.4. Source of Data: The Contractor's Monthly Financial Statements.
 - 13.2.4.5. Performance Standard: The Contractor shall maintain a minimum ratio of .30:1, with a 20% variance allowed.
 - 13.2.5. In the event that the Contractor does not meet the requirements below, the Department may require the Contractor to submit a comprehensive corrective action plan within thirty (30) calendar days of notification that Section 13.2.5.1 and 13.2.5.2 has not been met.
 - 13.2.5.1. The standard regarding Days of Cash on Hand and the standard regarding Current Ratio for two (2) consecutive months; or
 - 13.2.5.2. Three (3) or more of any of the Maintenance of Fiscal Integrity standards for one (1) consecutive month.
 - 13.2.6. The Department may require that the Contractor meet with Department staff to explain the reasons that the Contractor has not met the standards.
 - 13.2.7. The Department may request additional information to assure continued access to services. The Contractor shall provide requested information in a timeframe agreed upon by both parties.
 - 13.2.8. The Contractor shall update the corrective action plan at least every thirty (30) calendar days until compliance is achieved. If the compliance is not achieved within six (6) months, the Department may withhold funding in whole or in part.
 - 13.2.9. The Contractor shall inform the Department by phone and by email within twenty-four (24) hours of when any key Contractor staff learn of any actual or likely litigation, investigation, complaint, claim, or transaction that may reasonably be considered to have a material financial impact on and/or materially impact or impair the ability of the Contractor to perform under this Agreement.
 - 13.2.10. The monthly Balance Sheet, Profit & Loss Statement, Cash Flow Statement, and all other financial reports shall be based

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**New Hampshire Department of Health and Human Services
Rate Build Up Rate Setting**

EXHIBIT C

on the accrual method of accounting and include the Contractor's total revenues and expenditures whether or not generated by or resulting from funds provided pursuant to this Agreement. These reports are due within thirty (30) calendar days after the end of each month.

13.3. Contractors Request for Extension of Financial Filing Deadlines:

13.3.1. If the Contractor is unable to submit within 30 days, then the Contractor shall submit a request for an extension of the filing deadline as follows:

13.3.1.1. Requests shall be made in writing;

13.3.1.2. Requests shall be sent to the Director or designee;

13.3.1.3. Requests shall be received no later than 20 days prior to the filing deadline; and

13.3.1.4. Requests shall include the following:

13.3.1.4.1. Contact information;

13.3.1.4.2. Reason for requesting the extension;
and

13.3.1.4.3. New requested deadline.

13.3.2. The request for extension may be granted if there are unforeseen situations that are beyond the Contractor and/or their subcontractors' control that prevent them from preparing the facilities fiscal information.

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Lunenburg Budget

New Hampshire Department of Health and Human Services

Contractor Name: Myers and Stauffer LLC
 Project Title: Rate Build Up Rate Setting, RFP 2021-01-150-00-RATE-01
 Budget Period: February 1, 2022 - June 30, 2022

| Line Item | Year 1 Program Cost | | | Consumer Share / Misc S | | | Funded by Other Sources (Show) | | |
|--------------|---------------------|----------|-----------|-------------------------|----------|-------|--------------------------------|----------|-----------|
| | Direct | Indirect | Total | Direct | Indirect | Total | Direct | Indirect | Total |
| 1. Personnel | 11,877.00 | | 11,877.00 | | | | 11,877.00 | | 11,877.00 |
| 2. Materials | | | | | | | | | |
| 3. Services | | | | | | | | | |
| 4. Travel | | | | | | | | | |
| 5. Other | | | | | | | | | |
| 6. Total | 11,877.00 | | 11,877.00 | | | | 11,877.00 | | 11,877.00 |
| 7. Total | 11,877.00 | | 11,877.00 | | | | 11,877.00 | | 11,877.00 |
| 8. Total | 11,877.00 | | 11,877.00 | | | | 11,877.00 | | 11,877.00 |

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 2/17/2022

Table C-1, Budget

New Hampshire Department of Health and Human Services

Contractor Inmate Meals and Bedding LC

Project Title: Rule Build up Rule Setting, BPA 2022-01, T1A-00-A12A-01

Budget Period: July 1, 2022 - June 30, 2023

| Line Item | Fiscal Program Cost | | | Contractor Salary/Market | | | Funded by Other Sources | | |
|--------------|---------------------|----------|-----------|--------------------------|----------|-------|-------------------------|----------|-----------|
| | Direct | Indirect | Total | Direct | Indirect | Total | Direct | Indirect | Total |
| 1. Personnel | 11,827.00 | | 11,827.00 | | | | 11,827.00 | | 11,827.00 |
| 2. Materials | | | | | | | | | |
| 3. Services | | | | | | | | | |
| 4. Travel | | | | | | | | | |
| 5. Other | | | | | | | | | |
| 6. Total | 11,827.00 | | 11,827.00 | | | | 11,827.00 | | 11,827.00 |
| 7. Total | 11,827.00 | | 11,827.00 | | | | 11,827.00 | | 11,827.00 |

Calculated as a Percent of Total


1/3/2022

New Hampshire Department of Health and Human Services
Exhibit D



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

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New Hampshire Department of Health and Human Services
Exhibit D

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:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member



New Hampshire Department of Health and Human Services
Exhibit E

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:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member

DS
AP

Vendor Initials

1/3/2022

Date

New Hampshire Department of Health and Human Services
Exhibit F



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The Contractor 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

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New Hampshire Department of Health and Human Services
Exhibit F



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 (1)(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.

Contractor Name:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member

AP

Contractor Initials

Date 1/3/2022

New Hampshire Department of Health and Human Services
Exhibit G



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

The Contractor 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:

Contractor 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.

Exhibit G

Contractor Initials

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Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower Protections



New Hampshire Department of Health and Human Services
Exhibit G

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 Contractor 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 Contractor agrees to comply with the provisions indicated above.

Contractor Name:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member

Exhibit G

Contractor Initials

AP

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

New Hampshire Department of Health and Human Services
Exhibit H



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 Contractor 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 Contractor 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.

Contractor Name:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member

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New Hampshire Department of Health and Human Services



Exhibit I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor 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 Contractor and subcontractors and agents of the Contractor 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, Title XIII, 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.

New Hampshire Department of Health and Human Services



Exhibit I

- 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

3/2014

Contractor Initials

1/3/2022
Date

New Hampshire Department of Health and Human Services



Exhibit I

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:

- o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- o The unauthorized person used the protected health information or to whom the disclosure was made;
- o Whether the protected health information was actually acquired or viewed
- o 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 (I). 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

3/2014

Contractor Initials RP

Date 1/3/2022

New Hampshire Department of Health and Human Services



Exhibit I

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

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New Hampshire Department of Health and Human Services



Exhibit I

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.

New Hampshire Department of Health and Human Services



Exhibit I

- 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) i, 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
 The State of
 Christine Santaniello
 Signature of Authorized Representative
 Christine Santaniello
 Name of Authorized Representative
 Associate Commissioner
 Title of Authorized Representative
 1/3/2022
 Date

Myers and Stauffer LC
 Name of the Contractor
 Amy Perry
 Signature of Authorized Representative
 Amy Perry
 Name of Authorized Representative
 Member
 Title of Authorized Representative
 1/3/2022
 Date

New Hampshire Department of Health and Human Services
Exhibit J



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 Contractor 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 Contractor 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.

Contractor Name:

1/3/2022

Date

DocuSigned by:

Amy Perry

Name: Amy Perry

Title: Member

Contractor Initials

AP

Date 1/3/2022



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FORM A

As the Contractor 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: 04-4986685
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?

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: _____ |

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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 attempts (either failed or successful) 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

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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

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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 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

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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 data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under 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

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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.).

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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

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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 established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doi/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Security Officer of any security breach immediately, at the email addresses provided in Section VI. 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.

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- 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, 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.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and Security Officer of any Security Incidents and Breaches immediately, at the email addresses provided in Section VI.

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

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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