

RECEIVED
MAR 04 2016
DPHHS-DSD

CONTRACT

Between

MONTANA STATE DEPARTMENT

OF

PUBLIC HEALTH AND HUMAN SERVICES

And

**Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc. DBA Benchmark
Human Services**

Contract Number: 16-144-13500

Effective: February 1, 2016 through June 30, 2016

By: Developmental Disabilities Program

TABLE OF CONTENTS

SECTION 1:	PARTIES.....	5
SECTION 2:	PURPOSE.....	5
SECTION 3:	TERM OF CONTRACT.....	7
SECTION 4:	DEFINITIONS.....	8
SECTION 5:	SERVICES TO BE PROVIDED.....	8
SECTION 6:	CONSIDERATION AND PAYMENTS.....	12
SECTION 7:	FINANCIAL REPORTING.....	17
SECTION 8:	CONFLICTS OF INTEREST AND ANTITRUST VIOLATIONS.....	17
SECTION 9:	REPORTING OF FALSE CLAIMS, FRAUD, AND OTHER CRIMINAL MATTERS	18
SECTION 10:	CREATION AND RETENTION OF RECORDS.....	18
SECTION 11:	QUALITY ASSURANCE REVIEWS.....	19
SECTION 12:	ACCOUNTING, COST PRINCIPLES AND AUDIT.....	20
SECTION 13:	IMPOSITION OF FEES.....	22
SECTION 14:	REAL AND PERSONAL PROPERTY.....	22
SECTION 15:	INVENTORY.....	23
SECTION 16:	ASSIGNMENT, TRANSFER AND SUBCONTRACTING.....	24
SECTION 17:	INDEMNIFICATION.....	24
SECTION 18:	LIMITATIONS OF STATE LIABILITY.....	26
SECTION 19:	INSURANCE COVERAGE.....	26
SECTION 20:	COMPLIANCE WITH BUSINESS, TAX, LABOR, AND OTHER LEGAL AUTHORITIES	29
SECTION 21:	CIVIL RIGHTS.....	30
SECTION 22:	FEDERAL REQUIREMENTS.....	31

SECTION 23. CONFIDENTIALITY OF PERSONAL INFORMATION AND COMPLIANCE WITH THE FEDERAL HIPAA AND HITECH PRIVACY AND SECURITY REQUIREMENTS	38
SECTION 24. PUBLIC INFORMATION AND DISCLAIMERS	41
SECTION 25. TECHNOLOGY ACCESS FOR PERSONS WHO ARE BLIND OR VISUALLY IMPAIRED.....	42
SECTION 26. TOBACCO-FREE WORKPLACE AND OTHER RESTRICTIONS	42
SECTION 27. RECIPIENT GRIEVANCES AND APPEALS.....	43
SECTION 28. CONTRACTUAL DISPUTE RESOLUTION PROCESS	43
SECTION 29. CONTRACTOR COOPERATION AND DEPARTMENTAL GUIDANCE 44	
SECTION 30. ACCESS TO PREMISES.....	45
SECTION 31. REGISTRATION OF OUT OF STATE ENTITIES	45
SECTION 32. LIAISON AND SERVICE OF NOTICES.....	45
SECTION 33. PERFORMANCE ASSESSMENTS AND CORRECTIVE ACTIONS...	46
SECTION 34. FORCE MAJEURE	46
SECTION 35. CONTRACT TERMINATION	47
SECTION 36. CHOICE OF LAW, REMEDIES AND VENUE.....	48
SECTION 37. SCOPE, AMENDMENT AND INTERPRETATION OF CONTRACT ...	48
ATTACHMENT C	51
ATTACHMENT _1-H.....	56

APPENDICES

Definition of Terms Appendix A
Food Commodities Appendix H
Individual Corporation Plan Appendix I

ADDENDUMS

FFATA Sub-Award Forms..... Addendum A

**CONTRACT FROM THE MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

CONTRACT NUMBER: 16-144-13500

SECTION 1: PARTIES.

THIS CONTRACT, is entered into between the Montana Department of Public Health and Human Services, (hereinafter referred to as the "Department"), State of Montana (hereinafter referred to as the "State"), whose address is 111 N. Sanders, P.O. Box 4210, Helena, Montana 59604, and whose phone number is 406.444.2995, and Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc. DBA Benchmark Human Services, (hereinafter referred to as the "Contractor"), whose nine (9) digit Federal ID Number is- [REDACTED], whose DUNS # is [REDACTED], whose NPI # is [REDACTED], whose Montana Medicaid Provider ID # is [REDACTED], whose address is 8515 Bluffton Road, Fort Wayne IN 46809-3022 , phone number is 260-744-6145, and fax number is 406 260-444-0006.

THE PARTIES AGREE AS FOLLOWS:

SECTION 2: PURPOSE.

- A. The purpose of this contract is to obtain developmental disabilities services for those of Montana's citizens with developmental disabilities who are eligible for one or more of the developmental disabilities community services administered by the Department, in accordance with the terms of this Contract and other state and federal legal authorities.
- B. For each category of developmental disabilities community services that are to be delivered by the Contractor as specified in Section Five, the Contractor must be designated by the Department as a qualified provider if qualified provider status is required by the Department for purposes of delivery of that category of service.
- C. The Contractor is ready, willing and able, to the extent provided for in this Contract, to accept into the Contractor's services persons with developmental disabilities who are eligible for one or more of the state administered developmental disabilities services in accordance with the rules for each service the Contractor will provide.
- D. The Contractor is ready, willing and able to deliver developmental disabilities community services in the geographical regions specified in Section 5 "Services to Be Provided".

- E. This Contract implements for the Contractor payment for the developmental disabilities services delivered by the Contractor based upon both the Developmental Disabilities Program standardized rate payment system and upon other methods of payment inclusive of contracted for rates. Accordingly, some provisions in this Contract, as specified in their language, are limited in their applicability to only one of the methods of payment.
- F. The Contractor, if delivering services as described in this subsection, may be designated by the State of Montana as an Organized Health Care Delivery System.

The Contractor must operate as an "Organized Health Care Delivery System" (OHCDS). The term "organized health care delivery system" is a term appearing in a federal regulation, 42 C.F.R. ' 447.10(b), concerned with the payment of Medicaid monies to providers of services. In order to be an OHCDS the Contractor must provide at least one Medicaid funded health care service to its persons directly through its own employees. The OHCDS designation allows for the Contractor to bill on behalf of individual providers for the payment of Medicaid payable services if the subsumed providers have a contract with the OHCDS providing for the billing arrangement.

As an OHCDS, the Contractor is authorized to subcontract for the provision of services to persons of home and community services funded with Medicaid monies. The subcontractors do not have to be enrolled Medicaid providers. The Contractor is responsible on behalf of the subcontractor for the billing of Medicaid monies for the services provided by the subcontractor and for the receipt of payment on behalf of the subcontractor. The subcontractor remains responsible generally for compliance with all legal and administrative requirements, inclusive of provider requirements, pertaining to the expenditure of Medicaid monies and the delivery of the services procured through this contract.

The Contractor must hold the subcontractor accountable for compliance with all legal and administrative requirements pertaining to the expenditure of Medicaid monies and the delivery of the services procured through this contract. Those requirements include, but are not limited to, federal requirements for purposes of accounting, audit, civil rights compliance, debarment and suspension, and prohibitions on expenditures for lobbying. Furthermore, the Contractor must assure that the subcontractor provide indemnification and insurance in accordance with the provisions of this contract as they pertain to indemnification and insurance.

Only services designated to subcontract by the contractor in Section 5 may be subcontracted. A provider authorized to function as an OHCDS agrees to provide OHCDS activities to whomever they serve in any area or waiver if it is needed and appropriate. A provider may opt in or out of the OHCDS designation by a contract amendment. As an OCHDS the qualified provider must:

- Report all expenses associated with subcontractor payments on the year-end income/expense reports (DD43);
 - Ensure that the rate for the Medicaid service is paid at a rate equal to or less than the rate established for that service;
 - Maintain the documentation verifying the credentials of the subcontracting entity;
 - Maintain the funding and service delivery documentation;
 - Must ensure subcontracts contain a sign-off clause stating that the subcontractor understands that the subcontractor has the option of becoming a qualified provider and contracting directly with the DDP, and that any payment received is payment in full;
 - Assure the waiver is the payer of last resort and assure that the service or item is not otherwise covered and/or denied by other funding sources if applicable.
- G. The Contractor has sound personnel management and responsible fiscal administration. The Contractor employs persons of good character who have a combination of education and experience that has prepared them to respectfully and competently provide services to persons with developmental disabilities. The Contractor's services are appropriately configured and staffed to assure the quality and effectiveness of those services for individual persons
- H. The Contractor may only receive payment from the Department for services provided to those persons with developmental disabilities who have been determined by the Department to be eligible for one or more types of state administered developmental disabilities community services.
- I. The Contractor, in order to receive payment under this contract funded with Medicaid monies, must be an enrolled Montana Medicaid provider, must have a National Provider Identifier Number (NPI), and be in compliance with all federal authorities governing the Contractor's status as a provider of services reimbursed with Medicaid monies.

SECTION 3: TERM OF CONTRACT

- A. The term of this Contract for the purpose of delivery of services is from February 1, 2016 through June 30, 2016, unless terminated otherwise in accordance with the provisions of this contract.
- B. The completion date of performance for purposes of issuance of final payment for services under this Contract is the date upon which:

- 1) the Contractor is required to perform nothing further and has no additional corrective actions to complete; and
 - 2) all final reports required under this Contract are appropriately submitted and are satisfactory.
- C. After completion or termination of the Contract, Contractor remains obligated to comply with all continuing legal and contractual obligations, duties and responsibilities including but not limited to obligations related to state and federal reporting, record retention, provision of access and information for audits, indemnification, insurance, protection of confidential information, recipient grievances and appeals, and property ownership and use.
- D. The term of this Contract is subject to termination under Section 35 if at any time during the term of this Contract the Department determines 1) that, in accordance with 18-4-313, MCA, the monies to fund this Contract are no longer available as a whole or in part through federal or state appropriation or authorization; or 2) the Contractor is failing as determined by the Department to meet any of the performance, fiscal and reporting requirements under this Contract.

SECTION 4: DEFINITIONS

The meaning of terms used in the provisions of this Contract are those specified in Appendix A to this Contract and as adopted in the Administrative Rules of Montana at Chapter 34 of Title 37, concerning the provision of developmental disabilities community services. In the circumstance that there is a conflict of definitions between Appendix A and the Rules, the definition as adopted in rule will govern.

SECTION 5: SERVICES TO BE PROVIDED.

- A. The Contractor may provide services funded through this Contract only to those persons the Department has determined are eligible for those services and for whom the Department has determined there are sufficient state program and financial resources available to fund their service needs as identified by the Department. The Contractor must confirm with the Department the status of persons to be served. Persons with Developmental Disabilities whose contractors are authorized to serve are referred to for purposes of this Contract as "persons".

The Contractor is authorized by this Contract to make available the following developmental disabilities community services in accordance with this Contract, the appendices to this Contract, the rules, & policies adopted by the Department to govern the provision of developmental disabilities services, any state and federal laws pertinent to the provision of developmental disabilities community services including the HCBS waivers 0208,0667 and other pertinent state and federal legal authorities.

The Developmental Disabilities Region(s) number for the services are listed below in which the Contractor is Qualified to Provide Services. For those services that the Contractor expects to subcontract via OHCDs, enter the region number and an "s" for each service to be subcontracted (i.e. "1s" Physical Therapy). Reference Appendix I for more discreet service area restrictions:

These services also include Title XX Services

Mark **X** if Provider Agency will offer **Agency With Choice** self-direct option. If not, leave the box blank.

0208 Comprehensive Waiver

<u>Agency with Choice (mark with X)</u>	<u>Region(s) number for the service provided</u>	<u>Service</u>
	1,2,3,4,5	Adult Companion
	1,2,3,4,5	Adult Foster Support
	1,2,3,4,5	Assisted Living
	1,2,3,4,5	Behavioral Supports & Services
	1,2,3,4,5	Caregiver Training & Support (CTS)
	1,2,3,4,5	Community Transition Services
	1,2,3,4,5	Day Support and Activities
	1,2,3,4,5	Environmental Mods/Adaptive Equip
	1,2,3,4,5	Homemaker
	1,2,3,4,5	Individual Goods & Services (IGS)
	1,2,3,4,5	Job Discovery/Job Preparation
	1,2,3,4,5	Live in Caregiver
	1,2,3,4,5	Meals
	1,2,3,4,5	Nutritionist
	1,2,3,4,5	Occupational Therapy
	1,2,3,4,5	Personal Care
	1,2,3,4,5	Personal Emergency Response System (PERS)
	1,2,3,4,5	Personal Supports
	1,2,3,4,5	Physical Therapy
	1,2,3,4,5	Private Duty Nursing
	1,2,3,4,5	Psychological & Counseling
	1,2,3,4,5	Remote Monitoring
	1,2,3,4,5	Remote Monitoring Equipment
	1,2,3,4,5	Residential Habilitation
	1,2,3,4,5	Residential Training Support (must also do Adult Foster)
	1,2,3,4,5	Respite
	1,2,3,4,5	Retirement Services

	<u>1,2,3,4,5</u>	SE - Co-Worker Support
	<u>1,2,3,4,5</u>	SE – Follow Along Support
	<u>1,2,3,4,5</u>	SE – Individual Employment Support
	<u>1,2,3,4,5</u>	SE – Small Group Employment Support
	<u>1,2,3,4,5</u>	Speech Therapy
		Supports Brokerage
	<u>1,2,3,4,5</u>	Transportation
		Waiver Children's Case Management (WCCM)

0667 CAW Waiver

<u>Agency with Choice (mark with X)</u>	<u>Region(s) number for the service provided</u>	<u>Service</u>
	<u>1,2,3,4,5</u>	Children's Autism Training
	<u>1,2,3,4,5</u>	Environmental Mods/Adaptive Equipment
	<u>1,2,3,4,5</u>	Individual Goods & Services (IGS)
	<u>1,2,3,4,5</u>	Occupational Therapy
	<u>1,2,3,4,5</u>	Physical Therapy
	<u>1,2,3,4,5</u>	Program Design & Monitoring (PDM)
	<u>1,2,3,4,5</u>	Respite
	<u>1,2,3,4,5</u>	Speech Therapy
	<u>1,2,3,4,5</u>	Transportation
		Waiver Children's Case Management (WCCM)

Mark one box below:

- YES** the contractor wishes to be designated as a qualified OHCDs.
- NO** the contractor wishes NOT to be designated as an OHCDs.

1) Non-Waiver Services

These Services are awarded through an RFP process. Please mark if the Contractor has been awarded the contract to provide these services and list in which Developmental Disabilities Program Region(s) they can provide the service.

- Part C
- FES
- E&D
- PASRR
- Adult Targeted Case Management

- B. Appendix B, Capacity And Expenditure Authorizations, specifies certain Non-ICP contracted for services. A Contractor providing a contracted for non-ICP service must provide services throughout the term of the Contract to eligible persons in accordance with Appendix B. Appendix B specifies the number of units of services to be delivered by the Contractor and the amounts of funding available for the provision of services for each service. Appendix B is an electronically produced and maintained excel spreadsheet that may be revised by the Department when necessary with the agreement of the Contractor.
- C. The Department may revise and reissue Appendix B as necessary to change: 1) a person's financial resources or services to be provided, 2) to change the number of persons the Contractor is to serve based on the movement of persons into and out of the Contractor's services, and 3) to change payment for one or more of a person's services to the standardized rate system. For persons services not received through the Developmental Disabilities Program standardized rate system, the Contractor must continue to provide those services through the end of the fiscal year even after such time as the Contractor has received maximum consideration available through this Contract.
- D. The Contractor must deliver to each person the types, quantities, and quality of services that the Contractor is responsible for the delivery of as specified in the person's Individual Cost Plan (ICP), Personal Support Plan (PSP), Individual Family Services Plan (IFSP) and related documents. The Contractor must assure the appropriate and consistent delivery of the services authorized in the person's ICP and for which the Contractor is responsible, inclusive of the number of direct service hours per month, staffing ratios, special assistance, supervision, training and support, and one time purchases.
- E. Individual Cost Plans (ICP's) identify the services, and units and/or cost of service necessary to meet the persons needs while assuring that his/her health and safety needs are met. The Contractor agrees to provide services as specified in the individual approved plan of care and associated cost plan.
- F. **Data Reporting & Forms**
1. Contractors will follow the Departments process in using the Department's designated forms for data reporting and information gathering for person's cost plans for purposes of billing and Financial Reporting for all activities.
 2. The Contractor shall support and utilize the Department's computerized systems, as required, for service reporting, billing, data collection and other activities specified by the Department. The Contractor shall support, maintain and utilize any computer system designated by the Department for the purpose of Service Planning, Service Delivery, Service Records, Quality Assurance, Reporting, Billing, Outcome Measurements and other related activities, as required. The Contractor shall ensure that all required information is entered in a timely, accurate manner, in accordance with Department specified time frames.

- G. Time is of the essence under this Contract. Uninterrupted and continuous delivery of the contracted goods and services is required.
- H. All persons and entities the Contractor engages under this contract, including its employees and approved subcontractors, must be appropriately trained, licensed, certified and credentialed as required by law.
- I. The Department and the Contractor, their employees, agents, approved contractors and subcontractors must cooperate with those of the other party, and with other state or federal administrative agency employees and subcontractors at no charge for purposes relating to the administration of the services to be delivered under this Contract.
- J. This Contract is predicated in part on the use of the features specified in the Contract, the RFP and the Contractor's proposal and, if applicable, the attachments and materials referred to in those documents, including resources, persons, and personnel qualifications. The Contractor must ensure it will apply those specific resources, persons, personnel qualifications, and other performance features as required. The Contractor may not substitute specified features without written approval of the Department. Substitutions proposed must be equal to or better than those originally proposed, offered or identified.
- K. The following Department-approved features, if appearing in this Contract are essential to compliance with the requirements of this Contract and the Contractor therefore must maintain and not vary from them without the written approval of the Department:

- staffing ratios;
- hours of service;
- service delivery requirements;
- time, salary and hourly pay rate data; and
- personnel records.

The Department may recover any monies paid to the Contractor when the Contractor has failed to maintain these features or has varied from them without written approval of the Department, retroactive to the date of occurrence.

SECTION 6: CONSIDERATION AND PAYMENTS

The Department reimburses the Contractor in consideration of the goods and services the Contractor provides and renders under this Contract as follows:

- A. **Billing for Performance**
The Contractor may only bill and receive payment for services that have been performed and documented in accordance with the Department's requirements.

- B. Other Programs as Payers For Services – Non-duplication of Payment
The Contractor may not seek compensation from monies payable through this Contract for the costs of goods and services that may be or are reimbursed, in whole or in part, from other programs and sources.
- C. Billing Procedures and Requirements
- 1) The Department will pay the Contractor in consideration of the goods and services the Contractor provides and renders under this Contract in accordance with the payment methodology and fees adopted in ARM 37.34.3001 et seq.
 - 2) Payment to the Contractor will be made to:

Anthony Wayne Rehabilitation Center for Handicapped and Blind
8515 Bluffton Rod,
Fort Wayne IN 46809-3022

Or directly deposited to the Contractors financial institution through Electronic Funds Transfer (EFT) if the Contractor has chosen to use EFT to receive payments.
 - 3) The Contractor must bill in accordance with the procedures and requirements the Department identifies and must submit invoices on forms the Department provides itemizing all services and expenses for payment. The Contractor is to submit, at the direction of the Department, all billing through the billing process designated by the Department.
 - 4) The Contractor's expenditures on services specified in Appendix B must conform to the Contractor's budget as required in 6.C.7. For those services not reimbursed through the Developmental Disabilities Program standardized rates payment system, the Contractor may not receive more than the total amount of monies allocated by the Department for the delivery to persons of each type of service as specified in Appendix B and the total consideration available through this Contract may not exceed the sum of the expenditures authorized in Appendix B.
 - 5) Payment for those individual person's services reimbursable through the Developmental Disabilities Program standardized rate payment system are limited on an individual basis to the total sum derived as the product of the units of the specific service authorized for the person times the applicable payment rate for the service. The units of services available to an individual person for a standardized rates reimbursed service are limited to those authorized through the Individual Cost Plan (ICP) approved by the Department for the person. The ICP may also identify

total expenditure amounts available to an individual person for cost based items.

- 6) Payment for a service to be delivered to a person reimbursed on a contracted for non-standardized rate basis.
 - a. The Contractor's budget, in accordance with this subsection and Subsections 6.C.15 and 6.C.16, may be revised as necessary during the term of this Contract. Upon any proposed revision to the Contractor's budget that involves 5% or more of the total monies budgeted for a service, the proposed revised budget must be submitted to the Department for review and acceptance memorialized by the dated signature of the Program Manager of the Developmental Disabilities Program. Upon acceptance by the Department, the revised budget replaces the current incorporated budget as Attachment A.
 - b. For non-standardized rate services, payment to the Contractor is available only for actual expenses which are allowable and incurred in the delivery of the service up to the total amount of monies allocated to expend on that service for the specified person as stated in Appendix B, or for a cost based ICP item excluding the administrative fee. As provided for in Section 12 of this Contract, actual, allowable, and reasonable expenses are those costs actually incurred by the Contractor in performing this Contract, which would qualify for financial participation under the provisions of 45 CFR, Part 74, and Federal Grant Administration Regulations.
- 7) The Contractor, except in the delivery of Part C, Non-Medicaid Children Services, Evaluation and Diagnoses, and PASRR services, must allow for a person currently served by the Contractor to leave the Contractor's services if the person desires to obtain services from one or more other contractors and if all arrangements necessary for the move, inclusive of the provision of adequate funding for the new services and of acceptance by the other contractor, have been completed. The person may change services at any time during the fiscal year. Before a person may move and thereby leave the Contractor's services the person must provide the Contractor with a 90 day notice unless all parties to the move agree to implementation of the move without the full 90 day notice.
- 8) The Department reimburses the Contractor within thirty (30) days after the submission of an appropriately completed invoice by the Contractor to the Department. The Contractor must invoice the Department within three hundred sixty five (365) days from the date of service.

- 9) The invoice must contain the names of the persons receiving services from the Contractor for the invoice period along with the units and/or cost of service provided to each of those persons.
- 10) Medicaid monies received for developmental disabilities home and community services may not be used as payment for "room and board" expenses as defined in federal regulations 42 CFR 441.310.
- 11) The monies provided through this Contract may not be applied as payment for the costs of services to the extent that those services may be or are reimbursed, in whole or in part, from other programs and sources .
- 12) The monies provided through this Contract must be expended in accordance with the federal and state authorities governing: 1) the delivery of developmental disabilities community services, 2) the receipt and expenditure of the monies provided through this Contract, and 3) the conduct of the Contractor as a contractor for the State.
- 13) No Transfer of Funds between Programs of Service Reimbursed On A Contracted For Non-standardized Rate Basis may be made between or among any of the programs of service described in the Contractor's Budget without an amendment of this Contract.
- 14) Transfer of Funds within a Program of Service Reimbursed On A Contracted For Non-standardized Rate Basis
 - a. The transfer of funds within a program of service is allowed.
 - b. The transfer cannot result in a reduction in the quality or quantity of services or the provision of direct care staff below the minimum staff ratios as specified in this Contract, Department rules or any appendices attached to this Contract.
- 15) The Contractor is to pursue payment for person's services through other primary coverage's available to individual persons inclusive of private health and other insurances, state plan Medicaid services, and other sources of services or payments that may be obligated to provide coverage to a person.
- 16) Medicaid Payment In Full
The Contractor, if delivering Medicaid funded services for the purposes of this Contract, must accept Medicaid payment as payment in full for the services and may not bill or collect further payment for the services from the Medicaid eligible person, any relative of the person, or any other person.

- D. **Adjustments to Consideration**
The Department may adjust the consideration provided to the Contractor under this Contract based on any reductions of funding, governing budget, erroneous or improper payments, audit findings, or failings in the Contractor's delivery of services.
- E. **Sources of Funding**
- 1) The sources of funding for ICP services provided by this Contract are a combination of Medicaid funded Home & Community Based Waiver, CFDA# 93.778 and Federal Title XX funding, CFDA#93.667 based on the allocation available to the Contractor through the Developmental Disabilities Program System and determined on an individual basis through funded services which is stated in each individual cost plan.
- F. **Erroneous and Improper Payments**
The Contractor may not retain any monies the Department pays in error or which the Contractor, its employees, or its agents improperly receive. Any monies the Contractor receives in error are a debt the Contractor owes to the Department. The Contractor must immediately notify the Department if it determines a payment may be erroneous or improper, and must return that payment within 30 days of the Department requesting its return. If the Contractor fails to return to the Department any erroneous or improper payment, the Department may recover such payment by any methods available under law or through this Contract, including deduction of the payment amount from any future payments to be made to the Contractor.
- G. **Withholding for Failure to Perform**
The Department may withhold payment at any time during the term of this Contract and may withhold final payments under this Contract if the Contractor is failing to perform its duties and responsibilities in accordance with the terms of this Contract. The Department will give the Contractor written notice of both the amount withheld and of the basis for the withholding of payment.
- H. **Information and Billing Systems**
- 1) The contractor shall support and utilize the Department's computerized systems, as required, for service reporting, billing, data collection and other activities specified by the Department. The contractor shall support, maintain and utilize any computer system designated by the Department for the purpose of Service Planning, Service Delivery, Service Records, Quality Assurance, reporting, billing, outcome measurement and other related activities, as required. The contractor shall ensure that all required information is entered in a timely, accurate manner, in accordance with Department specified time frames.

- 2) The contractor shall coordinate its data collection and analysis activities with those of the Department including, but not limited to, acquiring computer equipment and training to support State and Federal efforts to uniformly collect and analyze services data.

SECTION 7: FINANCIAL REPORTING

- A. Accuracy of Reports
The Contractor's accounting records, as described in Section 12, must support the accuracy of the Year End Income / Expense Report and the Annual Expenditure Report.
- B. Other Financial Reports As Requested By The Department
The Contractor must submit reports that are components of the Developmental Disabilities Program standardized rate system as requested.

SECTION 8: CONFLICTS OF INTEREST AND ANTITRUST VIOLATIONS

- A. The Contractor must:
 - 1) comply with applicable state and federal laws, rules and regulations regarding conflicts of interest in the performance of its duties under this Contract;
 - 2) cooperate with complete independence and objectivity without actual, potential or apparent conflict of interest with respect to the activities conducted under this Contract;
 - 3) establish safeguards to prohibit its board members, officers and employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain; and
 - 4) have no interest nor acquire any direct or indirect interest that would conflict in any manner or degree with its performance under this Contract.
- B. This Contract is subject to immediate termination if the Contractor engages in any violation of state or federal law relating to:
 - 1) mail fraud, wire fraud, making false statements, price fixing and collusion to fix prices under the Sherman Act, 15 U.S.C. §§ 1-7 and engagement in kickback schemes in violation of the Anti-Kickback Act, 41 U.S.C. §§ 51-58; and
 - 2) colluding with other contractors in a noncompetitive manner to gain unfair advantage in providing services at a noncompetitive price in violation of 18-4-141, MCA.

- C. The Contractor may not enter into any Contract or other arrangement for the use, purchase, sale, lease or rental of real property, personal property or services funded with monies of this Contract if an employee, administrator, officer or director of the Contractor may receive a financial or other valuable benefit as a result. The Department may grant exceptions to this prohibition where it determines that the particular circumstances warrant the granting of an exception.

SECTION 9: REPORTING OF FALSE CLAIMS, FRAUD, AND OTHER CRIMINAL MATTERS

- A. The Contractor, its employees, agents and subcontractors must immediately report any credible evidence of misconduct involving federal funds under this Contract, including any false claim under the federal False Claims Act (31 U.S.C. §§ 3729-3733), to the Office of Inspector General for the federal Department of Health & Human Services, the federal Department of Education or the federal Department of Agriculture, as applicable.
- B. The Contractor must report to the Department or other state authority any credible evidence that a violation of the Montana False Claims Act, at Title 17, chapter 8, part 4, MCA, has been committed.
- C. If this Contract relates to furnishing items or services funded with Medicaid monies at more than a single location, or under more than one contractual or other payment arrangement, and the receipt of Medicaid monies totaling \$5,000,000 or more annually, the Contractor and its subcontractors must establish and set forth policies to be submitted to their employees in writing by handbook or otherwise educating them regarding the federal False Claims Act and other provisions specified in 42 U.S.C. § 1396a(a)(68).

SECTION 10: CREATION AND RETENTION OF RECORDS

- A. The Contractor must maintain all records, (written, electronic or otherwise) documenting compliance with the requirements of the Contract and its attachments, and with state and federal law, relating to performance, monetary expenditures and finances during the term of this Contract and for seven (7) years after its completion date.
- B. Records developed for the purposes of delivery of human services under this Contract are the property of the Department and must be maintained, retained, transferred and disposed of as provided in this Contract or as otherwise directed by the Department. The ownership of records related to the provision of human service does not include fiscal and accounting records.
- C. Records pertaining to the delivery of medical services are not subject to the requirement of subsection (A) except to the extent expressly provided for in this

Contract or as a necessary feature of the delivery of a human service such as medical evaluations for purposes of eligibility and service delivery.

- D. The Department will provide the Contractor with copies of any forms of documents and records the Department specifically requires the Contractor to use in the performance of this contract.
- E. If any litigation, reviews, claims or audits concerning the records are begun before the expiration of the seven (7) year period, the Contractor must continue to retain them until such litigation, reviews, claims or audits are resolved. The Contractor must provide authorized state and federal entities, including Montana DPHHS, the U.S. Departments of Health and Human Services, Agriculture, Energy and Education, their auditors, investigators and agents, with timely and unrestricted access to all of the Contractor's records, materials and information including any and all audit reports with supporting materials and work documents related to the delivery of goods and services provided under this Contract for purposes of audit and other administrative activities and investigations. Access must be provided in a format acceptable to those authorized entities, who may record and copy any information and materials necessary for any administrative activity, investigation and audit or other administrative activity or investigation.
- F. The Contractor must provide the Department and its authorized agents with reasonable access to records the Contractor maintains for purposes of this Contract. The Contractor must make the records available at all reasonable times at the Contractor's general offices or other location as agreed to by the parties.
- G. The Contractor must maintain for each person's receiving services from the Contractor time and attendance records or, if appropriate, contact logs. The records or logs must be signed by an authorized person and certified as correct.

SECTION 11: QUALITY ASSURANCE REVIEWS

- A. The Department periodically, but at least annually, conducts quality assurance reviews in accordance with Developmental Disabilities Policy and federal requirements governing quality assurance with respect to developmental disabilities services provided on behalf of the State of Montana. A review may include on-site examination of the Contractor's services, program management, and financial records to insure compliance with the terms and conditions of this Contract and other relevant authorities.
- B. The Contractor must cooperate fully and remit requested information to the Department staff in these reviews.
- C. The Department may impose such corrective action requirements upon the Contractor as it may believe is appropriate to assure that the Contractor conforms with the Department's standards for the delivery of quality services. In

addition, the Department, in order to assure the delivery of quality services and to protect the interests of the persons and the public, may pursue sanctions or contract termination as provided for in Section 35.

SECTION 12: ACCOUNTING, COST PRINCIPLES AND AUDIT

- A. **Accounting Standards**
The Contractor must maintain a system of accounting procedures and practices sufficient for the Department to determine to its satisfaction that the system (1) permits timely development of all necessary cost data in the form contemplated by the contract type, (2) is adequate to allocate costs in accordance with Generally Accepted Accounting Principles (GAAP); and (3) complies with any other accounting requirements the Department specifies.
- B. **Internal Controls**
The Contractor must maintain and document an adequate system of internal controls that address: 1) the control environment, 2) the risk environment, 3) the risk assessment, 4) the control activities, 5) information, communications, and monitoring.
- C. **Separate Accounting of Funding**
The Contractor must separately account for and report the source, the receipt, and the expenditure of the different types of program funding received from the Department under this Contract. Except as may be expressly allowed for under this Contract, each different fund must be accounted for separately and may not be diverted or commingled.
- D. **Audits and Other Investigations**
The Department and any other legally authorized federal and state entities and their agents may conduct administrative activities and investigations, including audits, to assure the appropriate administration and performance of this Contract; and the proper expenditure of monies, delivery of goods, and provision of services pursuant to this Contract. The Contractor must provide the Department and any other authorized governmental entity and their agents access to and the right to record or copy any and all of the Contractor's records, materials and information necessary for the conduct of any administrative activity, investigation or audit. Administrative activities and investigations may be undertaken and access shall be afforded under this section from the time the parties enter the Contract until the expiration of eight (8) years from the completion date of this Contract. 18-1-118. M.C.A.
- E. **Corrective Action**
If directed by the Department, the Contractor must take corrective action to resolve audit findings. The Contractor must prepare a corrective action plan detailing actions the Contractor proposes to undertake to resolve those audit

findings. The Department may direct the Contractor to modify the corrective action plan.

F. Payment for Sums Owing

The Contractor must reimburse or compensate the Department in any other manner as the Department may direct for any sums of monies determined by an audit or other administrative activity or investigation to be owing to the Department.

G. Federal Financial Requirements

- 1) The Contractor must maintain appropriate financial, accounting and programmatic records necessary to substantiate conformance with federal requirements governing fund expenditures, even if this Contract is not cost / budget based.
- 2) The Contractor must comply with the federal audit requirements set forth in 2 CFR 200.201 through 200.521

Send To:

Quality Assurance Audit Bureau
2401 Colonial Drive 3rd Floor
PO Box 202953
Helena MT 59602-2953

- 3) The Contractor must comply with the federal cost and accounting principles set forth in 2 CFR 200,400 through 200.475.
- 4) A for-profit commercial contractor receiving federal funds from any and all federal funding sources, must comply with the audit requirements in 45 CFR 74.26(d) and the cost and accounting principles and procedures for commercial organizations in 48 CFR 31 concerning the use of the funds provided under this Contract in the version in effect on the date both parties sign this Contract. As a "for-profit" organization, the Contractor may either have an audit that meets the requirements contained in the Federal Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" or the Government Auditing Standards. 45 CFR 74.26(d).

Send To:

Quality Assurance Audit Bureau
2401 Colonial Drive 3rd Floor
PO Box 202953
Helena MT 59602-2953

H. Expenditures Of Monies To Be In Conformance With Authorities

The monies provided through this Contract must be expended in accordance with the federal and state authorities governing: 1) the delivery of the contracted for services, 2) the receipt and expenditure of the particular types of monies provided through this Contract, and 3) the conduct of the Contractor as a contractor for the State.

- I. Expenditures under \$100, may be paid by petty cash. A full accounting, including all receipts, of petty cash expenditures must be available.
- J. Accrual accounting is required for year-end financial reports. The Contractor may use the cash method for interim reports if the Contractor accrues the last month of each fiscal year's transactions during the term of the Contract.

SECTION 13. IMPOSITION OF FEES

No fees, other than those set and authorized in writing or administrative rule by the Department, may be imposed by the Contractor on persons whose participation in Contractor's programs of service is funded under this Contract.

SECTION 14. REAL AND PERSONAL PROPERTY

- A. For purposes of this Section the following definitions apply:

"Equipment" means tangible nonexpendable personal property, including exempt property, charged directly to the Contract having a useful life of more than one (1) year and an acquisition cost of \$5,000 or more per unit unless lower limits are otherwise established.

"Intangible property" means, but is not limited to, trademarks, copyrights, patents, and patent applications and such property as loans, notes and other instruments of property ownership, whether considered tangible or intangible.

"Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

"Personal property" means property of any kind except real property. It may be tangible, having physical existence, such as equipment and supplies, or intangible, having no physical existence, such as data, copyrights, patents, or securities.

"Property" means, unless otherwise stated, real property, equipment, and intangible property.

"Real property" means land, including land improvements, structures, and appurtenances thereto, but excludes movable machinery and equipment.

- B. Purchases the Contractor makes with funds from this Contract are subject to the requirements of this Section. Custom software and teaching aids developed with consideration for this Contract is also subject to the "Software Ownership and Licenses" section as well as this section.
- C. The Contractor may use funds from this Contract to purchase property for carrying out the duties and responsibilities provided for in this Contract only if the Department authorizes such use.
- D. Property purchased with federal funding must be purchased, managed, subject to regular inventory and marking processes, and disposed of in accordance with the pertinent provisions at 45 CFR §§ 74.32, 74.34, 74.35, 74.36 and 74.37; and 45 CFR §§ 92.31, 92.32, 92.33 and 92.34.
- E. The Contractor agrees to deliver title to and possession of any property purchased with contractual monies to the Department or to any entity the Department designates when:
 - 1) the law so requires;
 - 2) the Department so directs the Contractor during the term of the contract;
 - or
 - 3) the Contractor no longer contracts to deliver services to the Department.
- F. All patent and other legal rights in and to inventions arising out of activities assisted by funds from this Contract must be available to the public for royalty free and nonexclusive licensing in accordance with 37 CFR Part 401 and any other applicable legal authority. The Contractor must notify the Department promptly in writing of any invention conceived or actually reduced to practice in the course of performance of this Contract.
- G. The Department and any federal agency from which funds for this Contract are derived have a royalty free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use any written, audio or video material developed under this Contract for Department and agency purposes, in accordance with 45 CFR § 74.36 and 45 CFR § 92.34.

SECTION 15. INVENTORY

- A. Each item or material of personal property the Contractor (1) acquires under any prior contract(s) or from any prior contractor(s) or (2) purchases for the conduct of the business generally or for the provision of services under this contract with funds the Department pays under this contract shall become the sole property of the Department.

- B. The Contractor must maintain on the inventory any item of personal property purchased with both contractual and non-contractual funding, denoting the respective funding amounts and, upon termination of the Contract, compensate the Department or its designee for the amount of the contractual contribution by either paying that amount or by providing additional personal property items. Current value of the property will be taken into consideration.

SECTION 16. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

- A. The Contractor may not agree to assign, transfer, delegate or subcontract this Contract in whole or in part, or any right or duty arising under this Contract, unless the Contractor submits a written request to the Department's liaison and the Department gives its express written approval to the assignment, transfer delegation or subcontract. Any agreement to assign, transfer, delegate or subcontract to which the Department does not give its express written approval is null and void; does not make the Department a party to that agreement; and creates no right, claim or interest in favor of any party to that agreement against the Department.
- B. An assignment, transfer, delegation or subcontract entered into by the Contractor related to the obligations of the Contractor under this Contract must be in writing, must be subject to the terms and conditions of this Contract, and must contain any further conditions as may be required by the Department.
- C. The Contractor must immediately notify the Department of any litigation concerning any assignment, transfer, delegation or subcontract.
- D. In accordance with the sections of this Contract regarding indemnification, the Contractor must indemnify and hold the Department harmless with respect to any suit or action arising out of or brought by any party to an assignment, transfer, delegation or subcontract.

SECTION 17. INDEMNIFICATION

- A. The following apply for the purpose of this section:
 - 1) "Contractor" includes the Contractor and any officer, employee, volunteer, agent, subcontractor, representative or assignee of the Contractor and any other person, partnership, corporation, or other legal entity performing work or services, or providing materials under this Contract for or on behalf of the Contractor.
 - 2) "State" includes the State of Montana and the Department, and any of their officials, employees, volunteers or agents acting within the scope of their duties and responsibilities.

- 3) "Allegation of liability" includes both actual and alleged claims, demands, and legal causes of action.
- B. The Contractor shall, at its sole cost and expense indemnify, defend, and hold harmless the State of Montana against any allegations of liability of any kind, including personal injury, death, or damage to property, and any resulting judgments, losses, liability, penalties, costs, fees, cost of legal defense and attorney's fees in favor of third parties, including the officers, employees and agents of the Contractor.
- C. The obligation of the Contractor to indemnify, defend, and hold harmless the State of Montana under this Section extends only to losses, liabilities, damages, costs, or fees resulting or arising, in whole or in part, from any actual or alleged actions, failures, or omissions of the Contractor and of the State of Montana as jointly liable with the Contractor relating to performance under this Contract, including any actual or alleged:
- 1) acts, errors, omissions or negligence, whether willful or not;
 - 2) failure or omission to perform the duties, responsibilities or services under this Contract; or
 - 3) failure to comply with any federal, state, and local legal authorities, regulations, and ordinances applicable to the services or work to be provided under this Contract or applicable to the work environment or employment practices of the Contractor.
- The obligation of the Contractor to indemnify, defend and hold harmless the State of Montana under this section does not extend to losses, liabilities, damages, costs, or fees arising solely out of or resulting solely from the actions, failures, or omissions of the State of Montana.
- D. The Department must, as soon as practical, give the Contractor notice of any allegation of liability and the Department shall cooperate in the defense of the matter. The Contractor shall reimburse the Department for costs it incurs for attorney fees, investigation and discovery.
- E. If the Department has substantial grounds to believe the Contractor has failed to fulfill its obligations as the indemnitor under this Section, the Department must notify the Contractor of the grounds for its belief. The Contractor shall have five (5) days to respond. If the Contractor fails to respond or the Contractor's response does not adequately address the Department's concerns, the Department may proceed to undertake its own defense. If the Department undertakes its own defense, the Contractor must reimburse the Department for any and all costs to the Department resulting from settlements, judgments, losses, liabilities, and penalties and for all the costs of defense incurred by the

Department including but not limited to attorney fees, investigation, discovery, experts, and court costs.

SECTION 18. LIMITATIONS OF STATE LIABILITY

Any liabilities of the State of Montana and its officials, employees and agents are governed and limited by the provisions of Title 2, chapter 9, MCA, for all acts, omissions, negligence, or alleged acts or omissions, negligent conduct, and alleged negligent conduct related to this Contract.

SECTION 19. INSURANCE COVERAGE

A. GENERAL REQUIREMENTS

- 1) The following definitions apply for the purposes of this section.
 - a. "Contractor's agents" means subcontractors, representatives, assignees, volunteers and any other person, partnership, corporation, or other legal entity performing work or services, or providing materials under this Contract on behalf of Contractor.
 - b. "Claim" means both actual and alleged claims, demands, and legal causes of action.
- 2) The Contractor must:
 - a. acquire and maintain adequate liability insurance coverage in the forms and amounts stated in this Section to assure the State of Montana that there is insurance coverage for any potential losses, damages, and other expenses that may arise in the Contractor's performance of this Contract;
 - b. provide the Department with a copy of the certificate of insurance prior to performance showing compliance with the requisite coverage and at the request of the Department must provide copies of any insurance policies pertinent to the requisite coverage, any endorsements to those policies, and any subsequent modifications of those policies;
 - c. maintain the insurance required in this Section throughout the time period of this Contract. During the term of this Contract, the required insurance may not be changed in any way which renders it not in conformance with the requirements of this Section, including but not limited to cancellation of the insurance, allowing the insurance to expire, reduction or restriction of the terms and coverage, until the insurance carrier has given the Department's liaison 30 days' written notice prior to the change and the Contractor has obtained written commitment for replacement coverage that is in conformance with the

requirements of this Section and proof that the replacement coverage is given with the notice to the Department;

- d. notify the Department immediately of any material change in insurance coverage and must provide to the Department copies of any new certificate or of any revisions to the existing certificate issued;
 - e. pay all premiums and deductibles for each insurance policy required by this Contract; and
 - f. purchase each policy required by this Contract from an insurance carrier authorized to do business in the State of Montana with an A.M. Best's rating of no less than A-, or through a qualified self-insurer plan implemented in accordance with Montana law and subject to the approval of the Department.
- 3.) The Contractor, with the exception of professional liability insurance, must have coverage:
- a. for its subcontractors, or the Contractor must furnish to the Department copies of separate certificates of insurance and endorsements for each subcontractor;
 - b. that specifies the State, including its officials, employees, agents and volunteers, is covered as additionally insured for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor's officers, employees and agents and of the Contractor's performance, the services and products, and the completed operations; and arising in relation to the premises owned, leased, occupied, or used by the Contractor; and
 - c. that provides the coverage is primary insurance in respect to the State of Montana, including its officials, agents, employees, and volunteers and must apply separately to each project or location. Any insurance or self-insurance maintained by the State of Montana, its officials, employees, agents, and volunteers is in excess of the Contractor's insurance and does not contribute with it.
- 4.) . The Contractor must declare any deductible or self-insured retention to the Department, which may not exceed 2% of the total amount of insurance required in relation to the State, its officials, employees and volunteers.
- 5.) If the total of losses for submitted claims exceeds the aggregate amount of insurance coverage a Contractor has, the Contractor must procure additional coverage based upon those increased claims for the remaining term of this Contract.

B. General Liability Insurance

- 1) The Contractor must have primary general liability insurance coverage that covers tort and other claims of liability arising from personal harm or losses, bodily injuries, death, or damages to or losses or real and personal property or for other liabilities that may be claimed in relation to the Contractor's performance. The insurance must cover claims that may be caused by any act, omission, or negligence of the Contractor or the Contractor's officers, employees, or agents.
- 2) General liability insurance coverage must have combined single limits for bodily injury, personal harm or loss, and property damage or loss of \$1,000,000 per occurrence and \$2,000,000 aggregate per year, or as established by statutory tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities or towns pursuant to 2-9-108, MCA.

C. Automobile Liability Insurance

The Contractor must have automobile insurance coverage that covers claims caused by any act, omission, or negligence of the Contractor or the Contractor's officers, employees, or agents. The coverage must be comprehensive and cover Contractor owned, leased, hired, or borrowed vehicles or using personal vehicles.

- 2) The Contractor must maintain at a minimum automobile insurance coverage inclusive of bodily injury, personal injury or loss, and property damage, with split limits of \$1,000,000 per person for bodily injury, personal injury or loss, \$2,000,000 per accident occurrence for bodily injury, personal injury or loss, and \$100,000 per accident for property damage, or combined single limits of \$1,000,000 per occurrence.

D. Professional or Errors and Omissions Liability Insurance

- 1) The Contractor must provide proof of professional insurance to cover such claims as may be caused by an error, omission, or other negligent act of the Contractor as a professional and any other employed or subcontracted professional staff involved in providing the contracted services.
- 2) At minimum, the coverage must have combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year.
- 3) If occurrence coverage is not available or is cost prohibitive, the Contractor may provide "claims made" coverage if:
 - a. the commencement date of this Contract does not fall outside the effective date of insurance coverage; and

- b. the claims made policy has a three (3) year tail for claims that are filed after the cancellation or expiration date of the policy.

SECTION 20. COMPLIANCE WITH BUSINESS, TAX, LABOR, AND OTHER LEGAL AUTHORITIES

- A. The Contractor assures the Department that the Contractor is legally authorized under state and federal business and tax legal authorities to conduct business in accordance with this Contract.
- B. The Contractor and its employees, agents and subcontractors are not employees of the State and the Contractor may not in any manner represent or maintain the appearance that they are employees.
- C. The Contractor must maintain coverage for the Contractor and the Contractor's employees through workers' compensation, occupational disease, and any similar or related statutorily required insurance program at all times during the term of this Contract. The Contractor must provide the Department with proof of necessary insurance coverage as it may be issued to the Contractor and must immediately inform the Department of any change in the status of the Contractor's coverage.
- D. If the Contractor has received an independent Contractor certification from the Montana Department of Labor and Industry as to the Contractor for workers' compensation and other purposes, the Contractor must provide the Department with a copy of the current certification and must immediately inform the Department of any change in the status of the Contractor's certification. This requirement is not applicable if the Contractor's occupation under Montana law is a recognized professional occupation that when practiced as an independent business may be conducted without the independent contractor certification.
- E. The Contractor and its employees, agents and subcontractors must report to the Department or other appropriate state authority any credible evidence that an act in violation of the Montana False Claims Act, at Title 17, chapter 8, part 4, MCA, has been committed.
- F. The Contractor, as a Contractor for the State, must comply on an on-going basis with the Montana prevailing wage requirements in Title 18, chapter 2, part 4, MCA unless the services contracted for are "human services" or one of the other exclusions from the prevailing wage requirement.
- G. The Contractor may not use a person as an independent Contractor in the performance of its duties and responsibilities under this Contract unless that person is currently certified in accordance with Montana legal authorities as an independent Contractor and remains so, or is otherwise exempt under Montana

legal authorities from the requirement to possess an independent contractor certification.

- H. The Contractor is solely responsible on an on-going basis for and must meet all labor, health, safety, and other legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts, which may be legally required with respect to the Contractor, the Contractor's employees, and any persons providing services on behalf of the Contractor under this Contract.
- I. The Contractor must comply on an on-going basis with all applicable federal and state legal authorities, executive orders, federal administrative directives, federally approved waivers for program administration, regulations and written policies, including those pertaining to licensing.
- J. The Contractor shall only employ, contract or otherwise engage personnel who are authorized to work in the United States in accordance with applicable federal and state laws.
- K. The section of this Contract regarding indemnification applies with respect to any and all claims, obligations, liabilities, costs, attorney fees, losses or suits involving the Department that accrue or result from the Contractor's failure to comply with this section, or from any finding by any legal authority that any person providing services on behalf of the Contractor under this Contract is an employee of the Department.

SECTION 21. CIVIL RIGHTS

- A. **Discrimination Prohibited Under Federal and State Authorities**
The Contractor may not discriminate in any manner against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin in the performance of this Contract or in the delivery of state services or funding on behalf of the State. The Contractor may not receive funds from the State if the Contractor engages in discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.
- B. **Compliance with Federal and State Authorities**
The Contractor must comply, as applicable, with the provisions of:
 - 1) The Montana Human Rights Act (49-2-101, *et seq.*, MCA);
 - 2) The Montana Governmental Code of Fair Practices (49-3-101, *et seq.*, MCA);
 - 3) The federal Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*), prohibiting discrimination based on race, color, or national origin;

- 4) The federal Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*), prohibiting discrimination based on age;
- 5) The Education Amendments of 1972 (20 U.S.C. 1681), prohibiting discrimination based upon gender;
- 6) Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794), prohibiting discrimination based upon disability;
- 7) The federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101, *et seq.*), prohibiting discrimination based upon disability;
- 8) The Vietnam-Era Veterans Readjustment Assistance Act (38 U.S.C. 4212);
- 9) The federal Executive Orders 11246 and 11375 and 41 CFR Part 60, requiring equal employment opportunities in employment practices; and
- 10) The federal executive Order 13166 requiring facilitation of access for persons with limited English proficiency to federally funded services.

C. Civil Rights Violations

The Department may undertake any and all actions, including contract termination, necessary to remedy any prohibited discriminatory action by the Contractor or to remedy any failure by the Contractor to carry out an affirmative action as required in federal or state legal authorities.

SECTION 22. FEDERAL REQUIREMENTS

A. Generally.

Prior to signing this Contract, the Contractor must sign and submit to the Department OMB Form 424B (Rev. 7-97) (known as "Assurances – Non-Construction Program") and the Department's "Certification of Compliance with Certain Requirements for Department of Public Health & Human Services (May 2011)". The Contractor must comply with and ensure its subcontractors' compliance with the applicable federal requirements and assurances in those forms, including any related reporting requirements. The Contractor is responsible for determining which requirements and assurances are applicable to the Contractor

B. Political and Lobbying Activities

- 1) Except as expressly permitted by state and federal legal authorities, the Contractor, its employees and agents may not use any monies received under the terms of this Contract to make payments for salaries, expenses or otherwise related to:
 - a. any political activities;
 - b. publicity or propaganda, or the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or a state legislature, except for

presentations to the U.S. Congress or a state legislative body or one or more of its members as an aspect of normal and recognized executive-legislative relationships;

- c. the awarding of any federal Contract, grant or loan, the making of any cooperative agreement or the extension, continuation, renewal, amendment or modification of any federal Contract, grant, loan or cooperative agreement; and
- d. influencing or attempting to influence:
 - i. a member, officer or employee of the U.S. Congress or of any branch of any state or local legislative body, an employee of a member or officer of the U.S. Congress or of any branch of any state or local legislative body;
 - ii. any legislation or appropriations pending before the U.S. Congress or a state or local legislative body; or
 - iii. any officer or employee of any federal or state agency.

- 2) If the Contractor, its employees or agents pay any funds other than the monies received under this contract to any person for influencing or attempting to influence an officer or employee of any agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress or an employee of a member of the U.S. Congress in connection with this Contract, the Contractor must complete and submit to the Department the federally required form, "STANDARD FORM LLL". The Contractor must cooperate with any investigation undertaken regarding the expenditure of funds for political or lobbying activities.

C. Disclosure of Ownership and Control Information (Federal Medicaid monies)

- 1) The following definitions apply for the purposes of this subsection.
 - a. An ownership or control interest means the possession of equity in the capital, the stock or the profits of the Contractor, and includes:
 - i. an ownership or an indirect ownership interest or combination of both totaling five (5) percent or more in the Contractor;
 - ii. an ownership of five (5) percent or more in any mortgage, deed of trust, note or other obligation secured by the Contractor if that interest equals at least five (5) percent of the value of the property or assets of the Contractor;
 - iii. an officer or director of the Contractor's corporation; and
 - iv. a partner if the Contractor is a partnership.

Determinations of ownership and control interest percentages including indirect ownership are made in accordance with 42 CFR 455.102.

- b. A managing employee is a general manager, business manager, administrator, director or other person who exercises operations or managerial control over, or who directly or indirectly conducts the day-to-day operation of the Contractor.
 - c. An agent is any person who has been delegated the authority to obligate or act in behalf of the Contractor.
- 2) Prior to entry into this Contract and thereafter, the Contractor must disclose to the Department:
- a. the name of each corporation or person with an ownership or control interest in the Contractor or in any subcontractor of the Contractor;
 - b. the name of the Contractor's managing employee;
 - c. the name of any person who has ownership or control interest in the Contractor or who is the Contractor's managing employee or agent who has been convicted of a federal crime related to federal health care programs;
 - d. whether any person named as having an ownership or control interest who also is related as a spouse, parent, child or sibling or another named person; or has an ownership or control interest in another disclosing entity, and if so, the identity of that other disclosing entity.
- 3) Within thirty five (35) days of the Department requesting it, the Contractor shall disclose:
- a. ownership of any subcontractor with whom the Contractor has had more than \$25,000 in business transactions in the twelve (12) month period ending on the date the Department made its request; and
 - b. any significant business transactions occurring between the Contractor and a wholly owned supplier or between the Contractor and any subcontractor during the five (5) year period ending on the date of the request.
- 4) The ownership and control disclosure in 22.C.2.a must include the tax identification number, primary business address including post office box, if applicable, every business location, if applicable, of any corporation and the social security number, name, date of birth, and address of any person including a managing employee.

- 5) The Department may deny or terminate enrollment as a Medicaid provider to any entity that fails to comply with the reporting requirements in this subsection.

D. Prohibition on Contracting with Federally Debarred Entities or Persons.

1. General Prohibition On Contracting With Federally Debarred Entities Or Persons

- a. The Department, in accordance with The Federal Acquisition Streamlining Act of 1994, P.L. 103-355, and Executive Orders #12549 and #12689, is prohibited from contracting with any entity that is debarred, suspended, or otherwise excluded from participating in procurement activities funded with federal monies. This prohibition also extends to contracting with an entity that has a director, officer, partner, person with beneficial ownership of more than 5 percent of the entity's equity, employee, consultant, or person otherwise providing items and services that are significant and material to the entity's obligations under this Contract with the Department if that person has been debarred, suspended or otherwise excluded from participating in procurement activities funded with federal monies. The general federal listing of debarred persons and entities for contracting purposes is maintained by the federal General Services Administration (GSA) at System For Award Management, SAM.gov.
- b. If the Department finds that the Contractor is not in compliance with these contract related federal debarment requirements, the Department:
 - i. must notify the federal government;
 - ii. may continue this Contract for its current term unless the Secretary of the federal Department of Health and Human Services or other authorizing federal authority directs otherwise; and
 - iii. may only renew or otherwise extend the duration of the existing contract with the Contractor if the federal government provides to the Department and to Congress a written statement describing compelling reasons that exist for renewing or extending this Contract.

2. Prohibition On Contracting With Entities Or Persons Debarred By The Federal Department Of Health & Human Services

At the time engagement and on a regular basis thereafter, the Contractor must check the "List of Excluded Individuals/Entities" maintained by the Office of Inspector General for the federal Department of Health & Human Services at <http://exclusions.oig.hhs.gov/> to determine whether any person or entity engaged with or employed by the Contractor appears on the list and will immediately report to the Department any person or entity who appears on the list and will take appropriate action to terminate the Contractor's relationship with the debarred person.

3. The Department will terminate this Contract immediately if the Contractor:
 - a. as an entity is debarred, suspended, or otherwise excluded by the federal Office of Inspector General ["OIG"] or by the Department under federal or state legal authority from participating in federally funded procurement activities or from receiving payment through a health care program unless the OIG provides a lawful waiver of the debarment exclusion; or
 - b. employs or engages a person who is debarred or subject to debarment from receiving payment through federal and state health care programs, including a director, officer, partner, person with beneficial ownership of more than 5 percent of the Contractor's equity, employee, consultant, or person otherwise providing items and services that are significant and material to the Contractor's obligations under this Contract with the Department.

E. Reporting for Compliance with the Federal Transparency Act.

- 1) The following definitions apply for the purpose of with this Section:
 - a. "Entity" includes a corporation, an association, a partnership, a limited liability company, a limited liability partnership, a sole proprietorship, a nonprofit corporation, any other legal business entity, a tribe or tribal entity, an institution of higher education and a state or local government. It does not include a natural person and performance is not related to any business or nonprofit organization that the person may own, control or operate.
 - b. "Federal award" includes monies received by the Department through federal grants and contracts, and includes the expenditure of federal monies under cooperative agreements, including all forms of Medicaid payments. It does not include payments and payments made to vendors of supplies, equipment, maintenance and other routine services.
 - c. "Total compensation" includes the cash and noncash dollar value earned by the official/executive during the contractor's past fiscal

year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. Salary and bonus;
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments;
- iii. Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical payment plans that do not discriminate in favor of executives, and are available generally to all salaried employees;
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans
- v. Above-market earnings on deferred compensation which is not tax-qualified; and
- vi. Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

2) The Contractor will submit to the Department the following information related to the monies paid pursuant to this Contract in the time and manner the Department directs in fulfillment of the reporting requirements of the Federal Funding Accountability And Transparency Act (FFATA or Transparency Act), P.L. 109-282, as amended by Section 6202(a), P.L. 110-252-1:

- a. name of the entity receiving the award;
- b. the pertinent NAICS code for the Contractor's business activity;
- c. the Data Universal Numbering System (DUNS) identifier assigned to the Contractor or other unique identifier of the entity receiving the award;
- d. the DUNS identifier or other unique identifier assigned to the parent entity of the recipient, should the recipient be owned by another entity;
- e. award title;
- f. descriptive purpose of the funding action;
- g. the amount of the award;
- h. the transaction type;
- i. the funding agency;
- j. the Catalog of Federal Domestic Assistance number for grant derived program funding;

- k. the program source;
 - l. the location of the entity receiving the award, including four data elements for the city, State, Congressional district, and country; and
 - m. the location of the primary place of performance under the award, including four data elements for city, State, Congressional district, and country.
- 3) The Contractor must mail to the Department each year during the term of the Contract an "Officers/Executive Compensation Report" (the Compensation Report) if the Contractor has:
- reported gross income in the previous tax year totaling \$300,000 or more;
 - consideration for this Contract totaling \$25,000 or more at the signing of or any time during the term of the Contract;
 - annual gross revenues totaling more than \$25,000,000; *and*
 - federal awards which constitute 80% of the Contractor's annual gross revenues.
- a. The Compensation Report will present (1) the individual names and total compensation of the five most highly compensated officers/executives of the Contractor for the most recent full calendar year and (2) the Contractor's Data Universal Numbering System (DUNS) number issued through Dun and Bradstreet. The most highly compensated officers/executives reporting is limited to persons who are engaged in governance and management and is not including highly compensated professionals such as physicians who do not participate substantively in governance or management.
 - b. The Contractor is to submit the Compensation Report to the Department by the end of the month following the month in which the total of the monies obligated through this Contract is at \$25,000 or more, whether occurring at the time of signing or at some later date due to a contractual amendment. The Contractor must continue to submit the Compensation Report annually during the term of the Contract on the anniversary of the initial date of submittal, even if the total consideration for the Contract is later amended to be less than \$25,000.
 - c. The Contractor will submit the Compensation Report to the Department by first-class mail addressed as follows:

DPHHS

Attn: BFSD-FFATA Reporting
PO Box 4210
Helena, MT 59604-4210

- d. In lieu of the Report, the Contractor may submit to the Department the most currently available public report of compensation information as reported to:
 - i. the Security and Exchange Commission (SEC) under sections 13(a) or 15(d) of the Securities Exchange Act of 1934 through the Contractor's annual proxy statement; or
 - ii. the Internal Revenue Service under section 6104 of the Internal Revenue Code of 1986 through Section VII of the Contractor's Form 990.
- e. The Contractor does not need to report the compensation information of its top 5 officers/executives if the federal government designates that information as classified and not subject to public release.

F. Text Messaging While Driving

The Contractor, its officers, employees, agents and subcontractors are prohibited from engaging in any other form of electronic data retrieval or electronic data communication while driving in vehicles for purposes of the work contracted for through this Contract, including text messaging, reading from or entering data into any handheld or other electronic device, SMS texting, e-mailing, instant messaging, and obtaining navigational information. Driving includes operating a motor vehicle on an active roadway with motor running, including while temporarily stationary due to traffic, a traffic light, stop sign or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary. The Contractor and its subcontractors are responsible for ensuring that owners, officers, employees, agents and subcontractors are aware of and adhere to the requirements of this provision.

SECTION 23. CONFIDENTIALITY OF PERSONAL INFORMATION AND COMPLIANCE WITH THE FEDERAL HIPAA AND HITECH PRIVACY AND SECURITY REQUIREMENTS

- A. The following definitions apply for the purpose of this section.
 - 1) "Personal information" means information appearing in any form, whether written, electronic or otherwise, concerning a person who is:

- a. a person or recipient of services delivered by a departmental program;
 - b. otherwise the subject of a departmental activity; or
 - c. a departmental employee.
- 2) "Confidential personal information" means personal information which federal or state legal authorities or regulations protect from general public access and release. "Confidential personal information" includes but is not limited to the name, social security number, driver's license number, street and postal addresses, phone number, email address, medical data, protected health information as defined for purposes of the federal Health Insurance Portability and Accountability Act (HIPAA) and Health Information for Economic and Clinical Health Act (HITECH), programmatic individual eligibility information, programmatic individual case information, programmatic payment and benefit information and information obtained from the IRS or other third parties that is protected as confidential.
- B. Confidential Personal Information Held by the Contractor
During the term of this Contract, the Contractor, its employees, subcontractors and agents must treat and protect as confidential all material and information the Department provides to the Contractor or which the Contractor acquires on behalf of the Department in the performance of its contractual duties and responsibilities which contain personal information or confidential personal information and must use or disseminate such materials and information only in accordance with the terms of this Contract and any governing legal and policy authorities.
- C. Security of Confidential Personal Information.
In its use and possession of confidential personal information, the Contractor must conform with security standards and procedures meeting or exceeding current best business practices. Upon the Department's request, the Contractor will allow the Department to review and approve any specific security standards and procedures of the Contractor.
- D. Notice by Contractor of Unauthorized Disclosures or Uses of Confidential Personal Information.
Immediately upon discovering any unauthorized disclosure or use of confidential personal information by the Contractor, its employees, subcontractors, agents, the Contractor must confidentially report the disclosure or use to the Department in detail, and must undertake immediate measures to retrieve all such confidential personal information and to prevent further unauthorized disclosure or use of confidential personal information.
- E. Notice by Contractor of Investigations, Complaints, Litigation Concerning the Use and Protection of Confidential Personal Information.

- 1) The Contractor must provide the Department with written notice within five (5) work days of the Contractor receiving notice of any of the following:
 - a. any complaint lodged with, investigation initiated by, or any determination made by any federal entity [including the federal Department of Health and Human Services' Office of Civil Rights (OCR) and the federal Department of Justice] related to any purported non-compliance by the Contractor with the federal HIPAA and HITECH Acts and their implementing regulations; or
 - b. any administrative action or litigation initiated against the Contractor based on any legal authority related to the protection of confidential information.
- 2) With its notice, the Contractor must provide the Department with copies of any relevant pleadings, papers, administrative or legal complaints and determinations.

F. Contractor Compliance with the Federal HIPAA and HITECH Acts and the Implementing Regulations Governing the Use and Possession of Personal Healthcare Information.

- 1) If the Contractor uses or possesses individually identifiable personal healthcare information for purposes related to the performance of an services provided under this Contract, the Contractor must comply with the privacy and security requirements of the federal HIPAA of 1996 and HITECH Acts enacted as part of the American Recovery and Reinvestment Act of 2009, and the regulations implementing those requirements as they apply to the Contractor.
- 2) If the Contractor is a Business Associate as defined at 45 CFR 160.103, it must comply with the privacy and security requirements for functioning as a Business Associate of the Department or as a "Covered Entity" under federal HIPAA and HITECH. In addition to executing this Contract, the Contractor must execute the Business Associate Agreement attached to this Contract.
- 3) The Contractor must sign the Department's Certification Form attached to this Contract as Attachment C, certifying that the Contractor is in full compliance with applicable HIPAA and HITECH requirements as a Covered Entity or a Business Associate, as those terms are defined at 45 CFR 160.103.

SECTION 24. PUBLIC INFORMATION AND DISCLAIMERS

- A. The Contractor may not access or use personal, confidential, or privileged information obtained through the Department, its agents and contractors, unless the Contractor does so:
- 1) in conformity with governing legal authorities and policies;
 - 2) with the permission of the persons or entities from whom the information is to be obtained; and
 - 3) with the review and approval by the Department prior to use, publication or release.

Privileged information includes information and data the Department, its agents and contractors produce, compile or receive for state and local contractual efforts, including those local and state programs with which the Department contracts to engage in activities related to the purposes of this Contract.

- B. The Contractor may not use monies under this Contract to pay for media, publicity or advertising that in any way associates the services or performance of the Contractor or the Department under this Contract with any specific political agenda, political party, a candidate for public office, or any matter to be voted upon by the public. Media includes but is not limited to commercial and noncommercial print, verbal and electronic media.
- C. The Contractor must inform any people to whom it provides consultation or training services under this Contract that any opinions expressed do not necessarily represent the position of the Department. All public notices, information pamphlets, press releases, research reports, posters, public service announcements, web sites and similar modes of presenting public information pertaining to the services and activities funded with this Contract prepared and released by the Contractor must include the statement:

"This project is funded in whole or in part under a Contract with the Montana Department of Public Health and Human Services. The statements herein do not necessarily reflect the opinion of the Department."

- D. The Contractor must state the percentage and the monetary amount of the total program or project costs of this Contract funded with (a) federal monies and (b) non-federal monies in all statements, press releases, and other documents or media pieces made available to the public describing the services provided through this Contract.
- E. Must state in all statements, press releases, and other documents or media pieces made available to the public describing the services provided through this Contract and funded in part or in whole with federally appropriated monies

received through the programs administered by the federal Departments of Health & Human Services, Education or Labor, the percentage and the monetary amount of the total program or project costs of this Contract funded with federal monies and the percentage and the monetary amount of the total costs of this Contract funded with non-governmental monies.

- F. Before the Contractor uses, publishes, releases or distributes them to the public or to local and state programs, the Department must review and approve all products, materials, documents, publications, press releases and media pieces (in any form, including electronic) the Contractor or its agents produce with contract monies to describe and promote services provided through this contract.

SECTION 25. TECHNOLOGY ACCESS FOR PERSONS WHO ARE BLIND OR VISUALLY IMPAIRED.

- A. As required by 18-5-603, MCA, information technology equipment and software purchased with contractual monies are an aspect of performance for purposes of this Contract must provide persons who are blind or visually impaired, including Contractor employees and agents, program participants, and members of the public, with access, including interactive use of the equipment and services, that is equivalent to that provided to persons who are not blind or visually impaired.
- B. The requirements of this section are not applicable to the expenditure of monies derived through a standardized rate payment system.

SECTION 26. TOBACCO-FREE WORKPLACE AND OTHER RESTRICTIONS

- A. The Contractor must adopt and implement a tobacco-free workplace policy. The Contractor must provide the Department with a copy of the policy along with an assurance of compliance with the policy.
- B. The Contractor and its subcontractors during the term of this Contract may not:
- 1) perform any work involving the production, processing, distribution, promotion, sale, or use of tobacco products or the promotion of tobacco companies; or
 - 2) accept revenues from a tobacco producing processing or marketing entity or subsidiaries of such an entity if the acceptance of the revenues would result in the appearance that tobacco use is desirable or acceptable or in the appearance that the Contractor endorses the tobacco product or the tobacco related entity.

SECTION 27. RECIPIENT GRIEVANCES AND APPEALS

- A. The Contractor must inform applicants for and recipients of services provided through this Contract of any right there may be to present grievances to the Contractor and the Department or to receive a fair hearing.
- B. If an appeal for a fair hearing is filed, the Contractor must appear, if requested by the Department, to present evidence in any hearing that may be held.
- C. The Contractor, as directed by the Department, must provide services in accordance with the decision in a fair hearing concerning services provided by the Contractor to a recipient of services.

SECTION 28. CONTRACTUAL DISPUTE RESOLUTION PROCESS

In the event of a dispute about matters related to this Contract, the Contractor agrees to follow the Contractual Dispute Resolution process for Human Services Contracts as set forth.

- A. This Contract dispute resolution process implements the state law requirement in 2-15-2230, MCA that contracts entered into for the provision of human services contain a dispute resolution process clause providing recourse to a provider for disagreement about the terms of this Contract.
- B. This dispute resolution process may not be invoked for purposes of resolving an issue that concerns conformance by the Contractor with federal law and policy requirements that govern the expenditure of Medicaid monies or the delivery of services funded with Medicaid monies. Medicaid issues must be appealed through the fair hearing due process appeal process provided for at ARM 37.5.311 that is expressly applicable to persons and organizations that provide services funded with Medicaid monies.
- C. This dispute resolution process is not applicable to the contest of any matters arising as an obligation upon the Department or the Contractor under legal authority, inclusive of federal or state law, regulation or rule, that supersedes or governs over the contractual term that is at issue.
- D. The Contractor, except as otherwise provided in this Section or by legal authorities, may appeal any issue concerning performance or consideration under the terms of this Contract by following these procedures.
 - 1) The dispute resolution process is initiated by the Contractor submitting the dispute in writing to the Contract Liaison for the Department. The Department's Contract Liaison will provide a written response to the Contractor within ten (10) working days.

- 2) If the Department's Contract Liaison fails to issue a written response within ten (10) working days, or the Contractor disagrees with the a written response, the Contractor may request a dispute resolution review within ten (10) working days of either receiving the written response or ten (10) working days from the date it was due, whichever comes first.
 - 3) A dispute resolution review will be conducted within fifteen (15) working days of receiving the request for the review. An extension of fifteen (15) additional work days may be granted at the request of either the Department's Contract Liaison or the Contractor.
 - 4) A dispute resolution review will be conducted by the Division Administrator or designee. Consideration will be given to substantiating documents and information which the Contractor and Department's Contract Liaison wish the Department to consider. The review will include an informal hearing, conducted in person or telephonically, that provides the opportunity for the Department's Contract Liaison and the Contractor to present information and positions as to the matters at issue.
 - 5) A written decision with findings from the review will be issued within thirty (30) days of the hearing.
- E. A dispute appealed through this dispute resolution process is also subject, as provided for by 18-1-402, MCA, to the statutory requirements for and limitations upon appeals in contractual relationships with the State.

SECTION 29. CONTRACTOR COOPERATION AND DEPARTMENTAL GUIDANCE

- A. Cooperation with the Department and Other Governmental Entities
The Contractor must ensure that Contractor's personnel cooperate with the Department or other state or federal administrative agency personnel at no cost to the Department for purposes relating to the delivery and administration of the contracted services including but not limited to the following purposes:
- 1) The investigation and prosecution of fraud, abuse, and waste;
 - 2) Audit, inspection, or other investigative purposes; and
 - 3) Testimony in judicial or quasi-judicial proceedings or other delivery of information to HHSC or other agencies investigators or legal staff.
- B. Departmental Guidance
The Contractor may request guidance from the Department in administrative and programmatic matters that are necessary to the Contractor's performance. The Department may provide such guidance as it deems appropriate. Guidance may include copies of regulations, statutes, standards and policies that are to be

compiled with under this Contract. The Department may supply interpretations of such materials and this Contract to assist the Contractor with compliance. A request for guidance does not relieve the Contractor of any obligation to meet the requirements of this Contract. The Department will not provide legal services to the Contractor in any matters relating to the Contractor's performance under this Contract.

C. Crisis Team

Providers must contact the Developmental Disabilities Program Crisis Team for the purpose of an assessment when a person is at risk of losing services or being placed at a more restricted level of care unless the person poses serious and imminent risk of harm to self or others.

SECTION 30. ACCESS TO PREMISES

The Contractor must provide the State of Montana and any other legally authorized governmental entity, or their authorized representatives, the right to enter at all reasonable times the Contractor's premises or other places where contractual performance occurs to inspect, monitor or otherwise evaluate contractual performance. The Contractor must provide reasonable facilities and assistance for the safety and convenience of the persons performing these duties. All inspection, monitoring and evaluation must be performed in such a manner as not to unduly interfere with contractual performance.

SECTION 31. REGISTRATION OF OUT OF STATE ENTITIES

- A. If the Contractor is incorporated in a state other than Montana or in a foreign country and is conducting business in Montana, it may be required by 35-1-1026 and 35-8-1001, MCA to register with the Montana Secretary Of State Office. Further information concerning these requirements may be obtained through the Montana Secretary of State's Office at <http://sos.mt.gov/> or by calling 406.444.3665.
- B. A business entity required to register in the State of Montana must show proof of a current certificate of authority to conduct business prior to entry into or continued performance under this Contract.

SECTION 32. LIAISON AND SERVICE OF NOTICES

- A. Novelene Martin, telephone number: 406-444-5662, FAX: 406-444-0230, email: nomartin@mt.gov is the liaison for the Department. Mary Hicks, telephone number: 260-207-5634, FAX: 260-207-5635, email: mhicks@benchmarkhs.com is the liaison for the Contractor. These persons serve as the primary contacts between the parties regarding the performance of this contract.

- B. Written notices, reports and other information required to be exchanged between the parties must be directed to the liaison at the parties' addresses set out in this contract.

SECTION 33. PERFORMANCE ASSESSMENTS AND CORRECTIVE ACTIONS

- A. The Department may assess the Contractor's performance under this Contract to any extent and at any time.
- B. If the Department determines the Contractor or any employee, agent, or subcontractor of the Contractor, is failing to perform the duties and requirements under this Contract, the Department may provide written notice of such failure to the Contractor. Within ten (10) business days after receipt of the written notice, the Contractor shall investigate the matters set forth in the notice and submit a written response to the Department setting forth in detail any actions the Contractor agrees to undertake to remedy the failure. The time for responding may be extended by agreement of the parties. If, in the opinion of the Department, the actions the Contractor sets forth in its response are not sufficient to remedy the failure, the Department may propose written amendment of the contract setting forth corrective actions the Department deems necessary to remedy the failure. If the parties cannot agree to such amendment, or if corrective actions agreed to pursuant to amendment are not performed or completed, the Department may exercise any right it has under this Contract, including but not limited to termination of the Contract. Corrective actions may include but are not limited to:
 - 1) Performance requirements;
 - 2) Repayment requirements;
 - 3) Accountability or review measures; and
 - 4) Training or supervision requirements.
- C. The Department may exercise any right it has under this Contract, including but not limited to termination, without first undertaking corrective action pursuant to subsections B of this Section, or after having begun or undertaken corrective action under subsection B.

SECTION 34. FORCE MAJEURE

If the Contractor or State is delayed, hindered, or prevented from performing any act required under this Contract by reason of delay beyond the control of the asserting party including, but not limited to, theft, fire, or public enemy, severe and unusual weather conditions, injunction, riot, strikes, lockouts, insurrection, war, or court order, then performance of the act shall be excused for the period of the delay. "Beyond the control" means an unanticipated grave natural disaster or other phenomenon or event of

an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight. In that event, the period for the performance of the act shall be extended for a period equivalent to the period of the delay. Matters of the Contractor's finances shall not be considered a *force majeure*.

SECTION 35. CONTRACT TERMINATION

- A. Either party may terminate this Contract without cause and in lieu of any or all other remedial measures available through this Contract. A party terminating with or without cause must give written notice of termination to the Contract liaison to the other party at least ninety (90) days prior to the effective date of termination unless the parties agree in writing to a different notice period.
- B. The Department may terminate this Contract in whole or in any aspect of performance under the Contract if:
- 1) federal or state funding for this Contract becomes unavailable or reduced for any reason;
 - 2) the Contractor fails to perform in accordance with the terms of the Contract; or
 - 3) the Contractor fails to perform in accordance with any applicable governing legal authority, including but not limited to:
 - a. the American Recovery and Reinvestment Act of 2009;
 - b. the Government Funding Transparency Act of 2008;
 - c. the Federal Funding Accountability And Transparency Act of 2006;
 - d. the federal and state acts prohibiting false claims;
 - e. the federal and state legal authorities requiring and implementing debarment;
 - f. the federal and state antitrust and other anticompetitive legal authorities including the Sherman Act;
 - g. the federal and state civil rights legal authorities; and
 - h. state licensing legal authorities.
 - 4) Except as may be otherwise required or necessitated by federal or state legal authorities including the Recovery and Reinvestment Act, the Department must give written notice of termination to the Court liaison for other party at least sixty (60) days prior to the effective date of termination of the Contract unless the parties agree in writing to a different notice period.
- C. Notice of termination given to the Department by the Contractor may only be revoked with the consent of the Department.

- D. Upon expiration, termination or cancellation of this Contract, the Contractor must assist the Department, its agents, representatives and designees in closing out the Contract, and in providing for the orderly transfer of contract responsibilities and the continued delivery of contract services by the Department or its designee, and shall allow the Department access of the Contractor's facilities, records and materials to fulfill these requirements.

SECTION 36. CHOICE OF LAW, REMEDIES AND VENUE

- A. This Contract is governed by the laws of the State of Montana. In accordance with Montana Code Annotated § 18-1-401, the district courts of the State of Montana have exclusive original jurisdiction to entertain claims or disputes arising out of contracts entered into by the Department.
- B. For purposes of litigation concerning this Contract, venue must be in the First Judicial District in and for the County of Lewis and Clark, State of Montana.
- C. If there is litigation concerning this Contract, the Contractor must pay its own costs and attorney fees.
- D. If there is a contractual dispute, the Contractor agrees to continue performance under this Contract unless the Department in writing explicitly waives performance.
- E. Any remedies provided by this Court are not exclusive and are in addition to any other remedies provided by law.

SECTION 37. SCOPE, AMENDMENT AND INTERPRETATION OF CONTRACT

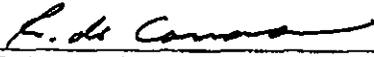
- A. This Contract consists of numbered pages 1 through 57, Definitions Of Terms, expressly referenced as Appendix A; Food Commodities, expressly referenced as Appendix H; Individual Corporation Plan expressly referenced as Appendix I, FFATA Sub-Award Forms expressly referenced as Addendum A. This is the entire Contract between the parties.
- B. No statements, promises, or inducements made by either party or their agents are valid or binding if not contained in this Contract and the materials expressly referenced in this Contract as governing the contractual relationship.
- C. The headings to the section of this Contract are convenience of reference and do not modify the terms and language of the sections to which they are headings.
- D. No contractual provisions from a prior Contract of the parties are valid or binding in this contractual relationship.

- E. Except as may be otherwise provided by its terms, this Contract may not be enlarged, modified or altered except by written amendment signed by the parties to this Contract.
- F. If there is a dispute as to the duties and responsibilities of the parties under this Contract, the Contract along with any attachments prepared by the Department, including request for proposal, if any, govern over the Contractor's proposal, if any.
- G. If a court of law determines any provision of this Contract is per se or as applied legally invalid, all other provisions of this Contract remain in effect and are valid and binding on the parties.
- H. Any provision of this Contract that is determined to conflict with any federal or state law or regulation, whether per se or as applied, is inoperative to the extent it conflicts with that authority and is to be considered modified to the extent necessary to conform with that authority.
- I. Waiver of any default, breach or failure to perform under this Contract may not be construed to be a waiver of any subsequent default, breach or failure of performance. In addition, waiver of a default, breach or failure to perform may not be construed to be a modification of the terms of this Contract unless reduced to writing as an amendment to this Contract.

The parties through their authorized agents have executed this contract on the dates set out below.

No alterations can be made to this Contract. Any alterations will make this document null and void.

MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

By:  Date 3/9/16
Rebecca deCamara, Administrator

Developmental Services Division
Department of Public Health & Human Services
111 Sanders Rm 305
P.O Box 4210
Helena, MT 59604
Address

406.444.2995
Phone Number

CONTRACTOR

BY:  Date: 2/26/2016
William J. Swiss, President

Anthony Wayne Rehabilitation Center for Handicapped and Blind
8515 Bluffton Rod,
Fort Wayne IN 46809-3022
Address

260-744-6145
Phone Number

35-1049596
Federal I.D. Number

ATTACHMENT C

ANNUAL CERTIFICATION FOR DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES OF THE CONTRACTOR'S COMPLIANCE WITH CERTAIN STATE AND FEDERAL REQUIREMENTS (JUNE 2011)

This annual certification form is standardized for general use by the Department Of Public Health And Human Services (Department) in contracting relationships. Not all of these assurances may be pertinent to the Contractor's circumstances. The Contractor in signing this form is certifying compliance only with those requirements that are legally or contractually applicable to the circumstances of the contractual relationship of the Contractor with the Department.

These assurances are in addition to those stated in the federal OMB 424B (Rev. 7-97) form, known as "ASSURANCES - NON-CONSTRUCTION PROGRAMS", issued by the federal Office of Management of the Budget (OMB). Standard Form 424B is an assurances form that must be signed by the Contractor if the Contractor is to be in receipt of federal monies.

There may be program specific assurances, not appearing either in this form or in the OMB Standard Form 424B, for which the Contractor may have to provide additional certification.

This form and OMB Standard Form 424B are to be provided with original signatures to the Department's contract liaison. The completed forms are maintained by the Department in the pertinent procurement and contract files.

Further explanation of several of the requirements certified through this form may be found in the text of related contract provisions and in the Department's policies pertaining to procurement and contractual terms. In addition, detailed explanations of federal requirements may be obtained through the Internet at sites for the federal departments and programs and for the Office for Management of the Budget (OMB) and the General Services Administration (GSA).

ASSURANCES

The Contractor, **Anthony Wayne Rehabilitation Center for Handicapped and Blind**, for the purpose of contracting with the Montana Department of Public Health & Human Services, by its signature on this document certifies to the Department its compliance, as may be applicable to it, with the following requirements.

The Contractor assures the Department:

GENERAL COMPLIANCE REQUIREMENTS

A. That the Contractor does not engage in conflicts of interest in violation of any state or federal legal authorities, any price fixing or any other anticompetitive activities that violate the federal antitrust Sherman Act, 15 U.S.C. §§1 – 7, Anti-Kickback Act, 41 U.S.C. §§ 51-58, and other federal legal authorities. And that the Contractor does not act in violation of 18-4-141, MCA or other legal authorities by colluding with other contractors for the purpose of gaining unfair advantages for it or other contractors or for the purpose of providing the services at a noncompetitive price or otherwise in a noncompetitive manner. (reference Contract Section titled "Antitrust Violations")

B. That the Contractor does not act in violation of the federal False Claims Act at 31 U.S.C. §§ 3729–3733(the "Lincoln Law") or of the Montana False Claims Act, at Title 17, chapter,8, part 4, MCA. And that the Contractor and its employees, agents and subcontractors act to comply with requirements of the federal False Claims Act by reporting any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has submitted a false claim to the federal government. (reference Contract Section titled "Reporting Of False Claims, Fraud, And Other Criminal Matters")

C. That the Contractor is solely responsible for and must meet all labor, tax, and other legal authorities requirements pertaining to its employment and contracting activities, inclusive of insurance premiums, tax deductions, unemployment and other tax withholding, overtime wages and other employment obligations that may be legally required with respect to it. (reference Contract Section titled "Compliance With Business, Tax, Labor, And Other Legal authorities")

D. That the Contractor maintains necessary and appropriate workers compensation insurance coverage. (reference Contract Section titled "Compliance With Business, Tax, Labor, And Other Legal authorities")

E. That the Contractor is an independent contractor and possesses, unless by law not subject to or exempted from the requirement, a current independent contractor certification issued by the Montana Department Of Labor And Industry in accordance with 39-71-417 through 39-71-419, MCA. (reference Contract Section titled "Compliance With Business, Tax, Labor, And Other Legal authorities")

F. That the Contractor's subcontractors and agents are in conformance with the requirements of Sections B, C, and D of this Certification.

G. That the Contractor, any employee of the Contractor, or any subcontractor in the performance of the duties and responsibilities of the proposed contract: 1) are not currently suspended, debarred, or otherwise prohibited in accordance with 2 CFR Part

180, OMB Guidelines To Agencies On Governmentwide Debarment and Suspension (nonprocurement) from entering into a federally funded contract or participating in the performance of a federally funded contract; and 2) are not currently removed or suspended in accordance with 18-4-241, MCA from entering into contracts with the State Of Montana. (reference Contract Section titled "Federal Requirements")

H. That the Contractor is in compliance with those provisions of the privacy, security, electronic transmission, coding and other requirements of the federal Health Insurance Portability And Accountability Act of 1996 (HIPAA) and the federal Health Information Technology For Economic And Clinical Health (HITECH), a part of the American Recovery And Reinvestment Act Of 2009, and the implementing federal regulations for both acts that are applicable to contractual performance if the Contractor is either a Covered Entity or a Business Associate as defined for purposes of those acts. (reference Contract Sections titled "Confidentiality Of Personal Information And Compliance With The Federal HIPAA And HITECH Privacy And Security Requirements" and "Business Associate Obligations")

I. That, as required by legal authorities or contract, the Contractor maintains smoke and tobacco free public and work sites. And if the contract performance is related to the delivery of a human service, the Contractor does not perform any work involved in the production, processing, distribution, promotion, sale, or use of tobacco products or the promotion of tobacco companies; or 3) accept revenues from the tobacco industry or subsidiaries of the tobacco industry if the acceptance results in the appearance that tobacco use is desirable or acceptable or in the appearance that the contractor endorses a tobacco product or the gifting tobacco related entity. (reference Contract Section titled "Tobacco-free Workplace And Other Restrictions")

COMPLIANCE REQUIREMENTS FOR FEDERALLY FUNDED CONTRACTS

J. That the Contractor, in conformance with the Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*), prohibits smoking at any site of federally funded activities that serve youth under the age of 18. This federal prohibition is not applicable to a site where the only federal funding for services is through Medicaid monies or the federally funded activity at the site is inpatient drug or alcohol treatment.

K. That the Contractor does not expend federal monies in violation of federal legal authorities prohibiting expenditure of federal funds on lobbying the United States Congress or state legislative bodies or for any effort to persuade the public to support or oppose legislation. (reference Contract Section titled "Federal Requirements")

L. That the Contractor maintains in compliance with the Drug-Free Workplace Act of 1988, 41 U.S.C. 701, *et seq.*, drug free environments at its work sites, providing required notices, undertaking affirmative reporting, and other requirements, as required by federal legal authorities.

M. That the Contractor is not delinquent in the repayment of any debt owed to a federal entity.

N. That the Contractor, if expending federal monies for research purposes, complies with federal legal authorities relating to use of human subjects, animal welfare, biosafety, misconduct in science and metric conversion.

O. That the Contractor, if receiving aggregate payments of medicaid monies totaling \$5,000,000 or more annually, has established in compliance with 1902(a)(68) of the Social Security Act, 42 U.S.C. 1396a(a)(68), written policies with educational information about the federal False Claims Act at 31 U.S.C. §§ 3729–3733 (the “Lincoln Law”) and presents that information to all employees. (reference Contract Section titled “Reporting Of False Claims, Fraud, And Other Criminal Matters”)

P. That the Contractor is in compliance with the executive compensation reporting requirement of the Federal Funding Accountability And Transparency Act (FFATA or Transparency Act), P.L. 109-282, as amended by Section 6202(a), P.L. 110-252-1, either in that the Contractor does not meet the criteria necessitating the submittal of a report by an entity or in that, if the Contractor meets the criteria mandating reporting, the Contractor produces the information in a publicly available report to the Securities And Exchange Commission (SEC) or to the Internal Revenue Service and provides the report in a timely manner to the Department or produces a separate report with the information and submits that report to the in a timely manner to the Department. (reference Contract Section titled “Federal Requirements”)

Q. That the Contractor, if a contractor for the delivery of medicaid funded services, is in compliance with the requirements of 42 C.F.R. §§ 455.104, 455.105, and 455.106 concerning disclosures of ownership and control, business transactions, and persons with criminal convictions. (reference Contract Section titled “Federal Requirements”).

R. That the Contractor, if providing federally funded health care services, is not as an entity currently federally debarred from receiving payment for the provision of federally funded health care services and furthermore does not currently have any employees or agents who are federally debarred from the receiving payment for the provision of federally funded health care services. (reference Contract Section titled “Federal Requirements”)

COMPLIANCE REQUIREMENTS FOR FEDERALLY FUNDED CONTRACTS INVOLVING THE PURCHASE OR DEVELOPMENT OF PROPERTY

S. That the Contractor manages any real, personal, or intangible property purchased or developed with federal monies in accordance with federal legal authorities.

T. That the Contractor, if expending federal monies for construction purposes or otherwise for property development, complies with federal legal authorities relating to

flood insurance, historic properties, relocation assistance for displaced persons, elimination of architectural barriers, metric conversion and environmental impacts.

U. That the Contractor, if the contract exceeds \$100,000, complies with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. §6321 et. seq.

V. That the Contractor, if the contract exceeds \$100,000, complies with all applicable standards, orders and requirements issued under section 306 of the Clean Air Act, 42 U.S.C. 7607, section 508 of the Clean Water Act, 33 U.S.C. 1368, Executive Order 11738, and U.S. Environmental Protection Agency regulations, 40 C.F.R. Part 15 and that if the Contractor enters into a subcontract that exceeds \$100,000 these requirements are in that contract.

ANTHONY WAYNE REHABILITATION CENTER FOR HANDICAPPED AND BLIND

Signature Of Authorized Certifying Official

By: 
William J. Swiss, President

Date 2/26/2016

Anthony Wayne Rehabilitation Center for Handicapped and Blind
8515 Bluffton Rod,
Fort Wayne IN 46809-3022
Address

260-744-6145
Phone Number

35-1049596
Federal I.D. Number

ATTACHMENT _1-H

SOURCES OF INFORMATION

ON THE PRIVACY, TRANSACTIONS AND SECURITY REQUIREMENTS PERTAINING TO HEALTH CARE INFORMATION OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) AND THE FEDERAL HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH), ENACTED AS PART OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The following are sources of information concerning the applicability of and implementation of the privacy, transactions and security requirements of HIPAA and HITECH. The Department Of Public Health & Human Services requires that contractors generating, maintaining, and using health care information in relation to recipients of State administered and funded services be compliant with the requirements of HIPAA and HITECH as applicable under the federal legal authorities and the status of the Department as a health care plan.

There can be difficulty in interpreting the applicability of the HIPAA and HITECH requirements to an entity and various circumstances. It is advisable to retain knowledgeable experts to advise concerning determinations of applicability and appropriate compliance.

Websites specified here may be changed without notice by those parties maintaining them.

FEDERAL RESOURCES

The following are official federal resources in relation to HIPAA and HITECH requirements. These are public sites. Implementation of the additional requirements under HITECH, due to the more recent date of enactment, is occurring on an ongoing basis.

- 1) U.S. Department Of Health & Human Services / Office Of Civil Rights

www.hhs.gov/ocr/hipaa

The federal Department Of Health & Human Services / Office Of Civil Rights (OCR) provides information pertaining to privacy and security requirements under HIPAA and HITECH including the adopted regulations and various official interpretative materials. This site includes an inquiry service. OCR is responsible for the implementation of the

privacy and security aspects of HIPAA/HITECH and serves as both the official interpreter for and enforcer of the privacy requirements.

2) U.S. Department Of Health & Human Services / Centers For Disease Control & Prevention

<http://www.cdc.gov/od/science/regs/privacy/index.htm#>

The federal Department Of Health & Human Services / Centers For Disease Control & Prevention (CDC) provides information pertaining to the application of privacy requirements under HIPAA to public health activities and programs.

STATE RESOURCES

The Department Website For Medicaid Provider Information provides general information for providers of services on compliance with various state and federal requirements.

www.mtmedicaid.org

Further information concerning HIPAA/HITECH compliance in the delivery of services funded through the Department's various programs can be reviewed at the Department Website for DPHHS HIPAA Policies.

<http://www.dphhs.mt.gov/hipaa/policies/index.shtml>

Certain departmental programs may have more detailed guidance available in relation to particular programs of services. Inquiries may be directed at a program to determine if further information is available.

PROVIDER ASSOCIATIONS

Many national and state provider associations have developed extensive resources for their memberships concerning HIPAA/HITECH requirements. Those are important resources in making determinations as to the applicability and implementation of HIPAA/HITECH.

CONSULTANT RESOURCES

There are innumerable consulting resources available nationally. The Department does not make recommendations or referrals as to such resources. It is advisable to pursue references before retaining any consulting resource. Some consulting resources may be inappropriate for certain types of entities and circumstances.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

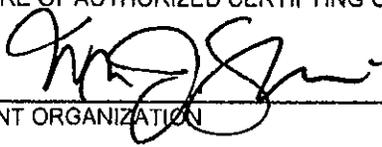
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE President
APPLICANT ORGANIZATION Anthony Wayne Rehabilitation Center for Handicapped & Blind, Inc	DATE SUBMITTED February 26, 2016

APPENDIX I

ANNUAL CONTRACTOR REQUIREMENTS

APPENDIX I

This Annual Contractor Requirements Appendix contains performances and requirements that are particular for this Contractor. Items in this appendix may include those referenced in the rules to be included in the contract, previously negotiated items, and items which address current concerns or incorporate future planning of the Contractor or Department. These items may be based on an assessment of need. They may include training requests, corporation management objectives, contract compliance concerns, fiscal concerns or services the Department is agreeing to provide to the Contractor.

The parties agree that the following terms and conditions must be complied with in addition to the other provisions of the contract.

General Requirements

A. GROUP LIVING / WORK SERVICES DETAIL DESCRIPTIONS

1. Adult or Children's Community Home(s)
Community Home or Assisted Living Detail Information

Please provide the name of each community home include the complete address, county, the type of residential service setting: children's community home, adult community medical home, or adult community home; and the number of residents the home is licensed to serve.

1. [REDACTED] Group Home
[REDACTED]
[REDACTED] MT [REDACTED]
2. [REDACTED] Group Home
[REDACTED]
[REDACTED] MT [REDACTED]
3. [REDACTED] Group Home
[REDACTED]

██████ MT ██████

4. ██████ Group Home

██████ MT ██████

5. _____

6. _____

2. Congregate Living Services

Please list the congregate supported living sites owned, leased or rented by the corporation. Provide the name of the site, the complete address, county and the number of residents that can be served at each site.

1. _____

2. _____

3. _____

4. _____

3. Adult Work or Day Services

a. Work Or Day Detail Information

1. Please provide the name of each service site or program include the complete address, county.*

* Service sites can be defined minimally by different geographical locations, or by different physical settings within one building or groupings of persons served. These definitions should be agreed upon between the Contractor and DDP.

B. TRANSPORTATION SERVICES

Mark the following which the Contractor is qualified to provide.

- Mileage Reimbursement
- Commute
- Wheelchair Commute
- Work/Day Integration
- Wheelchair Work/Day Integration
- Residential Integration
- Wheelchair Residential Integration

C. EMERGENCY BACK-UP CONTACT INFORMATION

The Contractor is expected to provide the Department with all emergency back-up or on-call emergency working numbers for all services that they deliver.

D. SPECIAL CIRCUMSTANCES FOR CONTRACT

At least each 2 years, the Regional Manager will visit with the Board of Directors regarding trends and system updates.

E. ITEMS NEGOTIATED IN PREVIOUS CONTRACT PERIOD(S)

F. ITEMS NEGOTIATED FOR CURRENT CONTRACT PERIOD