Minnesota Department of Human Services Adult Mental Health Division

Request for Proposals for a Qualified Grantee to Develop a Forensic Assertive Community Treatment Team

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I. Introduction

A. Purpose of Request
The Minnesota Department of Human Services, through its Mental Health Division (State), is seeking proposals from qualified responders to develop a forensic assertive community treatment program in the Metro-area, designed to transition adults with serious and persistent mental illness from State correctional facilities into the community.

B. Objective of this RFP
The objective of this RFP is to contract with a qualified responder(s) to perform the tasks and services set forth in this RFP. The term of any resulting contract is anticipated to be for 2 years, from June 1, 2016 until May 30, 2018. The total amount awarded for this proposal is anticipated to be up to $250,000 (two hundred fifty thousand dollars).

Proposals must be submitted by 4:00 p.m. Central Time on April 18, 2016. This RFP does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest. All costs incurred in responding to this RFP will be borne by the responder.

C. Background
Assertive Community Treatment allows a person with mental illness to receive services in the most integrated community setting, and stay out of the hospital, and supports competitive employment, and independent community living. Several states under settlement agreements with the Department of Justice are now required to improve access to and the quality of existing Assertive Community Treatment services for individuals at risk of institutionalization and improve the integration of individuals who have been institutionalized to a more integrated community setting.

A specific focus for the expansion of Assertive Community Treatment is the provision of a specialized program that will serve individuals with severe mental illnesses who are transitioning and re-entering the community from correctional facilities. This is a highly underserved population with complex challenges that require a high level of treatment, rehabilitation and services in order to more successfully re-integrate back into their communities.

DHS intends to provide grants to support the quality improvement and expansion of Assertive Community Treatment, including a forensic assertive community treatment (FACT) pilot program for Minnesota. Grants will also allow for the development of a specialized Forensic Assertive Community Treatment team in the Metro area by June 2016 to support people with serious mental illnesses who are exiting the correctional system.

Scope of Work

A. Overview
This RFP provides background information and describes the services desired by the State. It delineates the requirements for this procurement and specifies the contractual conditions required by the State. Although this RFP establishes the basis for Responder Proposals, the detailed obligations and additional measures of performance will be defined in the final negotiated contract.
Assertive Community Treatment (ACT) is an evidence-based practice for persons with severe mental illness (Dixon, 2000) and is a multidisciplinary, team-based approach with a small staff to consumer ratio, 24/7 hour staff availability and aggressive outreach (Bond, Drake, Mueser, & Latimer, 2001). ACT is best viewed as a platform for delivering services such as medication management, vocational rehabilitation, housing, and psychosocial interventions (Cuddeback & Morrissey, 2011). Forensic assertive community treatment (FACT), an adaptation of the assertive community treatment (ACT) model, is designed to transition adults with severe mental illnesses from correctional facilities into the community (Lamberti & Weisman, 2010).

A qualified provider, who has experience and/or interest in serving justice-involved adults with severe and persistent mental illness (SPMI) will partner with the Department of Human Services, the Department of Corrections, and outside expert consultants to create and implement a Forensic Assertive Community Treatment (FACT) team. The FACT team will provide a comprehensive range of treatment, rehabilitation, and support services to adults with severe mental illness, as defined in Minnesota Statutes, section 256B.0622, who are exiting the correctional system and re-integrating back into their home communities.

This FACT team will apply a multi-disciplinary Assertive Community Treatment team approach incorporating clinical, rehabilitative, and peer staff as outlined in current Minnesota ACT standards (Minnesota Statutes, section 256B.0622). Team members consist of a psychiatrist, nurse(s), and other professionals including mental health professionals, vocational, family, wellness, and substance abuse treatment specialists. Many teams also include a peer specialist. FACT teams will also have a highly integrated and collaborative approach with probation and parole departments to assist with fulfilling their conditions of release as required by probation and reducing contact with law enforcement. Because team members share responsibility for providing treatment and rehabilitation services, the entire team supports each individual’s personalized goal of recovery. With staff of diverse specialties and a low client to staff ratio the FACT team is able to provide tailored, individualized services to individuals enrolled in FACT programming. Since individuals typically receive services from each staff member on the team, care is continuous and coordinated. This team’s philosophy is to “meet people where they are” and to support them in a self-directed manner to reach stability, wellness, and recovery.

This FACT team will target individuals returning to Hennepin or Ramsey counties who are exiting a state correctional facilities. The individuals served may differ from traditional ACT persons by have higher risk of repeated involvement with the criminal justice system or incarceration, more general medical issues, and higher prevalence of co-occurring substance use disorders and homelessness. Individuals who qualify for FACT represent the criminal justice system demographics including a higher proportion of males and over represent persons of color.

The identified population of focus for Forensic Assertive Community Treatment (FACT) Team is:

1. Adults, 18 years and older, who have a severe and persistent mental illness listed in the diagnostic nomenclature (current diagnosis per DSM 5) that seriously impairs their functioning in the community. Priority is given to people with schizophrenia, other psychotic disorders (e.g., schizo-affective disorder), bipolar disorder and/or major or chronic depression, because these illnesses more often cause long-term psychiatric disability.

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1 Dixon, 2000
2 Bond, Drake, Mueser, & Latimer, 2001
II. Priority is given to people who have been identified by the Department of Correction liaisons as being ready for transition planning and discharge. Individuals with a primary diagnosis of a personality disorder(s), substance abuse disorder or developmental or intellectual disability are not appropriate for FACT.

III. In the event that there are no individuals readily identified by the DOC liaisons, priority will be given to individuals not in the State correctional facilities, but who are residing in jail, have high past and/or current involvement with Mental Health court, or a history of extremely high criminal justice involvement and exhibit continuous high service needs that are not being met in more traditional service settings.

FACT services are delivered primarily in community settings of the individual's choice, including individuals’ homes, workplaces, parks, recreational sites, and other locations. Service delivery in the community makes getting treatment easier and more convenient for FACT individuals. It also allows team members to provide treatment in a more relaxed and informal atmosphere, and assists people to build skills in the context of the communities where they live.

The FACT team will help individuals with psychiatric symptom management, getting a job, securing and keeping housing, substance use reduction or abstinence, managing responsibilities with the criminal justice system, and family and friend relationships. The team can assist with the development of a wide range of skills including food shopping, cooking, cleaning, budgeting/banking, obtaining necessary resources (e.g., legal advice, accessing medical care) and other everyday living skills. There is no time limit for receiving ACT services; the services are available to individuals for as long as they need them.

FACT teams have primary responsibility for crisis response and are the first contact for after-hours crisis calls for the individual and/or family. Each team has a staff member who is 'on-call' to assist individual when there is an after-hours crisis or emergency.

Overall deliverables will include creating and sustaining a FACT team, according to the State of Minnesota’s ACT standards (Minnesota Statutes, section 256B.0622), and admit and serve approximately 51-70 FACT clients by the end of the contract period.

B. Tasks Deliverables

The overall project goal will be the creation, implementation, and sustaining of a high quality, forensic assertive community team in one of two (Hennepin or Ramsey) metro counties. This FACT team will be considered a mid-size team, and serve between 51-74 individuals. The following is a list are specific deliverables of this RFP. This list is not exhaustive, and subject to change prior to the contract signing.

Program Start-up Deliverables:

1) Agree to receiving technical assistance during start-up and implementation from DHS-contracted FACT experts.
2) Hire qualified multidisciplinary staff as outlined in the ACT statutes, including a MH Professional who functions as a team leader, a psychiatrist or psychiatric nurse prescriber, supported housing specialist, co-occurring substance abuse specialist, and other core specialists who will serve on the FACT team.
3) Identify one team member, per supervised release team, that will serve as a criminal justice liaison.
4) Provide a statement that they will apply evidence-based principles of community correctional practice to minimize criminal recidivism of clients served.
5) Outline the agency’s plan for hiring a multi-disciplinary team that reflects the demographics of population served.
6) Establish an agreement with the county on operating a FACT team within the county
7) Create and begin implementation of a training plan for all staff, including the need for specialty training to address incomplete staffing and issues of safety, burnout, and turnover.
8) Educate the team in core correctional evidenced based programming and attend any DHS or DOC-identified trainings.
9) Establish relationship and agreements with local law enforcement, probation and parole designees to create a plan for coordinated communication, including but not limited to, identification and managing communication and collaboration barriers. This to be evidenced by letters of support from criminal justice partners that this partner will have interest in applying evidence based principles of community correctional practice to minimize criminal recidivism.

10) Obtain commitment from local probation/parole agency to identify one individual who will serve as a mental health liaison.

11) Obtain a letter of support from criminal justice parent agencies for collaboration with FACT team service providers and to show willingness to participate in training aimed at promoting mental health-criminal justice collaboration.

12) Create eligibility criteria that is in line with typical ACT fidelity, but modified to fit a forensics population. This to include that state correctional facilities are a priority, however, if no eligible candidates are available from state correctional facilities, outline how your agency will prioritize a criminal justice population.

13) Identify referral sources for justice-involved adults with SPMI

14) Create a specific screening and admissions process, including consultation with the DOC and incorporating:

- Pre-release visit and consultation with the DOC transition release planners
- 1-2 pre-release visits face to face contacts with the FACT individual to begin rapport building and continuity of services

15) Design and implement a residential services plan, including how the FACT team will work to get clients housed quickly and in housing of their choice.

16) Letter of support from housing agency/partnership(s) for collaboration with FACT team service providers, including willingness to participate in training aimed at promoting mental health-criminal justice collaboration.

17) Create and implement a policy that will address how the FACT team will access and meet an individual’s primary care needs.

Established FACT Program Deliverables:

1) Report in on collaborative work with field agents responsible for FACT individual supervision. Create and modify the plan for how that integrates into overall treatment.

2) Establish continued stay and discharge criterion.

3) Gather historical information on FACT individuals’ past hospitalizations, involvement with criminal justice system, housing and employment situations. Report in as agreed upon.

4) Meet monthly with DHS within the first year.

5) Submit requested data reports, including submitting data into MHIS, along with other agreed outcomes.

6) Write quarterly progress reports, and yearly reports summarizing progress, barriers, and strategies to overcome barriers.

7) Operate as a high fidelity ACT team as assessed by the TMACT) with a score of 3.7 or higher.

8) Implement the program according to the following timetable (below):

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 2016</td>
<td>Hire program staff &amp; training from DHS contracted FACT consultants</td>
</tr>
<tr>
<td>July 2016</td>
<td>Begin enrolling individuals</td>
</tr>
<tr>
<td>January 2017</td>
<td>Capacity reaches 20% of targeted program size</td>
</tr>
<tr>
<td></td>
<td>A second follow up training from the DHS contracted FACT consultants</td>
</tr>
<tr>
<td>July 2017</td>
<td>Capacity reaches 50% of targeted program size</td>
</tr>
<tr>
<td></td>
<td>A third follow up training from DHS contracted FACT consultants.</td>
</tr>
<tr>
<td></td>
<td>A fidelity review is conducted to assess team’s progress toward FACT implementation</td>
</tr>
<tr>
<td>September 2017</td>
<td>A one-year report is submitted on the progress of implementation</td>
</tr>
<tr>
<td>June 2018</td>
<td>Full capacity achieved</td>
</tr>
<tr>
<td></td>
<td>A second fidelity review is conducted to assess the team’s progress toward FACT implementation</td>
</tr>
</tbody>
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III. Proposal Format

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

A. Required Proposal Contents

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

1. Table of Contents

2. Proposal Requirements
   a. Executive Summary
   b. Description of the Applicant Agency
   c. Description of Target Population
   d. Project Goals and Objectives
   e. Project Activities and Implementation Plan-how will they prioritize the population.
   f. Evaluation Plan
   g. Budget Proposal
   h. Professional Responsibility

3. Required Statements
   a. Responder Information and Declarations
   b. Exceptions to Terms and Conditions
   c. Affidavit of Noncollusion
   d. Trade Secret/Confidential Data Notification
   e. Submission of Certified Financial Audit, IRS Form 990, or Most Recent Board-Reviewed Financial Statements
   f. Disclosure of Funding Form
   g. Human Rights Compliance
      1. Affirmative Action Data Page

4. Appendix (If Applicable)

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

B. Proposal Requirements

The following will be considered minimum requirements of the proposal emphasis should be on completeness and clarity of content.
1. Executive Summary (maximum 2 pages): This component of the proposal should demonstrate the responder's understanding of the services requested in this RFP and any problems anticipated in accomplishing the work. The Executive Summary should also show the responder's overall design of the project in response to achieving the deliverables as defined in this RFP. Specifically, the proposal should demonstrate the responder's familiarity with the project elements, its solutions to the problems presented and knowledge of the requested services.

2. Description of the Applicant Agency (maximum 1 page): This section must include information on the programs and activities of the agency, the number of people served, geographic area served, staff experience, and/or programmatic accomplishments. Describe your agency's experience in providing services to adults who have a severe and persistent mental illness and/or individuals with mental illness who have high involvement with the criminal justice system that seriously impairs their functioning in the community. Describe any specific familiarity your agency has with assertive community treatment, and how the program will ensure fidelity to the ACT model, although with appropriate criminal justice modifications. Please mention any evidence-based practices (EBPs) that staff have been trained in and are currently using in treating this population. Include reasons why your organization is capable to effectively complete the services outlined in the RFP.

This project will emphasize hiring a diverse workforce that emulates the priority target population. Describe your agency’s staff qualifications for the designated supervisor and other personnel that would be part of the ACT team. Include education and experience requirements. Describe how you will recruit and retain a sufficient number of diverse staff to allow for matching staff with the population served. Describe how you will ensure that services are culturally and linguistically competent, including how services will be structured to ensure such competence.

Describe how your agency incorporates family and consumer voice into all aspects of the organization and outline how you envision obtaining family and consumer involvement into the FACT team. Highlight your organization's strengths that you consider an asset for this project. The responder should demonstrate the length, depth, an applicability of all prior experience in providing the requested services. Letters of reference may be included. The responder should also demonstrate the skill and experience of lead staff and designate a project manager with experience in planning and providing the proposed services.

3. Description of Target Population (maximum 3 pages): As previously outlined, this proposal seeks to serve a very specific target population.

Describe the level of need for services in your community, including what data or correspondence occurred to determine this level of need. Describe the services provided and outreach methods that will be used to effectively reach target referral population. Discuss how your programs and activities will positively impact the target population; you may provide examples, performance measures, and desired outcomes. Describe existing relationships with the primary county your program will operate in (including a letter of reference). Describe how your program will involve the Department of Corrections and your local probation agency to ensure a coordinated treatment effort.

4. Project goals and objectives (maximum 3 pages): This section should clearly define and discuss the goals and objectives of the project. Propose and describe specific milestones and explicit outcomes that will be used to demonstrate the program's effectiveness.

5. Project Activities and Implementation Plan (maximum 8 pages): All proposals submitted under this RFP must address, in sufficient detail, how the responder will fulfill the expected outcomes and features set forth above. Simply repeating the outcomes and features and asserting that they will be performed is not an acceptable response. This section should explicitly detail how the project will be carried out in an effective and efficient manner, including who will be involved, what resources are required, target dates for project activities and the timeframe for completion. Detail how your agency will effectively address all of the previously outlined task deliverables within the indicated timeframes (listed in Section II).
6. **Evaluation plan (maximum 3 pages):** The State is committed to funding services that produce a measurable result for the people of Minnesota. A successful responder must develop indicators of the success and effectiveness of the program and be able to measure and evaluate them to determine outcomes. This section should describe the methods and criteria that will be used to measure whether the project goals and objectives have been achieved.

7. **Budget proposal (maximum 3 pages):** This section should specify the grant amount requested and detail all expenses for the proposed project. Describe and explain what the estimated costs pay for. Identify what other ancillary services are being provided that have costs with them and which components are essential to delivering minimum quality services. Include a budget narrative for the applicant and each subcontracting agency. Explain the proposed use of the grant funds and matching funds. Your explanation should provide sufficient detail to justify the total amount budgeted in each category. The program budget must be complete and reasonable, must link to the proposed program activities, and must specify how the amounts for each budget item were determined. Responders are encouraged to apply for only the amount needed for their proposed programs. The total available funds will not necessarily be divided equally, nor will selected applicants be guaranteed the entire amount requested. Budget proposals will be judged on efficient use of funds (that is, funds are being spent on direct services versus administrative costs, as detailed in their budget proposal) and overall cost-effectiveness.

8. **Professional Responsibility (maximum 1 page):** It is crucial that the State locate reliable grantees to serve our clients. The successful responder must be professionally responsible. Therefore, responders must include in their proposals satisfactory information regarding their professional responsibility.

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

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

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

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

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**C. Required Statements**

Complete the correlating forms found in eDocs by searching for the form numbers referenced below, or pasting the form file path name found in the footnotes below to your browser, and submit them as the “Required Statements” section of your proposal. You must use the current forms found in eDocs. Failure to use the most recent forms could result in your proposal not being considered.

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5 http://mn.gov/dhs/general-public/publications-forms-resources/edocs/index.jsp
current forms found in eDocs in completion of the proposal are at the responder’s risk and may, at the discretion of the State, result in disqualification of the proposal for nonresponsiveness.”

1. Responder Information and Declarations (Responder Information/Declarations Form DHS-7020-ENG)⁶:
Complete and submit the attached “Responder Information and Declarations” form. If you are required to submit additional information as a result of the declarations, include the additional information as part of this form.

2. Exceptions to RFP Terms (Exceptions to Terms and Conditions Form DHS-7019-ENG)⁷:
The contents of this RFP and the proposal(s) of the successful responder(s) may become part of the final contract if a contract is awarded. Each responder’s proposal must include a statement of acceptance of all terms and conditions stated within this RFP or provide a detailed statement of exception for each item excepted by the responder. **Responders who object to any condition of this RFP must note the objection on the attached “Exceptions to RFP Terms” form. If a responder has no objections to any terms or conditions, the responder should write “None” on the form.**

Responders should be aware of the State’s standard contract terms and conditions in preparing its response. A sample State of Minnesota, Department of Human Services, Grant Contract is attached in the Appendix for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

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

3. Affidavit of Noncollusion (Affidavit of Noncollusion Form- DHS-7021)⁸: Each responder must complete and submit the attached “Affidavit of Noncollusion” form.

4. Trade Secret/Confidential Data Notification (Trade Secret/Confidential Data Notice Form- DHS-7015-ENG)⁹: All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the successful responder. If a contract is awarded to the Responder, the State must have the right to use or disclose the trade secret data to the extent otherwise provided in the grant contract or by law.

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

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

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⁶ https://edocs.dhs.state.mn.us/Ifserver/Public/DHS-7020-ENG
⁷ https://edocs.dhs.state.mn.us/Ifserver/Public/DHS-7019-ENG
⁸ https://edocs.dhs.state.mn.us/Ifserver/Public/DHS-7021-ENG
⁹ https://edocs.dhs.state.mn.us/Ifserver/Public/DHS-7015-ENG
b. fill out and submit the attached “Trade Secret/Confidential Information Notification Form,” specifying the pages of the proposal which are to be restricted and justifying the trade secret designation for each item. If no material is being designated as protected, a statement of “None” should be listed on the form;

c. satisfy the burden to justify any claim of trade secret/confidential information. In order for a trade secret claim to be considered by the State, detailed justification that satisfies the statutory elements of Minnesota Statutes, section and the factors discussed in Prairie Island Indian Community v. Minnesota Dept. of Public Safety, 658 N.W.2d 876, 884-89 (Minn.App.2003) must be provided. Use of generic trade secret language encompassing substantial portions of the proposal or simple assertions of trade secret interest without substantive explanation of the basis therefore will be regarded as nonresponsive requests for trade secret exception and will not be considered by the State in the event of a data request is received for proposal information; and

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

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

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

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

Depending on the responder’s annual income or how long the responder has been in business, a responder is required to submit either a certified financial audit, IRS Form 990, or most recent board-reviewed financial statements. A certified financial audit is a review of an organization’s financial statements, fiscal policies and control procedures by an independent third party to determine if the statements fairly represent the organization’s financial position and if organizational procedures are in accordance with Generally Accepted Accounting Principles (GAAP). Minnesota nonprofit organizations are required to have a certified financial audit completed for any fiscal year in which they have total revenue of more than $750,000. An IRS Form 990 is a federal tax return for nonprofit organizations. Nonprofit organizations that are recognized as exempt from federal income tax must file a Form 990 or Form 990 EZ if it has averaged more than $25,000 in annual gross receipts over the past three tax years.

Responders must submit financial information as outlined below with their proposal:
a. Responders with an annual income of under $25,000 or who have not been in existence long enough to have an audit or completed IRS Form 990 should submit their most recent board-reviewed financial statements.

b. Responders with total annual revenue of under $750,000 should submit their most recent IRS Form 990.

c. Grant applicants with total annual revenue of over $750,000 should submit their most recent certified financial audit.

Responders may also include documentations of cash reserves to carry you through shortages or delays in receipt of revenue, and/or other documents sufficient to substantiate responsible fiscal management. In the event a responder is either substantially or wholly owned by another corporate entity, the proposal must also include the most recent detailed financial report of the parent organization, and a written guarantee by the parent organization that it will unconditionally guarantee performance by the responder in each and every term, covenant, and condition of such contract as may be executed by the parties. Please also include information about any pending major accusations that could affect your financial stability.

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

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

6. Disclosure of Funding Form (Disclosure of Funding Form- DHS-7018-ENG)

Per the Federal Funding Accountability and Transparency Act of 2006 “Transparency Act” or “FFATA” (Public Law 109-282), all entities and organizations receiving federal funds are required to report full disclosure of funding (United States Code, title 31, chapter 61, section 6101). The purpose of FFATA is to provide every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards to be made available to the public through a single, searchable website. Federal awards include grants, sub-grants, loans, awards, and delivery orders.

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

7. Human Rights Compliance

10 https://edocs.dhs.state.mn.us/lfservr/Public/DHS-7018-ENG
A. **Affirmative Action Certification.** ([Affirmative Action Data Page- DHS-7016-ENG](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7016-ENG))\(^{11}\): For all contracts estimated to be in excess of $100,000, Responders are required to complete and submit the attached “Affirmative Action Data” page. As required by Minnesota Rules, part 5000.3600, “It is hereby agreed between the parties that Minnesota Statutes, section 363A.36 and Minnesota Rules, parts 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statutes, section 363A.36 and Minnesota Rules, parts 5000.3400 - 5000.3600 are available upon request from the contracting agency.”

### IV. RFP Process

#### A. Responders’ Conference

A Responders’ Conference will be held on **Friday, March 18, 2016, at 2:00 p.m. Central Time at 540 Cedar Street, Saint Paul, MN, Room 2380**. The conference will serve as an opportunity for responders to ask specific questions of State staff concerning the project. Attendance at the Responders’ Conference is not mandatory but is recommended. Responders may attend via conference call (contact the State contact for this RFP for more information about attending by conference call). Oral answers given at the conference will be non-binding. Written responses to questions asked at the conference will be sent to all identified prospective responders after the conference.

#### B. Responders’ Questions

Responders’ questions regarding this RFP must be submitted in writing prior to **4:00 p.m. Central Time on Friday March 25, 2016**. All questions must be addressed to:

Request for Proposal Response  
Attention: Lynette Studer, Ph.D.  
Mental Health Division  
Department of Human Services  
P.O. Box 64981  
St. Paul, MN 55164-0981  
Phone (651) 431 -2247  
FAX #: (651) 431- 7566

Questions may also be e-mailed to lynette.studer@mn.state.us

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

Questions will be addressed in writing and distributed to all identified prospective responders. Every attempt will be made to provide answers timely, with the intent that they are sent no later than **April 1, 2016 at 11:00 am CST.**

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\(^{11}\) [https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7016-ENG](https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7016-ENG)
C. Proposal Submission

One (1) original and four (4) copies of the proposal must be submitted. Proposals must be physically received (not postmarked) by 4:00 p.m. Central Time on Monday, April 18, 2016 to be considered. Late proposals will not be considered and will be returned unopened to the submitting party. Faxed or e-mailed proposals will not be accepted.

Clearly label the original "Proposal – Original" and each copy “Proposal – Copy”. All proposals, including required copies, must be submitted in a single sealed package or container. The main body of the proposal pages must be numbered and submitted in 12-point font on 8 ½ X 11 inch paper, single spaced. The size and/or style of graphics, tabs, attachments, margin notes/highlights, etc. are not restricted by this RFP and their use and style are at the responder’s discretion.

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

Attention: Lynette M. Studer, Ph.D.
Mental Health Division
Department of Human Services
444 Lafayette Road N.
St. Paul, MN 55155
Phone (651) 431-2247

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

V. Proposal Evaluation and Selection

A. Overview of Evaluation Methodology

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

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

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

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

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

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

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

C. Evaluation Phases

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

1. Phase I: Required Statements Review

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

2. Phase II: Evaluation of Technical Requirements of Proposals

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

<table>
<thead>
<tr>
<th>Component</th>
<th>Possible Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Executive Summary</td>
<td>Pass/fail</td>
</tr>
<tr>
<td>ii. Description of the Applicant Agency</td>
<td>5</td>
</tr>
<tr>
<td>iii. Description of Target Population</td>
<td>5</td>
</tr>
<tr>
<td>iv. Project goals and objectives</td>
<td>10</td>
</tr>
<tr>
<td>v. Project Activities and Implementation Plan</td>
<td>35</td>
</tr>
<tr>
<td>vi. Evaluation plan</td>
<td>10</td>
</tr>
<tr>
<td>vii. Budget proposal</td>
<td>30</td>
</tr>
<tr>
<td>viii. Professional Responsibility</td>
<td>5</td>
</tr>
<tr>
<td>Total:</td>
<td>100</td>
</tr>
</tbody>
</table>

b. The evaluation team will review the components of each responsive proposal submitted. Each component will be evaluated on the responder’s understanding and the quality and completeness of the responder’s approach and solution to the problems or issues presented. If a proposal fails a requirement or is non-responsive to a component, the proposal will be disqualified and will not move on to Phase III of the evaluation.
c. After reviewing the proposals, the members of the evaluation team will rate each proposal component using the following formula:

Each proposal component will receive one of the following rating based on how well the team member feels the component met the RFP requirements.

Component/Rating and Point Factor
Excellent- 1.0
Very Good -0.875
Good -0.75
Satisfactory-0.625
Poor-0.5
Unacceptable-0.0

Upon determining which of the above Ratings best describes the component being rated, the total possible points available for the component from paragraph a will be multiplied by the corresponding point factor.

EXAMPLE: A “very good” rating (0.875) of a Proposed Work Plan worth a maximum of 40 points would receive a score of 35 (40 x 0.875 = 35).”

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

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

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

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

d. The evaluation team will make its recommendation based on the above-described evaluation process. The successful responder(s), if any, will be selected approximately three (3) weeks after the proposal submission due date.

D. Contract Negotiations and Unsuccessful Responder Notice

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

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

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

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

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

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

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

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

F. Insurance Requirements

1. Responder shall not commence work under the grant contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the grant contract.

2. Responder is required to maintain and furnish satisfactory evidence of the following insurance policies:

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

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

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

   If during the course of the grant contract the responder becomes eligible for Workers’ Compensation, the responder must comply with the Workers’ Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.
b. Commercial General Liability: Responder is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the grant contract whether the operations are by the responder or by a subcontractor or by anyone directly or indirectly employed by the responder under the grant contract. Insurance minimum amounts are as follows:

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

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage  
- Personal and Advertising Injury  
- Blanket Contractual Liability  
- Products and Completed Operations Liability  
- Other; if applicable. Please list: N/A

State of Minnesota named as an Additional Insured, to the extent permitted by law.

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

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

In addition, the following coverages should be included:

- Owned, Hired, and Non-owned Automobile

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

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

Responder is required to carry the following minimum amounts:

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

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

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

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

3. Additional Insurance Conditions:

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

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

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

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

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

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

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

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

5. The successful responder is required to submit Certificates of Insurance acceptable to the State of Minnesota as evidence of insurance coverage requirements prior to commencing work under the grant contract.
VII. State’s Rights Reserved

Notwithstanding anything to the contrary, the State reserves the right to:

A. Reject any and all proposals received in response to this RFP;

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

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

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

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

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

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

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

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

J. Correct or amend the RFP at any time with no cost or penalty to the State. The State will not be liable for any errors in the RFP or other responses related to the RFP.

Remainder of the page intentionally left blank. (Appendices follows)
Appendix A: Sample State Grant Contract

State of Minnesota Department of Human Services Grant Contract

RECITALS
THIS GRANT, and amendments and supplements thereto, is between State of Minnesota, acting through its Department of Human Services ______________Division (hereinafter STATE) and _________________, an independent grantee, not an employee of the State of Minnesota, address ______________________(hereinafter GRANTEE), witnesseth that:

WHEREAS, the STATE, pursuant to Minnesota Statutes, section _______ is empowered to enter into contracts for the following services: _____________________, and

WHEREAS STATE is in need of the following services: ______________________, and

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

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

NOW, THEREFORE, it is agreed:

1. GRANTEE'S DUTIES. GRANTEE shall:

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

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

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

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

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

(a.) Reimbursement shall be one initial cash advance of _______________(equal to one calendar month or calendar quarter) followed by monthly/quarterly cost reimbursement based on the previous month’s/quarter’s expenses as documented by receipts, invoices, travel vouchers, and time sheets.

The STATE shall issue a second cash advance of _______________(equal to one calendar month or calendar quarter) after reconciliation of the previous State fiscal year funds. If actual expenditures of the GRANTEE are less than provided in the approved program line item budget at the end of the grant’s term, the STATE shall reduce the final payment so as not to exceed expenditures.

(b.) Please document the need for the Advance given to the GRANTEE:

_____________________________________________________________________________________

_____________________________________________________________________________________

(c.) Payments shall be made by the STATE promptly after GRANTEE’S presentation of invoices for services performed and acceptance of such services by the STATE’S authorized agent pursuant to Clause 7. Invoices shall be submitted in a form prescribed by the STATE and according to the following schedule:

(d.) (Where applicable. If blank this section does not apply.) Payments are to be made from federal funds obtained by the STATE through Title_________ of the________________Act of ___________ (Public law_____________ and amendments thereto) Catalog of Federal Domestic Assistance (CFDA) No. ______________ federal award name and number ______________________. If at any time such funds become unavailable, this grant shall be terminated immediately upon written notice of such fact by the STATE to the GRANTEE. In the event of such termination, GRANTEE shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

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

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

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

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

6. CANCELLATION.

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

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

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

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

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

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

7.4 Project Manager. The STATE’S project manager for this grant contract is ______________ phone number: _____________ or his/her successor.

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

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

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

11. STATE AUDITS. Under Minnesota Statutes, section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices of the GRANTEE and its employees, agents, or subcontractors relevant to this grant contract shall be made available and subject to examination by the STATE, including the contracting Agency/Division, Legislative Auditor, and State Auditor for a minimum of six years from the end of this grant contract.
12. INFORMATION PRIVACY AND SECURITY. Information privacy and security shall be governed by the “Data Sharing Agreement and Business Associate Agreement Terms and Conditions” which is attached and incorporated into this Contract as Attachment A, except that the parties further agree to comply with any agreed-upon amendments to the Data Sharing Agreement and Business Associate Agreement.

13. INTELLECTUAL PROPERTY RIGHTS.

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

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

Responsibilities.

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

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

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

**15. HUMAN RIGHTS COMPLIANCE.**

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

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

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

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

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

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

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

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

17. VOTER REGISTRATION REQUIREMENT. GRANTEE certifies that it will comply with Minnesota Statutes, section 201.162 by providing voter registration services for its employees and for the public served by the GRANTEE.
18. OWNERSHIP OF EQUIPMENT. The STATE shall have the right to require transfer of all equipment purchased with grant funds (including title) to the STATE or to an eligible non-STATE party named by the STATE. This right will normally be exercised by the STATE only if the project or program for which the equipment was acquired is transferred from one grantee to another.

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

DEBARMENT BY STATE, ITS DEPARTMENTS, COMMISSIONS, AGENCIES OR POLITICAL SUBDIVISIONS

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

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

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

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

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

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

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

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

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

23.4. If the GRANTEE has an independent audit, a copy of the audit shall be submitted to the STATE.

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

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

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

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

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

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

DEFINITIONS

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

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

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

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

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

F. “Disclosure” means the release, transfer, provision of access to, or divulging in any manner of information by the entity in possession of the Protected Information.
G. “HIPAA” means the rules and regulations codified at 45 C.F.R. Parts 160, 162, and 164.

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

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

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

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

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

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

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

1. INFORMATION EXCHANGED

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

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

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

2. INFORMATION PRIVACY AND SECURITY

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

2.1 Compliance with Applicable Safeguards.

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

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

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

2.2 GRANTEE Data Responsibilities

A. Use Limitation.

1. Restrictions on Use and Disclosure of Protected Information. Except as otherwise authorized in the Contract or this Attachment, GRANTEE may only use or disclose Protected Information as necessary to provide the services to STATE as described herein, or as otherwise required by law, provided that such use or disclosure of Protected Information, if performed by STATE, would not violate the Contract, this Attachment, HIPAA, or other state and federal statutes or regulations that apply to the Protected Information.
2. **Federal tax information.** To the extent that Protected Information used under the Contract constitutes “federal tax information” (FTI), GRANTEE shall ensure that this data only be used as authorized under the Patient Protection and Affordable Care Act, the Internal Revenue Code, 26 U.S.C. § 6103(C), and IRS Publication 1075.

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

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

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

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

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

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

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

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

1. **Privacy and Security Policies.** GRANTEE shall develop, maintain, and enforce policies, procedures, and administrative, technical, and physical safeguards to ensure the privacy and security of the Protected Information.
2. **Electronic Protected Information.** GRANTEE shall implement and maintain appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 (HIPAA Security Rule) with respect to electronic Protected Information, including electronic Protected Health Information, to prevent the use or disclosure other than as provided for by the Contract or this Attachment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.3 **Data Security.**

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

B. **Electronic Transmission.** The parties agree to encrypt electronically transmitted Protected Information in a manner that complies with NIST Special Publications 800-52, Guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations; 800-77, Guide to IPsec VPNs; 800-113, Guide to SSL VPNs, or others methods validated under Federal Information Processing Standards (FIPS) 140-2.

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

2.4 **GRANTEE Permitted Uses and Responsibilities.**

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

1. Use Protected Health Information for the proper management and administration of GRANTEE or to carry out the legal responsibilities of GRANTEE.
2. Disclose Protected Health Information for the proper management and administration of GRANTEE, provided that:

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

      i. Obtains reasonable assurances, in the form of a data sharing agreement, from the entity to whom the Protected Health Information will be disclosed that the Protected Health Information will remain confidential, and will not be used or disclosed other than for the contracted services or the authorized purposes; and
      
      ii. GRANTEE requires the entity to whom Protected Health Information is disclosed to notify GRANTEE of any compromise to the confidentiality of Protected Health Information of which it becomes aware.

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

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

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

2.5 STATE Data Responsibilities

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

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

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

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

Upon expiration or termination of the Contract for any reason:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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