Minnesota Department of Human Services
Disability Services Division

Request for Proposals for Qualified Grantee(s) to Provide Innovative Solutions for People with Disabilities to Achieve Integrated Life Outcomes

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I. Introduction

A. Purpose of Request

The Minnesota Department of Human Services, through its Disability Services Division (State), is seeking proposals from qualified responders to achieve outcomes for people with disabilities in Minnesota in integrated competitive employment, living in the most integrated setting, and increased community integration.

The Minnesota Legislature authorized and funded these efforts in 2015 Laws of Minnesota, Chapter 71, Article 7, Section 55. The grants are intended to stimulate innovative solutions by providing incentives for achieving these outcomes.

Available Funding. During State Fiscal Year (SFY) 2017 it is estimated that approximately $900,000 will be available for all proposals funded under this RFP, with an expected additional $1 million available each year after. The State anticipates awarding contracts to 5-15 qualified Responders. The funding available need not be equally split among successful Responders. The State may, in its discretion, award more funding to one successful Responder than the other.

Note: There will be additional solicitations for the use of innovation incentive funds forthcoming for FY2017.

B. Objective of this RFP

The objective of this RFP is to contract with a qualified responder(s) to perform the tasks and services set forth in this RFP. The term of any resulting contract is anticipated to be for a period of time between one and three years from August 1, 2016 until June 30, 2017. The minimum initial award per year for this solicitation is $50,000.

Proposals must be submitted by 4:00 p.m. Central Time on Friday, July 1, 2016. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest. All costs incurred in responding to this RFP will be borne by the responder.

C. Background

In 2015, the Minnesota Legislature authorized the Minnesota Department of Human Services to provide incentives for innovation in achieving integrated competitive employment, living in the most integrated setting, and other outcomes determined by the commissioner for people with disabilities in Minnesota. DHS has identified increased community integration for people with disabilities as the third goal of this project. DHS will contract with one or more entities to provide incentive payments for meeting identified outcomes.

Responders should consider pay for performance ideas and models that utilize outcome-based payments. For the purpose of this RFP, outcome-based payments consist of financial incentives based on the outcomes proposed, produced and achieved. DHS is also interested in how this service model may be expanded in the future.
Minnesota Olmstead Plan
The goals of the Home and Community Based Services (HCBS) Incentive Pool align closely with the goals laid out in Minnesota’s Olmstead plan. The Olmstead Plan is a series of key activities Minnesota must accomplish to ensure people with disabilities are living, learning, working, and enjoying life in the most integrated setting. The Plan will help achieve a better Minnesota for all Minnesotans, because it will help Minnesotans with disabilities have the opportunity, both now and in the future to:

- Live close to their family and friends;
- Live more independently;
- Engage in productive employment; and
- Participate in community life.

In short, the Olmstead Plan offers Minnesotans with disabilities opportunities just like everyone else. Key elements to achieving these outcomes are integrated, accessible and affordable housing options, integrated competitive employment, and community integration. Each of these is described below.

Housing
This project uses the vision statement for housing in Minnesota’s Olmstead Plan. People with disabilities will choose where they live, with whom, and in what type of housing. They can choose to have a lease or own their own home and live in the most integrated setting appropriate to their needs. Supports and services will allow sufficient flexibility to support individuals’ choices on where they live and how they engage in their communities.

For Home and Community Supports (HCS), “own home” is defined as a setting that a participant owns, rents or leases in which the participant has full control of their housing and full choice of service providers. The service provider shall not have direct or shared financial interest in the participant’s own home. An own home does not include a service provider owned, leased or operated setting.

Employment
This project uses the vision statement for employment in Minnesota’s Olmstead Plan. People with disabilities will have choices for competitive, meaningful, and sustained employment in the most integrated setting. Minnesota has adopted an Employment First policy that supports competitive, integrated employment for people with disabilities.

The Employment First Policy envisions a future where all people with disabilities can achieve competitive, integrated employment. Competitive employment means:

- Full-time, part-time, or self-employment with and without supports;
- In the competitive labor force;
- On the payroll of a competitive business or industry; and
- Pays at least minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by workers without a disability.

Three core values ground the Minnesota Employment First Policy. These core values reflect that people with disabilities, including people who have complex and significant disabilities:
• Want to work;
• Can be competitively employed or self-employed, earning at least the minimum wage and benefits; and
• Should be fully integrated physically, functionally and socially within the workplace.

Community Integration
In the Olmstead decision, the U.S. Supreme Court ruled that states must eliminate unnecessary segregation of persons with disabilities and ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs. This project uses the vision statement for community engagement in Minnesota’s Olmstead Plan. People with disabilities will have the opportunity to fully engage in their community and connect with others in ways that are meaningful and aligned with their personal choices and desires.

Community engagement is one way to measure the level of integration. All Americans have a right to engage in activities of their choosing that help them connect with other people and give them greater control over their lives, such as building friendships and relationships with people they choose, joining a faith community, volunteering or taking on a leadership role with a neighborhood organization, attending cultural events, or participating in community decision-making (for example, voting).

Person-Centered
People must have the opportunity for meaningful choice and self-determination. In plans that are person-centered, the person is the primary focus rather than the disability, service, or some other issue. Person-centered thinking serves as a foundation for everyone who is involved in supporting people with disabilities. It offers specific ways to discover and balance:

• What is important to a person
• What is important for a person

II. Scope of Work
A. Overview

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

The goal of this project is to draw upon the knowledge and creativity of organizations in their ability to serve people with disabilities. The State is seeking to draw on this knowledge and creativity by paying for models of innovation that lead successful Responders to achieve outcomes for people with disabilities in Minnesota. The State is interested in proposals that include specific strategies to achieve any or all of the three Olmstead goals from outlined below.

• Integrated, competitive employment,
• Living in the most integrated setting in the community,
• Community integration

DHS is looking for proposals that will impact people across the state. Proposals that address the needs of people of color, people who have a primary language other than English, and other focused groups of people of with disabilities are encouraged. All partners are encouraged to strengthen their community relationships with diverse populations whose ethnic, cultural, language, social, sexual, gender or residential status or other factors which indicate that specialized services will aid the population(s) in reaching their full potential.

The State is committed to ensuring that any proposed service development is sustainable into the future. Proposed innovations should have the potential to be replicable and implemented throughout in Minnesota.

B. Tasks Deliverables

Successful Responders under this RFP will be expected to:
• Create and submit to the State a project implementation plan that describes the outcomes of the project and how the outcomes will be achieved.
• Provide evidence of progress in achieving the goals/outcomes of the project as outlined in the project’s implementation plan
• Provide the State quarterly project status reports, including project-specific performance measurement results, in a timely manner
• Submit data as needed to help the State better understand the financial implications of a specified strategy.
• Meet timelines specified in the proposal.
• Share lessons learned and best practices with other selected grantees.
• Attend and participate in the biennial DHS Age and Disabilities Odyssey Conference.
• Comply with all applicable federal, state and local laws
• All products and services developed must meet the State of Minnesota accessibility standards and guidelines. The goal of the Accessibility Standard is to improve the accessibility and usability of information technology products and services for all users. The standard incorporates the Web Content Accessibility Guidelines 2.0 and Section 508 of the Rehabilitation Act of 1973.

III. Proposal Format

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

A. Required Proposal Contents
Responses to this RFP must consist of all of the following components (See following sections for more detail on each component). Each of these components must be separate from the others and uniquely identified with labeled tabs.

A. Table of Contents

B. Proposal Requirements
1. Executive Summary
2. Description of the Applicant
3. Description of Target Population
4. Project Goals and Evaluation Plan
5. Project Activities and Implementation Plan
6. Budget Proposal
7. Professional Responsibility
8. Innovative Concepts

C. Required Statements
1. Responder Information and Declarations
2. Exceptions to Terms and Conditions
3. Affidavit of Noncollusion
4. Trade Secret/Confidential Data Notification
5. Submission of Certified Financial Audit, IRS Form 990, or Most Recent Board-Reviewed Financial Statements
6. Disclosure of Funding Form
7. Human Rights Compliance
   A. Affirmative Action Data Page
   B. Equal Pay Certificate

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

B. Proposal Requirements

The following will be considered minimum requirements of the proposal emphasis should be on completeness and clarity of content. All proposals submitted under this RFP must address, in sufficient detail, how the Responder will fulfill the expected outcomes outlined in this RFP. Simply repeating the outcomes and asserting that they will be performed is not an acceptable response.

The Responders’ Proposal will be evaluated on the following eight components. Proposal submitted by the Responder will be evaluated separately and scored in accordance with the point allocations set forth below and in Section V.C(2) “Phase 2 – Evaluation of Proposals.” There is a maximum of 100 total possible points available for the Proposal submitted by the Responder.

1. Executive Summary (5 points). This component of the proposal should demonstrate the Responder’s understanding of the services requested in this RFP and any problems anticipated in accomplishing the work. The Executive Summary should show the Responder’s overall design of the project in response to achieving the deliverables as defined in this RFP.
Specifically, the proposal should demonstrate the Responder's familiarity with the project elements, its solutions to the problems presented and knowledge of the proposed services.

2. Description of the Applicant (10 Points).
   
   A. This section must include information on the proposed scope of activities of the Responder, the number of people served, geographic area served, experience and accomplishments in providing integrated housing, competitive employment, and community integration.

   B. Responders should include reasons why they are capable to effectively complete the services outlined in the RFP.

   C. Responders should include a brief history of their organization and all strengths that they consider an asset.

   D. The Responder should demonstrate the length, depth, an applicability of all prior experience in providing the proposed services and in achieving the proposed outcomes. The responder should also demonstrate the skill and experience of lead staff and designate a project manager with experience in planning and providing the proposed services.

   E. Responders are encouraged to develop partnerships and collaborations to build capacity in these areas. Describe the roles of each participating organization in the proposal.

   F. Letters of reference may be included as appendices in the proposal.

3. Description of Target Population (5 Points).
   
   A. Describe the level of need for services in your community and what group or groups of individuals will be targeted for services by the program. Discuss whether your program and activities will have a local, regional or statewide impact.

   B. Describe the services provided and outreach methods that will be used to effectively reach target populations. Include description of referral systems, staff experience, and other methodologies to reach the target population. Discuss how your programs and activities will positively impact the target population; you may provide examples, performance measures, and desired outcomes.

   C. Discuss how people with disabilities will be engaged in the proposed project. If proposing an outcome in community integration - please explain how the community at large will be engaged, various sectors represented, and the expected impact.

   D. As a component of its response, Responder may attach a completed “Qualification as a Targeted Organization” form, available at DHS Grants and RFPs website and explain how Responder’s qualification as a Targeted Organization uniquely improves its ability to provide services to the Target Population.
4. **Project Goals and Evaluation Plan (15 Points).**

   A. This section should clearly define and discuss the goals and objectives of the project. Propose and describe specific milestones and outcomes that will be used to demonstrate the program’s effectiveness. Describe the projects proposed outcomes and explain how the outcome will be measured. Explain how this project will achieve person-centered outcomes and the impact the project may have on other life outcomes important to people receiving supports. Identify the expected number of people to be served.

   B. The State is committed to funding services that produce a measurable result for the people of Minnesota. A successful responder must develop indicators of the success and effectiveness of the program and be able to measure and evaluate them to determine outcomes. This section should describe the methods and criteria that will be used to measure whether the project goals have been achieved. Describe how you will be evaluating what is working and what is not working for both process and outcomes.

   C. Responders should propose performance measures that address both the quality and efficiency of services. DHS uses Results-Based Accountability which asks the following three questions to develop performance measures. Responders are encouraged to use these questions in developing performance measures for their proposals.
   - How much did we do?
   - How well did we do it?
   - Is anyone better off?

5. **Project Activities and Implementation Plan (20 Points).**

   A. All proposals submitted under this RFP must address, in sufficient detail, how the responder will fulfill the expected outcomes and features set forth above. Simply repeating the outcomes and features and asserting that they will be performed is not an acceptable response. This section should detail how the project will be carried out in an effective and efficient manner, including who will be involved, what resources are required, target dates for project activities and the timeframe for completion.

   B. Responders should provide a description of the program design you propose to implement. Identify any current constraints to implementing this proposal through current disability services waivers or state plan services. Please explain how the community will be engaged in the project. The implementation plan should include estimated milestone dates and deliverables.

   C. Responders should explain how the project will be implemented in a person-centered way. Services and strategies should be individualized and flexible to balance the unique needs of each person the Responder may serve. Approaches and outcomes proposed by Responders must be person-centered and demonstrate how the services and strategies described will be tailored to people’s unique wants and needs.
6. **Budget proposal.**

   A. This section should specify the grant amount requested and detail all expenses for the proposed project. Describe and explain what the estimated costs pay for. Identify what other ancillary services are being provided that have costs with them and which components are essential to delivering minimum quality services. Include a budget narrative for the applicant and each subcontracting agency. Explain the proposed use of the grant funds and matching funds. Your explanation should provide sufficient detail to justify the total amount budgeted in each category.

   B. Describe and explain how your proposal and expenditure of these grant dollars are not duplicative of current waiver services. Budget narrative should explain payments related to activities as distinct from payments for achieving outcomes. Explain what milestones in the project will trigger payments.

   C. The program budget must be complete and reasonable, must link to the proposed program activities, and must specify how the amounts for each budget item were determined. Responders are encouraged to apply for only the amount needed for their proposed programs. The total available funds will not necessarily be divided equally, nor will selected applicants be guaranteed the entire amount requested. **Budget proposals will be judged on efficient use of funds (that is, funds are being spent on direct services versus administrative costs, as detailed in their budget proposal) and overall cost-effectiveness.**

7. **Professional Responsibility.**

   A. It is crucial that the State locate reliable grantees to serve our fellow Minnesotans. The successful responder must be professionally responsible. Therefore, responders must include in their proposals satisfactory information regarding their professional responsibility. For purposes of this RFP professional responsibility means being currently in good standing with any licensing/regulatory organizations or certifications held by the applicant.

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

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

   D. The information collected from these inquiries will be used in the State’s determination of the award of the contract. It may be shared with other persons within the Minnesota Department of Human Services who may be involved in the decision-making process, or with other persons as authorized by law. You are not required to provide any of the
above information. However, if you choose not to provide the requested information, your organization’s proposal may be found nonresponsive and given no further consideration. The State reserves the right to request any additional information to assure itself of a responder’s professional status.

8. **Innovative Concepts.** The detailed needs and requirements for Responders described in this RFP are not intended to limit the responder’s creativity in preparing a proposal. Responders should submit innovative ideas, new concepts, partnership arrangements, and optional features to address the needs and requirements stated in this RFP. If the idea is an adaptation of an existing program, please describe how it will be modified or adapted from the original model.

Please explain how the proposed idea is innovative compared to the current policy and practices for disability services. Describe how the proposed model is expected to be more effective than current practice in achieving person-centered outcomes in integrated housing, integrated competitive employment, and/or community integration for people with disabilities in Minnesota.

C. **Required Statements**

Complete the correlating forms found in eDocs\(^1\) by searching for the form numbers referenced below, or pasting the form file path name found in the footnotes below to your browser, and submit them as the “Required Statements” section of your proposal. You must use the current forms found in eDocs. Failure to use the most current forms found in eDocs in completion of the proposal are at the responder’s risk and may, at the discretion of the State, result in disqualification of the proposal for nonresponsiveness.”

1. **Responder Information and Declarations (Responder Information/Declarations Form DHS-7020-ENG)\(^2\).** Complete and submit the attached “Responder Information and Declarations” form. If you are required to submit additional information as a result of the declarations, include the additional information as part of this form.

2. **Exceptions to RFP Terms (Exceptions to Terms and Conditions Form DHS-7019-ENG)\(^3\).** The contents of this RFP and the proposal(s) of the successful responder(s) may become part of the final contract if a contract is awarded. Each responder’s proposal must include a statement of acceptance of all terms and conditions stated within this RFP or provide a detailed statement of exception for each item excepted by the responder. **Responders who object to any condition of this RFP must note the objection on the attached “Exceptions to RFP Terms” form. If a responder has no objections to any terms or conditions, the responder should write “None” on the form.**

Responder should be aware of the State’s standard contract terms and conditions in preparing its response. A sample State of Minnesota, Department of Human Services, Grant Contract is attached in the Appendix for your reference. Much of the language reflected in

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\(^1\) http://mn.gov/dhs/general-public/publications-forms-resources/edocs/index.jsp
\(^2\) https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7020-ENG
\(^3\) https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7019-ENG
the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

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

3. **Affidavit of Noncollusion (Affidavit of Noncollusion Form- DHS-7021)**. Each responder must complete and submit the attached “Affidavit of Noncollusion” form.

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

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

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

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

c. satisfy the burden to justify any claim of trade secret/confidential information. In order for a trade secret claim to be considered by the State, detailed justification that satisfies the statutory elements of Minnesota Statutes, section and the factors discussed in Prairie Island Indian Community v. Minnesota Dept. of Public Safety, 658 N.W.2d 876, 884-89 (Minn.App.2003) must be provided. Use of generic trade secret language encompassing substantial portions of the proposal or simple assertions of trade secret

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4 [https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7021-ENG](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7021-ENG)

5 [https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7015-ENG](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7015-ENG)
interest without substantive explanation of the basis therefore will be regarded as nonresponsive requests for trade secret exception and will not be considered by the State in the event of a data request is received for proposal information; and

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

The State reserves the right to reject a claim if it determines responder has not met the burden of establishing that the information constitutes a trade secret or is confidential. The State will not consider prices or costs submitted by the responder to be trade secret materials. Any decision by the State to disclose information designated by the responder as trade secret/confidential will be made consistent with the Minnesota Government Data Practices Act and other relevant laws and regulations. If certain information is found to constitute a trade secret/confidential, the remainder of the Proposal will become public; only the trade secret/confidential information will be removed and remain nonpublic.

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

5. Submission of Certified Financial Audit, IRS Form 990, or Most Recent Board-Reviewed Financial Statements. The successful responder must be fiscally responsible. Therefore, responders must include in their proposals sufficient financial documentation to establish their financial stability.

IRS Form 990s. If a responder is a not-for-profit organization that completed an IRS Form 990 in 2015, responder must include its Form 990.

If responder is concerned that its 2015 IRS Form 990 does not demonstrate its fiscal responsibility, it may supplement its proposal with any of the additional material described below. An IRS Form 990 is a federal tax return for nonprofit organizations. Nonprofit organizations that are recognized as exempt from federal income tax must file a Form 990 or Form 990 EZ if it has averaged more than $25,000 in annual gross receipts over the past three tax years.

Organizations without 2015 IRS Form 990s.
(1) Organizations that have not completed an IRS Form 990 should submit a certified financial audit if they have one. A certified financial audit is a review of an organization’s financial statements, fiscal policies and control procedures by an independent third party to determine if the statements fairly represent the organization’s financial position and if organizational procedures are in accordance with Generally Accepted Accounting Principles (GAAP). Any organization with an annual revenue greater than $750,000 is required to have a certified financial audit completed for any fiscal year in which they have total revenue of more than $750,000.

(2) If the organization does not have a certified financial audit, the organization must submit its most recent board-review financial statements if it has a board.

(3) If the organization does not have a certified financial audit or board-reviewed financial statements because it does not have a board, the organization should submit a certified statement of assets and debts (balance sheet) and evidence of cash flow including amounts in a checking account.

Responders may also include documentation of cash reserves to carry you through shortages or delays in receipt of revenue, or any other documents sufficient to substantiate responsible fiscal management.

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

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

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

The information collected from these inquiries will be used in the State’s determination of the award of the contract. It may be shared with other persons within the Minnesota Department of Human Services who may be involved in the decision-making process, and/or with other persons as authorized by law. If you choose not to provide the requested information, your organization’s proposal will found nonresponsive and given no further consideration. The State reserves the right to request any additional information to assure itself of a responder's financial reliability.
6. **Disclosure of Funding Form** *(Disclosure of Funding Form- DHS-7018-ENG)*. Per the Federal Funding Accountability and Transparency Act of 2006 “Transparency Act” or “FFATA” (Public Law 109-282), all entities and organizations receiving federal funds are required to report full disclosure of funding (United States Code, title 31, chapter 61, section 6101). The purpose of FFATA is to provide every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards to be made available to the public through a single, searchable website. Federal awards include grants, sub-grants, loans, awards, and delivery orders.

In order to comply with the federal statute, the Minnesota Department of Human Services is required to obtain and report by the grantee’s Data Universal Numbering System (DUNS) number and determine if the grantee meets specific requirement which would require additional reporting items and to collect additional information on executive compensation if required. In order to comply with federal law and to collect this information, responders are required to fill out the Disclosure of Funding Form and submit it with their response. The form requires responders to provide their Data Universal Numbering System (DUNS) number. The Data Universal Numbering System (DUNS) number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. If a responder does not already have a DUNS number, a number may be obtained from the D&B by telephone (currently 866-705-5711) or the Internet (currently at http://fedgov.dnb.com/webform). The responder must have a DUNS number before their response is submitted.

7. **Human Rights Compliance.**

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

   **B. Equal Pay Certificate.** *(Equal Pay Certificate Compliance – DHS -7075-ENG)*

   1. **Scope.** Pursuant to Minnesota Statutes, section 363A.44, the State shall not execute a contract for goods or services or an agreement for goods or services in excess of $500,000 with a business that has 40 or more full-time employees in the State of Minnesota or a state where the business has its primary place of business on a single day during the prior 12 months, unless the business has an equal pay certificate or it has certified in writing that it is exempt.

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6 https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7018-ENG
7 https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7016-ENG
8 https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7075-ENG
This section does not apply to a business, with respect to a specific contract, if the commissioner of administration determines that the requirements of this section would cause undue hardship on the business. This section does not apply to a contract to provide goods or services to individuals under Minnesota Statutes, chapters 43A, 62A, 62C, 62D, 62E, 256B, 256I, 256L, and 268A, with a business that has a license, certification, registration, provider agreement, or provider enrollment contract that is a prerequisite to providing those good or services.

2. **Application.** If your response to this RFP is or could be within the scope of Minnesota Statutes, section 363A.44, you must apply for an equal pay certificate by paying a $150 filing fee and submitting an equal pay compliance statement to the Minnesota Department of Human Rights (“MDHR”). MDHR’s Equal Pay Certificate Application Form can be obtained at [http://mn.gov/mdhr/compliance/forms.html](http://mn.gov/mdhr/compliance/forms.html). It is your sole responsibility to submit this statement to MDHR and – if required – apply for an equal pay certification before the due date of this proposal and obtain the certification prior to the execution of any resulting contract.

3. **Revocation of Contract.** If a contract is awarded to a business that does not have an equal pay certificate as required by Minnesota Statutes, section 363A.44, or is not in compliance with the laws identified within section 363A.44, MDHR may void the contract on behalf of the state, and the contract may be abridged or terminated by DHS upon notice that the MDHR has suspended or revoked the certificate of the business.

4. **Equal Pay Certificate Compliance Form.** You must complete the Equal Pay Certificate of Compliance Form and submit it with your proposal. The Equal Pay Certificate of Compliance Form can be obtained at [https://edocs.dhs.state.mn.us/lfserv/Public/DHS-7075-ENG](https://edocs.dhs.state.mn.us/lfserv/Public/DHS-7075-ENG).

**IV. RFP Process**

**A. Responders’ Questions**

Responders’ questions regarding this RFP must be submitted in writing prior to 4:00 p.m. Central Time on Thursday, June 2, 2016. All questions must be addressed to:

Request for Proposal Response  
Attention: Jennifer M. Strei  
Disability Services Division  
Department of Human Services  
PO Box 64967  
St. Paul, MN 55164-0967  
Phone (651) 431-4300  
FAX #: (651) 431-7563
Questions may also be e-mailed to Jennifer.M.Strei@state.mn.us

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

Questions will be addressed in writing and distributed to all identified prospective responders. Every attempt will be made to provide answers timely, with the intent that they are sent no later than Monday, June 13, 2016.

**B. Responders’ Conference**

A Responders’ Conference will be held on Monday, June 6, 2016 2:00 p.m. Central Time in both webinar and phone conference format. The conference will serve as an opportunity for responders to receive an oral response to the written questions submitted in paragraph A immediately above and to ask follow up questions to the oral responses given.

Attendance at the Responders’ Conference is not mandatory but is recommended. Oral answers given at the conference will be non-binding. Written responses to follow up questions asked at the conference will be sent to all identified prospective responders after the conference, with the intent that they are sent no later than Monday, June 13, 2016.

People interested in attending the Responders’ Conference via webinar can access the conference by the following link: https://dhs-dsd.webex.com/dhs-dsd/onstage/g.php?MTID=e0661843a4f63f01aeddfeb6a7321896b

People interested in attending the Responders’ Conference via phone can access the conference with the following dial-in information:
Dial In Number: 1-866-427-2706
Conference ID: 15958627

**C. Proposal Submission**

One (1) original and five (5) copies of the proposal must be submitted. Proposals must be physically received (not postmarked) by 4:00 p.m. Central Time on Friday, July 1, 2016 to be considered. Late proposals will not be considered and will be returned unopened to the submitting party. Faxed or e-mailed proposals will not be accepted.

Clearly label the original "Proposal – Original" and each copy “Proposal – Copy”. All proposals, including required copies, must be submitted in a single sealed package or container. The main body of the proposal pages must be numbered and submitted in 12-point font on 8½ X 11 inch paper, single spaced. The size and/or style of graphics, tabs, attachments, margin notes/highlights, etc. are not restricted by this RFP and their use and style are at the responder’s discretion.

The above-referenced packages and all correspondence related to this RFP must be delivered to:

Attention: Jennifer M. Strei
Disability Services Division
It is solely the responsibility of each responder to assure that their proposal is delivered at the specific place, in the specific format, and prior to the deadline for submission. Failure to abide by these instructions for submitting proposals may result in the disqualification of any non-complying proposal.

V. Proposal Evaluation and Selection

A. Overview of Evaluation Methodology

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

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

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

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

B. Evaluation Team

1. An evaluation team will be selected to evaluate responder proposals.

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

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

C. Evaluation Phases

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

1. **Phase I: Required Statements Review**

The Required Statements will be evaluated on a pass or fail basis. Responders must "pass" each of the requirements identified in these sections to move to Phase II. The Responder may fail the Required Statements Review in the event that the Responder does not affirmatively warrant to any of the warranties in the Responder Information and Declarations [or Appendix A]. Additionally, the State reserves the right to fail a Responder in the event the Responder does not make a necessary disclosure in the Responder Information and Declarations [or Appendix A], or makes a disclosure which evidences a conflict of interest.

2. **Phase II: Evaluation of Technical Requirements of Proposals**

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

<table>
<thead>
<tr>
<th>Component Total</th>
<th>Possible Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Executive Summary</td>
<td>5</td>
</tr>
<tr>
<td>2. Description of the Applicant</td>
<td>10</td>
</tr>
<tr>
<td>3. Description of Target Population</td>
<td>5</td>
</tr>
<tr>
<td>4. Project Goals and Evaluation Plan</td>
<td>15</td>
</tr>
<tr>
<td>5. Project Activities and Implementation Plan</td>
<td>20</td>
</tr>
<tr>
<td>6. Budget Proposal</td>
<td>25</td>
</tr>
<tr>
<td>7. Professional Responsibility</td>
<td>5</td>
</tr>
<tr>
<td>8. Innovative Concepts</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

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

   c. After reviewing the proposals, the members of the evaluation team will rate each proposal component using the following formula:

   Each proposal component will receive one of the following ratings based on how well the team member feels the component met the RFP requirements. Upon determining which of the ratings best describes the component being rated, the total possible points available for the component from paragraph a will be multiplied by the corresponding point factor.
### Component Rating

<table>
<thead>
<tr>
<th>Component Rating</th>
<th>Point Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent</td>
<td>1.000</td>
</tr>
<tr>
<td>Very Good</td>
<td>0.875</td>
</tr>
<tr>
<td>Good</td>
<td>0.750</td>
</tr>
<tr>
<td>Satisfactory</td>
<td>0.625</td>
</tr>
<tr>
<td>Poor</td>
<td>0.500</td>
</tr>
<tr>
<td>Unacceptable</td>
<td>0.000</td>
</tr>
</tbody>
</table>

EXAMPLE: A “good” rating (0.750) of a Description of the Applicant worth a maximum of 10 points would receive a score of 7.5 (10 x 0.750 = 7.5).

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

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

b. The evaluation team will review the scoring in making its recommendations of the successful responder(s).

c. The State may submit a list of detailed comments, questions, and concerns to one or more responders after the initial evaluation. The State may require said response to be written, oral, or both. The State will only use written responses for evaluation purposes. The total scores for those responders selected to submit additional information may be revised as a result of the new information.

d. The evaluation team will make its recommendation based on the above-described evaluation process. The successful responder(s), if any, will be selected approximately one month after the proposal submission due date.

### D. Contract Negotiations and Unsuccessful Responder Notice

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

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

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

### VI. Required Contract Terms and Conditions
A. **Requirements.** All responders must be willing to comply with all state and federal legal requirements regarding the performance of the grant contract. The requirements are set forth throughout this RFP and are contained in the attached grant contract in the Appendix.

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

C. **Travel.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the grantee as a result of the grant contract will be in no greater amount than provided in the current “Commissioner’s Plan” promulgated by the commissioner of Minnesota Management and Budget. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State’s prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out-of-state.

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

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

F. **Insurance Requirements.** Responder shall not commence work under the grant contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the grant contract. Responder is required to maintain and furnish satisfactory evidence of the following insurance policies:

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

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

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

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

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

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

   The following coverages shall be included:

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

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

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

   In addition, the following coverages should be included:

   Owned, Hired, and Non-owned Automobile

4. **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance** (if applicable).
This policy will provide coverage for all claims the responder may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to responder’s professional services required under the grant contract.

Responder is required to carry the following minimum amounts:

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

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

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

5. Blanket Employee Theft/Employee Dishonesty Insurance.

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

6. Additional Insurance Conditions.

- Responder’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of responder’s performance under this grant contract;

- If responder receives a cancellation notice from an insurance carrier affording coverage herein, responder agrees to notify the State of Minnesota within five
(5) business days with a copy of the cancellation notice, unless responder’s policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota;

- Responder is responsible for payment of grant contract related insurance premiums and deductibles;

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

- Include legal defense fees in addition to its liability policy limits, with the exception of VI.G.2.d. above; and

- Obtain insurance policies from an insurance company having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better and must be authorized to do business in the State of Minnesota; and

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

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

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

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

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

**VII. State’s Rights Reserved**

Notwithstanding anything to the contrary, the State reserves the right to:
A. Reject any and all proposals received in response to this RFP;

B. Disqualify any responder whose conduct or proposal fails to conform to the requirements of this RFP;

C. Have unlimited rights to duplicate all materials submitted for purposes of RFP evaluation, and duplicate all public information in response to data requests regarding the proposal;

D. Select for contract or for negotiations a proposal other than that with the lowest cost or the highest evaluation score;

E. Consider a late modification of a proposal if the proposal itself was submitted on time and if the modifications were requested by the State and the modifications make the terms of the proposal more favorable to the State, and accept such proposal as modified;

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

G. Negotiate as to any aspect of the proposal with any responder and negotiate with more than one responder at the same time, including asking for responders’ “Best and Final” offers;

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

I. Cancel the RFP at any time and for any reason with no cost or penalty to the State.

J. Correct or amend the RFP at any time with no cost or penalty to the State. If the State should correct or amend any segment of the RFP after submission of proposals and prior to announcement of the successful responder, all responders will be afforded ample opportunity to revise their proposal to accommodate the RFP amendment and the dates for submission of revised proposals announced at that time. The State will not be liable for any errors in the RFP or other responses related to the RFP.

Remainder of the page intentionally left blank. (Appendix follows)
Appendix A: Sample State Grant Contract
State of Minnesota Department of Human Services Grant Contract

THIS GRANT, and amendments and supplements thereto, is between State of Minnesota, acting through its Department of Human Services Health Care Administration Division (hereinafter STATE) and ________________, an independent grantee, not an employee of the State of Minnesota, address ___________________(hereinafter GRANTEE), witnesseth that:

RECITALS

WHEREAS, the STATE, pursuant to Minnesota Statutes, section 256.01, subdivision 2(a)(6) is empowered to enter into contracts for the following services:

WHEREAS STATE is in need of the following services:

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

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

NOW, THEREFORE, it is agreed:

1. GRANTEE’S DUTIES. GRANTEE shall:

2. CONSIDERATION AND TERMS OF PAYMENT.

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

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

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

   (c.) Total obligation. The total obligation of the STATE for all compensation and reimbursements to GRANTEE shall not exceed_______ dollars ($______________).

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

2.2 Terms of Payment

   (a.) Reimbursement. Reimbursement shall be by monthly/quarterly cost reimbursement based on the previous month’s/quarter’s expenses as documented by receipts, invoices, travel vouchers, and time sheets.
(b.) **Invoices.** Payments shall be made by the STATE promptly after GRANTEE’S presentation of invoices for services performed and acceptance of such services by the STATE’S authorized agent pursuant to Clause 7. Invoices shall be submitted in a form prescribed by the STATE and according to the following schedule:

(c.) **Federal Funds.** Payments under this grant contract will be made from federal funds obtained by the STATE through Section __________ of the _______ Act, Catalog of Federal Domestic Assistance (CFDA) Number _______________, (Public law and amendments thereto) and federal award name and number _______________. If at any time such funds become unavailable, this grant shall be terminated immediately upon written notice of such fact by the STATE to the GRANTEE. In the event of such termination, GRANTEE shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

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

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

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

5. **TERMS OF CONTRACT.** This grant shall be effective on __________, or upon the date that the final required signature is obtained by the STATE, pursuant to Minnesota Statutes, section 16C.05, subdivision 2, whichever occurs later, and shall remain in effect through __________, unless a no-cost extension is granted, or until all obligations set forth in this grant contract have been satisfactorily fulfilled, whichever occurs first. GRANTEE understands that NO work should begin under this grant contract until ALL required signatures have been obtained, and GRANTEE is notified to begin work by the STATE’s Authorized Representative. The GRANTEE shall have a continuing obligation, after said grant period, to comply with the following provisions of grant clauses: 10. Indemnification; 11. State Audits; 12. Information Privacy and Security; 13. Intellectual Property Rights; 14. Publicity; and 20. Jurisdiction and Venue.

6. **CANCELLATION.**

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

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

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

7.  AUTHORIZED REPRESENTATIVES, RESPONSIBLE AUTHORITY AND PROJECT MANAGER.

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

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

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

7.4  Project Manager. The STATE’S project manager for this grant contract is Sarah Linville, phone number: 651-431-5677, email: sarah.linville@state.mn.us or her successor.

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

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

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

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

12. INFORMATION PRIVACY AND SECURITY. Information privacy and security shall be governed by the “Data Sharing Agreement and Business Associate Agreement Terms and Conditions” which is attached and incorporated into this Contract as Attachment X, except that the parties further agree to comply with any agreed-upon amendments to the Data Sharing Agreement and Business Associate Agreement.

13. INTELLECTUAL PROPERTY RIGHTS.

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

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

13.3 Responsibilities.

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

B. Filing and recording of ownership interests. The GRANTEE must, at the request of the STATE, execute all papers and perform all other acts necessary to transfer or record the STATE’S ownership interest in the Works and Documents created and paid for under this grant contract. The GRANTEE must perform all acts, and take all steps necessary to ensure that all intellectual property rights in these Works and Documents are the sole property of the STATE, and that neither GRANTEE nor its employees, agents, or subcontractors retain any interest in and to these Works and Documents.
C. **Duty not to Infringe on intellectual property rights of others.** The GRANTEE represents and warrants that the Works and Documents created and paid for under this grant contract do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 10, the GRANTEE will indemnify, defend, to the extent permitted by the Attorney General; and hold harmless the STATE, at the GRANTEE’S expense, from any action or claim brought against the STATE to the extent that it is based on a claim that all or part of these Works or Documents infringe upon the intellectual property rights of others. The GRANTEE will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the GRANTEE’S or the STATE’S opinion is likely to arise, the GRANTEE must, at the STATE’S discretion, either procure for the STATE the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the STATE will be in addition to and not exclusive of other remedies provided by law.

14. **PUBLICITY.** Any publicity given to the program, publications, or services provided resulting from this grant contract, including but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the GRANTEE or its employees individually or jointly with others or any subcontractors, shall identify the STATE as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in this grant contract prior to its approval by the State’s Authorized Representative.

15. **HUMAN RIGHTS COMPLIANCE.**

15.1 **Affirmative Action requirements for Grantees with more than 40 full-time employees and a contract in excess of $100,000.** If GRANTEE has had more than 40 full-time employees within the State of Minnesota on a single working day during the previous twelve months preceding the date GRANTEE submitted its response to the STATE, it must have an affirmative action plan, approved by the Commissioner of Human Rights of the State of Minnesota, for the employment of qualified minority persons, women and persons with disabilities. See Minnesota Statutes, section 363A.36. If GRANTEE has had more than 40 full-time employees on a single working day during the previous twelve months in the state in which it has its primary place of business, then GRANTEE must either: 1) have a current Minnesota certificate of compliance issued by the Minnesota Commissioner of Human Rights; or 2) certify that it is in compliance with federal Affirmative Action requirements.

15.2 **Affirmative Action and Non-Discrimination requirements for all Grantees:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. OTHER PROVISIONS.

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

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

23.3 Religious Based Counseling. GRANTEE agrees that no religious based counseling shall take place under the auspices of this grant contract.

23.4 Independent Audit. If the GRANTEE has an independent audit, a copy of the audit shall be submitted to the STATE.
23.5 **Payment to Subcontractors.** (If applicable) As required by Minnesota Statutes, section 16A.1245, the prime GRANTEE must pay all subcontractors, less any retainage, within ten (10) calendar days of the prime GRANTEE’s receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).
This Attachment sets forth the terms and conditions in which STATE will share data with and permit GRANTEE to use or disclose Protected Information that the parties are legally required to safeguard pursuant to the Minnesota Data Practices Act under Minnesota Statutes, chapter 13, the Health Insurance Portability and Accountability Act rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“HIPAA”) and other applicable laws.

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

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

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

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

DEFINITIONS

A. "Agent" means GRANTEE'S employees, contractors, subcontractors, and other non-employees and representatives.

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

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

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

E. “Contract” means the Grant Contract between STATE and GRANTEE identified as GRK%XXXX

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

G. “HIPAA” means the rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164.

H. “Individual” means the person who is the subject of protected information.

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

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

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

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

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

1. INFORMATION EXCHANGED

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

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

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

2. INFORMATION PRIVACY AND SECURITY

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

2.1 Compliance with Applicable Safeguards.

A. State and Federal Safeguards. The parties acknowledge that the Protected Information to be shared under the terms of the Contract may be subject to one of the following laws, statutes, regulations, rules, and standards, as applicable (“Applicable Safeguards”). The parties agree to comply with all rules, regulations and laws, including as amended or revised, applicable to the exchange, use and disclosure of data under the Contract.
2. Minnesota Government Data Practices Act (Minn. Stat. Chapter 13);
3. Minnesota Health Records Act (Minn. Stat. §144.291 - 144.298);
4. Confidentiality of Alcohol and Drug Abuse Patient Records (42 U.S.C. § 290dd-2 and 42 C.F.R. § 2.1 to §2.67);
5. Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. 6103 and Publication 1075);
6. U.S. Privacy Act of 1974;
7. Computer Matching Requirements (5 U.S.C. 552a);
8. Social Security Data Disclosure (section 1106 of the Social Security Act);
9. Disclosure of Information to Federal, State and Local Agencies (DIFSLA Handbook” Publication 3373);
10. Final Exchange Privacy Rule of the Affordable Care Act (45 C.F.R. § 155.260); and
11. NIST Special Publication 800-53, Revision 4 (NIST.SP.800-53r4).

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

2.2 GRANTEE Data Responsibilities

A. Use Limitation.

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

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

B. Individual Privacy Rights. GRANTEE shall ensure individuals are able to exercise their privacy rights regarding Protected Information, including but not limited to the following:

1. Complaints. GRANTEE shall work cooperatively with STATE to resolve complaints received from an individual; from an authorized representative; or from a state, federal, or other health oversight agency.

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

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

2. Documentation. GRANTEE shall make available documentation required by this Section upon request by STATE.

D. Ongoing Responsibilities to Safeguard Protected Information.

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

2. Electronic Protected Information. GRANTEE shall implement and maintain appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 (HIPAA Security Rule) with respect to electronic Protected Information, including electronic Protected Health Information, to prevent the use or disclosure other than as provided for by the Contract or this Attachment.

3. Monitoring Agents. GRANTEE shall ensure that any contractor, subcontractor, or other agent to whom GRANTEE discloses Protected Information on behalf of STATE, or whom GRANTEE employs or retains to create, receive, use, store, disclose, or transmit Protected Information on behalf of STATE, agrees to the same restrictions and conditions that apply to GRANTEE under the Contract and this Attachment with respect to such Protected Information, and in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).

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

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

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

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

2. Investigation. Upon discovery of any actual or suspected privacy incident, security incident, or breach, GRANTEE will investigate to (1) determine the root cause of the incident, (2) identify individuals affected, (3) determine the specific protected information impacted, and (4) comply with notification and reporting provisions of the Contract, this Attachment and applicable law.
3. **Corrective action.** Upon identifying the root cause of any privacy incident, security incident, or breach, GRANTEE will take corrective action to prevent, or reduce to the extent practicable, any possibility of recurrence. Corrective action may include, but is not limited to, patching information system security vulnerabilities, employee sanctions, or revising policies and procedures.

4. **Notification to individuals and others; costs incurred.**

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

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

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

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

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

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

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

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

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

1. **Federal Tax Information.** GRANTEE will report all actual or suspected unauthorized uses or disclosures of federal tax information (FTI). FTI is information protected by Tax Information Security Guidelines for Federal, State and Local Agencies (26 U.S.C. § 6103 and Publication 1075).
a. **Initial report.** GRANTEE will, in writing, immediately report all actual or suspected unauthorized uses or disclosures of FTI to STATE. GRANTEE will include in its initial report to STATE all information under Section 2.2(E)(1)-(4), of this Attachment that is available to GRANTEE at the time of the initial report.

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

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

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

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

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

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

   **Content of report to STATE.** Reports to the authorized representative regarding breaches of protected health information will include:
   1. Identities of the individuals whose unsecured Protected Health Information has been breached.
   2. Date of the breach and date of its discovery.
   3. Description of the steps taken to investigate the breach, mitigate its effects, and prevent future breaches.
   4. Sanctions imposed on members of GRANTEE’s workforce involved in the breach.
   5. Other available information that is required to be included in notification to the individual under 45 C.F.R. § 164.404(c).
   6. Statement that GRANTEE has notified, or will notify, affected data subjects in accordance with 45 C.F.R. § 164.404.

f. **Security incidents resulting in a breach.** GRANTEE will report, in writing, any security incident that results in a breach, or suspected breach, of protected health information to STATE within five (5) business days of discovery, in accordance with 45 C.F.R § 164.314 and 45 C.F.R § 164.410.
g. **Security incidents that do not result in a breach.** GRANTEE will report all security incidents that do not result in a breach, but involve systems maintaining protected health Information created, received, maintained, or transmitted by GRANTEE or its Agents on behalf of STATE, to STATE on a monthly basis, in accordance with 45 C.F.R § 164.314.

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

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

4. **Other Protected Information.** GRANTEE will report all other privacy incidents and security incidents to STATE.

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

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

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

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

2. Provide the means for an individual to make an amendment to the individual’s Protected Health Information.

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

H. **Access to Books and Records, Security Audits, and Remediation.** GRANTEE shall conduct and submit to audits and necessary remediation as required by this Section to ensure compliance with all Applicable Safeguards and the terms of the Contract and this Attachment.
1. **GRANTEE** represents that it has audited and will continue to regularly audit the security of the systems and processes used to provide services under the Contract and this Attachment, including, as applicable, all data centers and cloud computing or hosting services under contract with **GRANTEE**. **GRANTEE** will conduct such audits in a manner sufficient to ensure compliance with the security standards referenced in this Attachment.

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

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

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

I. **Documentation Required.** Any documentation required by this Attachment, or by applicable laws, standards, or policies, of activities including the fulfillment of requirements by **GRANTEE**, or of other matters pertinent to the execution of the Contract, must be securely maintained and retained by **GRANTEE** for a period of six (6) years from the date of expiration or termination of the Contract, or longer if required by applicable law, after which the documentation must be disposed of consistent with Section 2.6 of this Attachment.

**GRANTEE** shall document disclosures of Protected Health Information made by **GRANTEE** that are subject to the accounting of disclosure requirement described in 45 C.R.F. 164.528, and shall provide to **STATE** such documentation in a time and manner designated by **STATE** at the time of the request.

J. **Requests for Disclosure of Protected Information.** If **GRANTEE** or one of its Agents receives a request to disclose Protected Information, **GRANTEE** shall inform **STATE** of the request and coordinate the appropriate response with **STATE**. If **GRANTEE** discloses Protected Information after coordination of a response with **STATE**, it shall document the authority used to authorize the disclosure, the information disclosed, the name of the receiving party, and the date of disclosure. All such documentation shall be maintained for the term of the Contract and shall be produced upon demand by **STATE**.

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

L. **Data Availability.** **GRANTEE**, or any entity with legal control of any protected information provided by **STATE**, shall make any and all protected information available to **STATE** upon request within a reasonable time as is necessary for **STATE** to comply with applicable law.
2.3 Data Security.

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


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

2.4 GRANTEE Permitted Uses and Responsibilities.

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

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

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

   a. The disclosure is required by law; or

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

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

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

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

C. De-identify Protected Health Information. GRANTEE may use Protected Health Information to create de-identified Protected Health Information provided that GRANTEE complies with the de-identification methods specified in 45 C.F.R. § 164.514.
D. **Aggregate Protected Health Information.** GRANTEE may use Protected Health Information to perform data aggregation services for STATE. The use of Protected Health Information by GRANTEE to perform data analysis or aggregation for parties other than STATE must be expressly approve by STATE.

### 2.5 STATE Data Responsibilities

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

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

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

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

### 2.6 Obligations of GRANTEE Upon Expiration or Cancellation of the Contract.

Upon expiration or termination of the Contract for any reason:

A. GRANTEE shall retain only that Protected Health Information which is necessary for GRANTEE to continue its proper management and administration or to carry out its legal responsibilities, and maintain appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information to prevent the impermissible use or disclosure of any retained Protected Health Information for as long as GRANTEE retains the Protected Health Information.

B. For all other Protected Information, in compliance with the procedures found in the Applicable Safeguards listed in Section 2.1, or as otherwise required by applicable industry standards, or directed by STATE, GRANTEE shall immediately, destroy or sanitize (permanently de-identify without the possibility of re-identification), or return in a secure manner to STATE all Protected Information that it still maintains.

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

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

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

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

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

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

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

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

3. INSURANCE REQUIREMENTS

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

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

$2,000,000 per occurrence
$2,000,000 annual aggregate

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