PHARMACY CONSULTING SERVICE

REQUEST FOR PROPOSAL

State of Connecticut
Department of Children and Families

September 28, 2007
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DEPARTMENT OF CHILDREN AND FAMILIES
REQUEST FOR PROPOSAL (RFP)

I. GENERAL INFORMATION

Title: Pharmacy Consulting Service

Type of Funds:
State funds of up to $39,750 per state fiscal year to be competitively awarded through the Department of
Children and Families, dependent on appropriation by the State.

Overview: Purpose and Goals of RFP
The purpose of pharmaceutical consulting is to provide a high level of patient care and a proactive
philosophy in managing psychotropic medications. DCF will utilize the consulting services of a pharmacy
system that can provide expert services in the management and utilization of all medications.

We estimate that within our area communities, state hospital and facilities, a large majority of the children
and adolescents with mental and behavioral health disorders are using prescribed medications to help
manage their behaviors and allow them to live and work at optimal levels. Also, many children in residential
and congregate care utilize medications on a regular or intermittent basis, requiring careful oversight and
medication management. Therefore, it is imperative that DCF have the highest level of expertise, bringing
the clinical skills and knowledge base of practicing pharmacists to the task of improved patient care.
Pharmacists will be able to integrate clinical knowledge, scientific evidence and pharmaco-economics into
the practice of medicine for the children and adolescents in DCF care.

Six years ago, DCF created the DCF Psychotropic Medication Advisory Committee (PMAC), a group of
Child Psychiatrists, Pediatricians, Pharmacists, Advanced Practice Registered Nurses, and Family
Advocates, from both the private sector and the State system that meets to review the psychiatric treatment
of children and adolescents in the DCF system. As well as reviewing the psychiatric and mental health
treatment needs of children in the DCF system, PMAC has worked with contracted pharmacists to refine
and standardize the processes related to the use of psychotropic medications in DCF-involved children.
Using multiple resources, the group has formulated guidelines to improve and systematize psychotropic
medication treatment. This ongoing work together is important to ensure that DCF involved children have
the best expertise available to manage the utilization of psychotropic medications.

Background
The Department of Children and families is a state agency serving the needs of children, adolescents and
families throughout the state of Connecticut. Increasingly, many of these children require the use of
psychotropic medications for the management of severe and disabling behavioral health disorders. DCF is
committed to ensuring excellence in client care in the area of pharmacy and therapeutics.

The children and adolescents in the care of the Department of Children and Families (DCF) offer special
challenges to the practitioner. There are approximately 6,000 Connecticut children at any one time whose
guardian is the Commissioner of DCF. In addition, there are many other children who are entering and
leaving the system, through orders of temporary custody, 96-hour holds, commitment for the purpose of
placement, or by turning age 18 and reaching the age of consent. Many of these children cycle between foster homes, group homes, residential treatment centers, and hospitals, often with incomplete medical records and no primary practitioner overseeing their care. There is now widespread acknowledgement among healthcare professionals that these children represent a very vulnerable sub-population. According to one study (Farmer, Burns, Chapman, Phillips, Angold, and Costello, 2001) serious emotional disturbance, as defined by the presence of a diagnosable psychiatric condition and significant functional impairment, was present in 78 percent of the children in foster care. The authors also noted rates of behavior problems, developmental delays, and need for mental health treatment of between 39 and 80 percent of the foster care population. The high rate of psychiatric and behavior problems in the population of children in foster care are costly, both in human and financial terms. For example, in California foster children make up 4% of the Medicaid population, but account for more than 40% of child mental health expenditures (Rosenfeld, Pilowsky, Fine, Thorpe, Fein, Simms, Halfon, Irwin, Alfaro, Saletsky, & Nickman, 1997).

Not only may children/adolescents in state care present with complex psychiatric diagnostic issues, but also reliable and comprehensive medical history on the child may not be available to help clarify these complex issues. The child may have had multiple caretakers; disruptions and trauma caused by the foster care system itself, and may currently be in transition from one home setting to another. As a result of these findings, many agencies (Child Welfare League of America – CWLA; American Pediatrics Association-APA; American Association of Child and Adolescent Psychiatrists – AACP) have published guidelines, readily available on their websites, for treatment of children for whom the state is their guardian. These guidelines focus on the importance of a complete diagnostic work-up, and the establishment of a “medical home” for overall preventative care.

Along with the “new” identification of the vulnerabilities of this population is the recent focus on alarming trends in psychotropic medication use in children and youth. Examples include articles citing the lack of an evidence-base for pediatric psychopharmacology; growing concern about side effects of SSRIs; medication use linked to increased susceptibility to diabetes, metabolic syndrome and obesity; the rapid increase in use of second generation antipsychotic for aggression when new studies show first generation antipsychotic for psychosis may be more effective; and overall concerns that lack of community-based treatment options has led to an over-reliance on medications. Now more than ever there is reason for caution and prudence in prescription writing for this population, and states as diverse as Arizona, Texas, and Florida have begun publishing their own guidelines for this process. Responding to growing concern, legislation was passed in 2006 requiring DCF to set up a state-of-the-art medication management system (Med-Link) for children and youth in the custody of the Commissioner.

Service
The purpose of this service is to improve the psychiatric care and medical oversight of children with complex psychiatric and behavioral needs who are committed to the Department.

The goals of the Medication and Consultation Service are:

1) to assist with DCF’s effort to unify and standardize the medication permission processes for children in state care to provide for appropriate medication utilization and oversight;

2) to improve the standard of psychiatric care of DCF-committed children by implementing psychotropic medication guidelines, including practice parameters, based on evidence-based therapeutic practices, optimal dose ranges, medication monitoring protocols, assessment of possible drug interactions prior to
initiating new medications, and improved documentation of medication use, side effects, adverse reactions, and medication efficacy;

3) to improve DCF data collection to provide up-to-date medical and psychiatric information about children in DCF care, and to provide data about the use of psychotropic medications by this population to guide and inform agency policies and procedures;

4) to improve agency and community access to up-to-date, scientifically sound, web-based educational information on psychiatric disorders in children and adolescents, psychotropic medications, and non-pharmacologic interventions with children with emotional and behavioral health disorders;

5) to improve the skill proficiency of DCF staff and the staff of DCF licensed facilities (e.g., residential treatment centers, shelters, safe homes, group homes) who administer psychotropic medications to DCF-committed children/youth via the Medication Administration Certification Program

Preference will be given to those Applicants that can demonstrate the following competencies and the ability to meet goals and objectives:

- Expertise and experience in working with the medical and mental health needs of children and adolescents involved with the child welfare, juvenile justice or child mental health system in Connecticut;
- Expertise in developing and managing complex medical and psychiatric information systems;
- Experience in collaborating with the child mental health community in Connecticut;
- Expertise in quantitative and descriptive statistics with a capacity to produce timely quarterly and ad hoc reports about the use of psychotropic medications with children committed to DCF.
- Ability to attend and participate in monthly DCF Psychotropic Advisory Committee (PMAC) meetings and sub-committee workgroups and as needed in other appropriate DCF committees. Responsibility for taking and distributing the agenda and minutes; will regularly lead a review and updating of the DCF medication protocol; and bring evidence-based information and literature reviews to the group for consideration;
- Assist in the development and maintenance of psychotropic drug use guidelines, practice parameters, and treatment protocols for specific medication classes. The pharmacists will be responsible for monitoring any FDA changes and update all current DCF guidelines provided to contracted and community prescribers.;
- Monitor all reported adverse drug reactions and compile reports semi-annually that will include data analysis, trends and recommendations to improve the quality of care as it relates to medication use. Pharmacists will help to implement the adverse drug reaction system in all state facilities and provide education and support to contracted providers;
- Provide in-service education and web-based education to DCF staff (intranet) and providers (internet) regarding medication practices and specific medications. Pharmacists
will prepare and provide psycho-education within DCF facilities and will update Med-Link information on the DCF website;

- Assist in developing and maintaining a DCF formulary with regular analysis and feedback based upon research-based clinical information and best practices;

- Development of medication-related literature and web-site content for DCF children and families. Pharmacist will develop a family oriented medication information booklet and a state-wide newsletter for psychotropic prescribers that will provide updated information on medication best practices.

- Consultation to the four DCF facilities and provision of a specific DCF drug information service for use by DCF area offices and facilities. A drug information service will provide telephone assistance state-wide to area office staff, families, the state hospital and all congregate care facilities. The four main DCF facilities will utilize the pharmacists for education and prescribing support;

- Participate in the development and data management for a state-wide medication permission process in cooperation with the DCF MEDLINK project. The pharmacists will be integral members of the implementation committee and will contribute to the planning and implementation of Med –Link.

**Period of Award**

The funding period will be determined in conjunction with the awarded applicant based upon the anticipated start of service. It is expected that at least a 2 year contract will be executed. Continued funding will be contingent upon performance of the awarded RFP applicant and the continued appropriation and availability of funds to the Department.
Technical Assistance Session

The Department of Children and Families will conduct a Technical Assistance (TA) Session that is optional for all potential respondents. This session will occur as follows:

DATE: Friday October 12, 2007
TIME: 1PM-3PM
LOCATION: Department of Children and Families
505 Hudson Street
Hartford, CT
8th floor A/V Conference Room

Please note that copies of the RFP will not be available at the TA session. Attendees are asked to bring a copy of the RFP with them to the TA for reference.

Letter of Intent

A non-binding Letter of Intent will be required for all applicants intending to reply to this RFP. Letters of Intent must be delivered by email, fax (860.566.8022), or in person to Tina Morin by October 17, 2007, no later than 3:00 p.m., local time. The Department will not review any applications submitted by a Respondent who has failed to submit a Letter of Intent within the specified time frame.

RFP Contact and Written Questions

Subsequent to the Technical Assistance Session, written follow-up questions will be accepted until 3:00 p.m., local time, on October 17, 2007. Responses to the questions submitted will be posted on the Department of Administrative Services (DAS) contracting portal website (www.state.ct.us/das) on or about October 26, 2007.

Submit your questions via email to:

Tina Morin
Administrative Assistant
Department of Children and Families
505 Hudson Street
Hartford, CT 06106
Tina.Morin@ct.gov
Phone: 860-560-5040
Application Requirements
Deadline for Submission:
Applications are due **no later than 3:00 p.m., local time, on November 14, 2007**. The Department reserves the right to reject any and all proposals, or portions thereof, received as a result of this request, or to negotiate separately any service in any manner necessary to serve the best interests of the Department. The Department reserves the right to contract for all or any portion of the scope of work contained within this RFP if it is determined that contracting for a portion or all of the work will best meet the needs of the Department.

Ten (10) copies (one original and nine copies) of the applications should be mailed or delivered to the DCF contact person below.

Judith Jordan  
Director of Grants Development and Contract Management  
Department of Children and Families  
505 Hudson Street  
Hartford, CT 06106

Each copy must be complete, collated, and ready for reviewers. Please note that faxed and electronic versions of the application will not be accepted. Also, no applications will be accepted or considered for review after the due date and the time stated above.

Eligibility
Applications will be accepted from any public or private organization. The Applicant and any proposed subcontractors may not have a current licensing restriction or have been subject to DCF or other state agency licensing restriction within the last 6 months. A current investigation of Medicaid fraud or a judgment involving Medicaid fraud within the past five (5) years also excludes a provider from participation. Proposals from applicants who appear on the United States General Services Administration Excluded Parties List will not be considered.

Disposition of Proposal
The Department reserves the right to reject any and all proposals, or portions thereof, received as a result of this RFP or to negotiate separately for any service in a manner necessary to meet the needs of the Department.

Insurance
The Respondent will carry insurance (liability, fidelity bonding or surety bonding and/or other), during the term of this contract according to the nature of the work to be performed to “save harmless” the State of Connecticut from any claims, suits or demands that may be asserted against it by reason of any act or omission of the Respondent, sub-Respondent or employees in providing services hereunder, including but not limited to any claims or demands for malpractice. Certificates of such insurance shall be filed with the Department prior to the performance of services.
RFP SCHEDULE

The following timeframes have been established by DCF for the implementation of this project.

<table>
<thead>
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<th>Activity</th>
<th>Timeframe</th>
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<tbody>
<tr>
<td>RFP Planning and Development</td>
<td>June 1, 2007</td>
</tr>
<tr>
<td>RFP Published</td>
<td>September 28, 2007</td>
</tr>
<tr>
<td>Technical Assistance Session (non-mandatory)</td>
<td>October 12, 2007 1-2:30 p.m.</td>
</tr>
<tr>
<td>Mandatory Letter of Intent</td>
<td>October 17, 2007 3:00 p.m.</td>
</tr>
<tr>
<td>Receipt of Written Questions</td>
<td>On or about October 26, 2007</td>
</tr>
<tr>
<td>Questions Posted</td>
<td>November 14, 2007 3:00 p.m.</td>
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INFORMATION TO BE PROVIDED AND QUESTIONS TO BE ADDRESSED BY THE APPLICANT

The purpose of the questions and other information requested below is for any and all interested applicants to demonstrate their experience and ability to respond to the requirements of this RFP. In a narrative form, briefly describe the history of your organization, staff skills and all staff and organizational competencies pertinent to the services required by this RFP. Include any special or unique characteristics of your organization that would make it especially qualified to meet the needs of this RFP. Please specifically detail the following:

1. Provide an overview of your organization including years in operation, mission, philosophy, vision, experience providing pharmaceutical services and the current range of services the organization and the resources that would be brought to the Psychotropic Medication Advisory Committee.
2. Provide an organizational chart and identify key managers by name and attach resumes of identified managers.
3. Describe your organization’s history providing services to low income, vulnerable populations and specifically children in the public service sector.
4. Provide evidence of your organization’s experience and approach in working with a state agency that includes residential facilities, a children’s hospital, a correctional facility and multiple area offices.
5. Provide evidence of your experience providing pharmaceutical services to children with serious behavioral health problems requiring monitoring for the use of multiple psychotropic interventions.
6. Describe how you would help create a communication system with DCF that allows for state-wide adverse drug reporting, response to inquiries for drug information and web development for state-wide communication.
7. Describe your information systems infrastructure. Document your capacity for word processing, spreadsheet creation and database development, analysis, reporting and collaboration with the proposed Med-Link system.
8. Describe your experience providing training and psycho-education to multidisciplinary audiences, providing state-wide prescribing support and facilitating multi-specialty meetings on drug utilization and management.
9. Describe evidence of your organization's ability to develop and maintain psychotropic drug use guidelines, practice parameters, and treatment protocols for specific medication classes, updating and monitoring consistent with FDA changes and professional best practices.

10. Provide evidence of sound fiscal management processes, fiscal stability and ability to manage public contracts.

11. Indicate, separately and specifically, how you propose to meet each of the competencies and deliverables outlined on pages 5-7 above.

BUDGET

Fiscal Components

Each applicant will be required to submit a fiscal summary that includes the following two (2) components:

An annualized budget and budget narrative for the proposal. Budgets must include any required staff positions and program components outlined in this RFP. Please utilize the attached budget form for budget submissions.
BUDGET AND NARRATIVE JUSTIFICATION

Applicant: _________________________________

CATEGORIES

A. Personnel

<table>
<thead>
<tr>
<th>Job Title</th>
<th>Name</th>
<th>Project role or activity</th>
<th>FTE</th>
<th>Salary Requested</th>
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Personnel subtotal

B. Fringe Benefits  Rate=______%

Fringe Benefits Subtotal =

C. Travel

Include purpose and costs
Note: Mileage reimbursement may not exceed the State reimbursement rate of $. 445/mile

Travel subtotal =

D. Supplies

Supplies subtotal =

E. Equipment

Equipment subtotal =

F. Contractual Costs
Include name of subcontractor, role, hourly rate and number of hours

Contractual subtotal =

Total Direct Charges (sum of A-F)

Indirect Costs  Rate = ____%
List items that make up indirect costs, e. g. facility costs, maintenance, administrative or support staff not directly assigned to project

Total Indirect =

TOTAL
APPLICATION INSTRUCTIONS

Submitted applications must conform to the following format requirements:

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<tbody>
<tr>
<td><strong>Page Limit</strong></td>
<td>15 Pages Questions to be Addressed by the Applicant (excludes Cover Page, Table of Contents, Application Budget, Budget Narrative and Appendices)</td>
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<td><strong>Font Size</strong></td>
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<td><strong>Font</strong></td>
<td>Times New Roman</td>
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<td>1 inch all sides</td>
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<td><strong>Paper</strong></td>
<td>8.5 inches by 11.0 inches</td>
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<td>Portrait</td>
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<td><strong>Line Spacing</strong></td>
<td>Double</td>
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APPLICATION FORMAT

Applications should be packaged with the information in the following order:

1. Cover Sheet
2. Table of Contents
3. Questions to be Addressed by Applicants
4. Application Budget
5. Application Budget Narrative
6. Appendices (see below)

Please ensure that all pages are numbered. Also, please do not submit materials in binders and notebooks. Applications should be packaged using a binder clip or other similar device.

APPENDICES

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<td>Appendix 3</td>
<td>Organizational Structure/Chart</td>
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<td>Appendix 4</td>
<td>Board of Directors (annotated with race/ethnicity and gender)</td>
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<td>Appendix 5</td>
<td>Certificate of Incorporation</td>
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<td>Appendix 6</td>
<td>CHRO compliance packet: Notification to Bidders Form**</td>
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<td>Appendix 7</td>
<td>CHRO compliance packet: Evidence of Non-Discrimination form**</td>
</tr>
<tr>
<td>Appendix 8</td>
<td>CHRO compliance packet: Employee Information Form**</td>
</tr>
<tr>
<td>Appendix 9</td>
<td>Letters of Reference from 2 clients</td>
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<tr>
<td>Appendix 10</td>
<td>Subcontractor Profile Form(s)</td>
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<td>Appendix 11</td>
<td>Consulting Agreement affidavit**</td>
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Please note: Attachments other than those appendices defined above, are not permitted. In addition, these appendices are not to be used to extend or replace any required section of the application.

* Letters of Agreements are defined as documents as memorandum in which an agency, organization or individual will be providing a concrete service for the proposed program (e.g., Staff, Training, Space, etc.)

**Failure to include these items will result in the application being rejected without review.

REVIEW INFORMATION

Review Context

The review of the proposals will be contextualized, but not limited to the following elements:
A. All application requirements have been met. Application format and utilization of DCF application materials, as described in RFP and/or at the Technical Assistance/Bidders Conference, have been adhered to.
B. The applicant has clearly and satisfactorily described how all project support requirements listed in the RFP will be addressed both initially and over the duration of the project.
C. The applicant has submitted a realistic and cost effective budget that includes accurate listing of all program-funding sources and expenses, as stipulated in the RFP.
D. Applicant demonstrates an ability to support the proposed program by providing adequate administrative support and supervision.
E. Applicant can demonstrate an ability to work effectively with DCF, providers, and, where appropriate, other state agencies.

Review Procedure
The Department is under no obligation to award the contract to the application with the highest score or, for example, the proposal offering to provide the service at a lower amount than other applicants. The review panel may use numerical point measures as a guide, but these measures are not binding on the review panel. The recommendations of the review panel are based on a wide range of considerations and are not limited to point weight score or the relative costs of the proposals. Following the final selection, a contract will be negotiated and developed with the applicant that details the program structure, services, budget, rate, performance-based criteria and reporting requirements. No financial obligation by the State can be incurred until a contract is fully executed.

Review Criteria

Bidder Qualifications
- Applicant has provided an overview of their capacity to provide the proposed service.
- This overview supports the applicant’s ability to successfully administer the proposal set forth in the RFP.
- Applicant has demonstrated prior experience and success in delivering services to similarly situated states or systems.

Cultural Competency
- The Board of Directors reflects cultural diversity.

Bidder References
- The bidder has provided 3 letters of reference from states or other large similarly situated entities in support of their qualifications to deliver the services being sought.
COVER SHEET
Request for Proposals
Pharmacy Consulting Service

Name of Agency: _______________________________________________________

FEIN_________________________

Address: ______________________ _____________________________________
______________________________________________________________________
______________________________________________________________________

Application Contact Person:  ____________________________________________

Contact Person Phone & Fax:  ___________________________________________

Contact Person Email Address: ___________________________________________

Proposed Funding Level _________________________________________________

By submission of this proposal the bidder acknowledges receipt of requirements for State contractors contained within the RFP and signifies agreement to comply with the stated requirements.
Janet E. Williams, M.D.
Department Medical Director
Department of Children and Families
505 Hudson Street
Hartford, CT  06106

FAX:  860.566.8022

Dear Dr. Williams:

This is to inform you that we are planning to submit an application in response to the Request for Proposal: Pharmacy Consulting Service.

Agency/organization: ______________________________________________________

__________________________________________________________________________

__________________________________________________________________________

Address (if mailing address is different, please list both): _________________________

__________________________________________________________________________

__________________________________________________________________________

E-mail Address: ____________________________________________________________

Contact Person: ____________________________________________________________

Telephone Number: _________________________________________________________
### SUBCONTRACTOR PROFILE
*(COMPLETE FOR EACH SUBCONTRACTOR)*

<table>
<thead>
<tr>
<th>Legal Name of Agency:</th>
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<tbody>
<tr>
<td>Agency Contact Person:</td>
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<td>Title:</td>
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<td>Address:</td>
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<td>Phone:</td>
<td>Fax:</td>
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<tr>
<td>Email:</td>
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<tr>
<td>Amount of Subcontract:</td>
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#### BRIEF DESCRIPTION OF SERVICES PROVIDED BY THE AGENCY

#### DESCRIPTION OF SERVICES TO BE PROVIDED RELATED TO THE SERVICE/PROGRAM
GENERAL PROPOSAL NOTICES AND REQUIREMENTS

A. Evaluation and Selection
It is the intent of the Department to conduct a comprehensive, fair and impartial evaluation of proposals received in response to this procurement. Only proposals found to be responsive to the RFP will be evaluated and scored. A responsive proposal must comply with all instructions listed in this RFP. Responsive proposals shall remain valid for possible award by the Department for a period of up to 12 months after the RFP’s closing date.

B. Contract Execution
The pursuant contract developed as a result of this RFP is subject to Department contracting procedures, which includes approval by the Office of the Attorney General. Please note that contracts are executory and that no financial commitments can be made until, and unless, the contracts are approved by the Attorney General.

C. Applicant Debriefing
The Department will notify all applicants of any award issued by it as a result of this RFP. Unsuccessful applicants may, within thirty (30) days of the signing of the resultant contract, request a meeting for debriefing and discussion of their proposal by contacting the DCF Contact Person. Debriefing will not include any comparisons of unsuccessful proposals with other proposals.

D. Conditions
Any prospective applicants must be willing to adhere to the following conditions and must positively state them in the proposals:

1) **Conformance with Statutes**: Any contract awarded as a result of this RFP must be in full conformance with statutory requirements of State of Connecticut and the Federal Government.

2) **Ownership of Subsequent Products**: Any product, whether acceptable or unacceptable, developed under a contract awarded, as a result of this RFP is to be sole property of the Department unless stated otherwise in the RFP or contract.

3) **Timing Sequence**: Timing and sequence of events resulting from this RFP will ultimately be determined by the Department.

4) **Oral Agreement**: Any alleged oral agreement or arrangement made by an applicant with any agency or employee will be superseded by a written agreement.

5) **Amending or Canceling Requests**: The Department reserves the right to amend or cancel this RFP, prior to the due date and time, if it is in the best interest of the Department and the State.

6) **Rejection for Default or Misrepresentation**: The Department reserves the right to reject the proposal of any applicant in default of any prior contract or for misrepresentation.

7) **Department’s Clerical Errors in Award**: The Department reserves the right to correct inaccurate awards resulting from its clerical errors.

8) **Rejection of Qualified Proposals**: Proposals are subject to rejection in whole or in part if they limit or modify any of the terms and conditions and/or specifications of the RFP.

9) **Applicant Presentation of Supporting Evidence**: An applicant, if requested, must be prepared to present evidence of experience, ability, service facilities, and financial standing necessary to satisfactorily meet the requirements set forth or implied in the proposal.
10) **Changes to Proposal:** No additions or changes to the original proposal will be allowed after submittal. While changes are not permitted, clarification at the request of the agency may be required at the applicant's expense.

11) **Collusion:** By responding, the applicant implicitly states that they are submitting a separate response to the RFP, and is in all respects fair and without collusion or fraud. It is further implied that the applicant did not participate in the RFP development process, had no knowledge of the specific contents of the RFP prior to its issuance, and that no employee of the Department participated directly or indirectly in the applicant's proposal preparation.

**E. Proposal Preparation Expense**
The State of Connecticut and the Department assume no liability for payment of expenses incurred by applicants in preparing and submitting proposals in response to this solicitation.

**F. Incurring Costs**
The Department is not liable for any costs incurred by the applicant prior to the effective date of a contract.

**G. Freedom of Information**
Due regard will be given to the protection of proprietary information contained in all proposals received. However, applicants should be aware that all materials associated with this RFP are subject to the terms of the Freedom of Information Act, the Privacy Act, and all rules, regulations and interpretations resulting there from. It will not be sufficient for applicants to merely state generally that the proposal is proprietary in nature and not therefore subject to release to third parties. Those particular pages or sections, which an applicant believes to be proprietary, must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exception from release consistent with Section 1-210 of the Connecticut General Statutes must accompany the proposal. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Applicant that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the above-cited statute. In any case, the narrative portion of the proposal may not be exempt from release. Between the applicant and the Department, the final administrative authority to release or exempt any or all material so identified rests with the Department.

**H. Gratuities and Gifts**
The applicant warrants that no state appropriated funds have been paid or will be paid by or on behalf of the applicant to contract with or retain any company or person, other than bona fide employees working solely for the applicant, to influence or attempt to influence an officer or employee of any state agency in connection with the awarding, extension, continuation, renewal, amendment, or modification of this agreement, or to pay or agree to pay any company or person, other than bona fide employees working solely for the applicant, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

By submitting a response for selection and/or award consideration to this procurement, the applicant certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from this contract. The Department may terminate a resulting contract if it is determined that gratuities of any kind were either offered or received by any of the aforementioned officials or employees from the applicant/contractor or its agents or employees.

In general, no one doing business with or seeking business from a state or quasi-public agency may give a gift to an official or employee of that agency. Connecticut's gift ban is strict, but has some exceptions. For example, under the Ethics Code, you may give: (1) food and drink up to $50 per person per year, if the person paying, or his or her representative, is in attendance; and (2) tangible gifts up to $10 per item up to $50 per person per year. Also exempt are certain items such as informational materials, or plaques costing
less than $100. For a complete list of the Code’s gift exceptions, consult Conn. Gen. Stat. § 1-79(e) or contact the Office of State Ethics.

Gifts for “major life events,” including a wedding or the birth of a child, which were previously exempt from the gift ban, are now subject to the strict gift limits outlined above if the gifts are provided by any individual or entity doing business with or seeking business from the state.

I. Disclosure of Consulting Agreements
A consulting agreement affidavit must accompany submissions for the purchase of goods and services with a value of $50,000 or more in a calendar or fiscal year, pursuant to Section 51 of Public Act 05-287. All such submissions must be accompanied by an affidavit in which the applicant discloses any agreement retaining the services of a consultant to assist in the applicant’s participation in the procurement process. For additional information regarding the types of consulting agreements that must be disclosed in the affidavit and the required content and form of the affidavit, please see the attached “Consulting Agreement Affidavit.”

J. Campaign Contribution(s)
With regard to a State contract as defined in P.A. 07-1 having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this submission in response to the State's solicitation expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. [SEEC Form 11]

K. Bidder’s Commission on Human Rights and Opportunities (CHRO) Compliance Package
The Bidder’s CHRO Compliance Package sets forth certain obligations on State agencies, as well as contractors doing business with the State of Connecticut to ensure that State agencies do not enter into contracts with organizations or businesses that discriminate against protected class persons. As required by Connecticut General Statute § 4a-60, the following forms, and applicable evidencing material, must accompany bids or proposals:

1. Notification to Bidders Form;
2. Evidence of Nondiscrimination Form and applicable evidencing material; and
3. Employment Information Form.

Guidance for completing the Evidence of Nondiscrimination Form can also be found on the DCF Contract Management Homepage.


Administrative Expectations

Please see Exhibit A to view the terms and conditions for DCF funded contractors. Standard State of Connecticut contract requirements are available at the following Office of Policy and Management website:

http://www.opm.state.ct.us/finance/pos_project/contract.htm
NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law:

**Campaign Contribution and Solicitation Ban**

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

**Duty to Inform**

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

**Penalties for Violations**

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

- **Civil penalties**—$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of $2000 or twice the amount of the prohibited contributions made by their principals.

- **Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or $5000 in fines, or both.

**Contract Consequences**

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to “State Contractor Contribution Ban.”
STATE OF CONNECTICUT
CONSULTING AGREEMENT AFFIDAVIT

Affidavit to accompany a State contract for the purchase of goods and services with a value of $50,000 or more in a calendar or fiscal year, pursuant to Connecticut General Statutes §§ 4a-81(a) and 4a-81(b)

INSTRUCTIONS:

If the bidder or vendor has entered into a consulting agreement, as defined by Connecticut General Statutes § 4a-81(b)(1): Complete all sections of the form. If the bidder or vendor has entered into more than one such consulting agreement, use a separate form for each agreement. Sign and date the form in the presence of a Commissioner of the Superior Court or Notary Public. If the bidder or vendor has not entered into a consulting agreement, as defined by Connecticut General Statutes § 4a-81(b)(1): Complete only the shaded section of the form. Sign and date the form in the presence of a Commissioner of the Superior Court or Notary Public.

Submit completed form to the awarding State agency with bid or proposal. For a sole source award, submit completed form to the awarding State agency at the time of contract execution.

This affidavit must be amended if the contractor enters into any new consulting agreement(s) during the term of the State contract.

AFFIDAVIT: [ Number of Affidavits Sworn and Subscribed On This Day: __1__ ]

I, the undersigned, hereby swear that I am the chief official of the bidder or vendor awarded a contract, as described in Connecticut General Statutes § 4a-81(a), or that I am the individual awarded such a contract who is authorized to execute such contract. I further swear that I have not entered into any consulting agreement in connection with such contract, except for the agreement listed below:

Consultant’s Name and Title ____________________________________________________________

Name of Firm (if applicable)

Start Date _____________________________ End Date _____________________________ Cost _____________________________

Description of Services Provided: ___________________________________________________________

____________________________________________________________________________________

Is the consultant a former State employee or former public official? □ YES □ NO

If YES: __________________________________________ Name of Former State Agency

_________________________ ___________________________ Termination Date of Employment

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

_________________________ ___________________________ ___________________________

Printed Name of Bidder or Vendor Signature of Chief Official or Individual Date

_________________________ ___________________________ ___________________________

Federal Employer ID No. (FEIN) or Social Security Number (SSN) Printed Name (of above) Awarding State Agency

Sworn and subscribed before me on this _______ day of ____________, 200__.

Commissioner of the Superior Court or Notary Public
EXHIBIT A
TERMS AND CONDITIONS
CONTRACTS WITH AGENCIES

THE FOLLOWING TERMS AND CONDITIONS ARE HEREBY MADE A PART OF THIS CONTRACT:

1. Services to be provided

The contractor shall provide the services described for the consideration stated herein.

2. Payments

The Department and the State of Connecticut assume no liability for payment under the terms of this contract until said contract is fully executed.

Payments will be made as stated in this contract and will be contingent upon receipt and approval of all required reports in a timeframe established by the Department unless, in its sole discretion, the Department waives such a requirement.

The Contractor further agrees to return to the Department any unexpended funds within thirty (30) days after the expiration of this contract, or within thirty (30) days after the termination of this contract by either party.

The Department retains the right to adjust payments under this award to offset any unallowable expenditures or unexpended funds owed from a prior award or from a previously terminated grant award.

Contract funds may not be expended prior to the starting date or subsequent to the termination date of this contract.

3. Establishment of Policies and Procedures

The contractor assures that it will establish policies and provide procedures to assure sound fiscal control, effective management, and efficient use of contract funds. Fiscal control and accounting procedures will ensure proper disbursement and accounting of contract funds. Accounting procedures will provide for accurate and timely recording of receipt of funds by source, expenditures made from such funds, and unexpended balances. Controls will be adequate to ensure that expenditures charged to contract activities are for allowable purposes and documentation is readily available to verify that such charges are accurate.

4. Reporting Requirements

The contractor agrees to provide the Department with such statistical, financial, and programmatic information as is deemed necessary by the Department for the purpose of determining payments, establishing Grant formulas, monitoring and evaluating programs, and establishing management information systems.

The Department will be granted access at any reasonable time to the books and records pertaining to the program funded by this contract. Statistical reports shall be in the form prescribed by the Department.

5. Subcontractors

No subcontract may be entered into by the contractor for execution of project activities described unless incorporated into the approved application or approved in advance by the Department.
The contractor will notify the Department of the name, address, telephone number and principal place of business of each subcontractor if contractor subcontracts any portion of the contract funds. The contractor shall make good faith efforts to employ minority business enterprises as subcontractors.

6. Revisions to Program or Budget

Any proposed program revisions in the program described which alters the nature or scope of such program shall not be implemented until approval has been received in writing from the Department.

The Department's share in any line item expenditure, other than salaries, is limited to variance of 20% or $1,000.00, whichever is less, of the level budgeted for Departmental participation unless notice of such proposed variance is given by the contractor to the Department at the contractors earliest knowledge of such proposed variance and is accepted in writing by the Department. The Department's share in salary expenses is limited to the positions described and amounts budgeted for Department participation unless prior notice of any variance is given by the contractor and accepted in writing by the Department.

7. Funding Restrictions

Restrictions on Supplanting Funds

It is understood and agreed by both the Department and the contractor that in the event the contractor receives funding from any source other than those detailed in the contract, which supplements or supplants the State share of expenses, for services provided for under this contract, the Department shall be advised of such funding within ten (10) days after the contractor receives notice of such funding.

Further, the contractor assures that contract funds will not be used to supplant Federal, State, or local funds, amount of funding that would, in the absence of these funds, be made available.

Non-allowable Costs

Funds allotted to the Contractor by Department shall not be used for capital expenditures, or depreciation thereof. This restriction shall not be interpreted to prevent routing maintenance, but no such funds shall be used for construction or renovation of buildings.

Return of Funds

Any funds owing to the Department due to unanticipated funds received by the contractor for the same services from other sources or unallowable expenditures shall be refunded by the contractor within 90 days within receiving notice from the Department. Any funds remaining unexpended upon the expiration of the contract will be returned to the Department within 90 days.

8. Evaluation

The contractor, including all other recipients of assistance under this contract, whether by subcontractor or sub grant, agrees to develop or enhance program evaluation strategy acceptable to the Department. The contractor further agrees to cooperate with the Department to:

a. determine whether program goals and objectives are attained;
b. collect and maintain project and client data;
c. supply project data to the Department or its designee; and
d. permit access by the Department, or its designee, to any and all project information.
9. **Rights of Acknowledgment**

The contractor shall acknowledge the Department’s support in all public statements, including annual reports, statements through the media, etc. to which State funds apply in whole or in part.

All records, assets, property, and documents of any nature including any program materials and curricula prepared or purchased by the contractor under this contract and subject to the terms of this agreement, is the property of the Department.

10. **Confidentiality**

The contractor shall abide by Connecticut General Statute 17a-28 regarding confidentiality of and access to records or communications which are identifiable to an individual serviced by and obtained through the contracted project.

11. **Notice of Delay**

If the program/project is not operational within 60 days of original starting date of the contract period, the contractor must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected starting date.

If the program/project is not operational in 90 days of the original starting date of the contract period, the contractor must submit a second statement to the Department explaining the implementation delay. Upon receipt of the 90-day letter, the Department reserves the right to cancel the contract, or where extenuating circumstances exist, the Department may extend the implementation date of the program/project past the 90-day period.

12. **Termination for Default or for Convenience of the State**

The performance of work under the contract may be terminated by the State of Connecticut in accordance with this clause in whole, or from time to time in part:

a. Whenever the Contractor shall default in performance with its terms (including in the term “default” any such failure by the Contractor to make progress in the prosecution of the work hereunder), and shall fail to correct such default within a period of ten days (or such longer period as the Commissioner may allow) after receipt from the Commissioner of a notice specifying the default: or

b. Whenever for any reason the Commissioner shall determine such termination is in the best interest of the State of Connecticut. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for default of the Contractor or for the convenience of the State of Connecticut. The Contractor will then be notified of the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

13. **Insurance**

The Contractor agrees that while performing services specified in this agreement that he will carry sufficient insurance (liability and/or other) according to the nature of the work to be performed to “save harmless” the State of Connecticut from any insurable cause whatsoever. Certificates of same are to be filed with the agency prior to the performance of the services, if requested.
14. Audit Requirements

The Awardee shall cause to be prepared and delivered to the Department of Children and Families an audit performed by an Independent Public Accountant as defined by C.G.S. 7-396a, Public Act 91-401 and Public Act 92-121. Such audits shall be performed in accordance with generally accepted auditing standards and shall identify expenditures made by the Awardee that are not in compliance with the terms of this award. Such audits must be acceptable to the Commissioner of the Department of Children and Families and comply with regulations or recommendations as promulgated by the Office of Policy and Management or the Department of Children and Families.

The Awardee agrees that Auditors of Public Accounts of the State of Connecticut, and the Department of Children and Families shall have access to all records and accounts of the Awardee concerning each fiscal year during which this Agreement is in effect and to likewise make available records and accounts concerning the implementation of this Agreement for a period of three years after termination of the Agreement.

15. Non-discrimination On Basis of Sexual Orientation

(a) The Contractor agrees to the following provisions: (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

(2) The contractor agrees to provide each labor union or representative of workers with such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to Section 46a-56 of the general statutes; (4) the contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.

(b) The contractor shall include the provisions of section (a) in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for non-compliance in accordance with section 46a-56 of the general statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

16. The contractor agrees to comply with any special conditions attached hereto.

17. The contractor agrees to disclose to the Commissioner of the Department of Children and Families any items of value provided to DCF employees for which full payment has not been made.
18. Choice of Law and Choice of Forum

The contractor agrees to be bound by the law of the State of Connecticut and the federal government where applicable, and agrees that this contract shall be construed and interpreted in accordance with Connecticut law and federal law where applicable.

19. Government Function: If the amount of this contract exceeds two million five hundred thousand dollars, and if the contract is for the performance of a government function as that term is defined in Conn. Gen. Stat. § 1-200(11), as amended by Public Act No. 01-169 and Public Act 02-130, the Department is entitled to receive a copy of the records and files related to the Contractor's performance of a government function.

All records and files related to the Contractor's performance of a government function, as that term is defined in [Conn. Gen. Stat. § 1-200(11), as amended by Public Act No. 01-169 and Public Act 02-130.] are subject to the Freedom of Information Act and may be disclosed by the Department pursuant to that Act.

20. Whistle-blower Protection - If the amount of this contract is or exceeds five million dollars, the contract is subject to Conn. Gen. Stat. Sec. 4-61dd (e). If an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of this statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense.

21. Executive Order No. 7C: Contracting Standards Board - This contract is also subject to provisions of Executive Order No. 7C of Governor Jodi M. Rell, promulgated on July 13, 2006. The Parties to this Agreement, as part of the consideration hereof, agree that: (1.) The State Contracting Standards Board (“the Board”) may review this contract and recommend to the state contracting agency termination of the contract for cause. The state contracting agency shall consider the recommendations and act as required or permitted in accordance with the contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state contracting agency and any other affected party in accordance with the notice provisions in the contract no later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, “for cause” means: (i.) a violation of the State Ethics Code (Conn. Gen. Stat. Chapter 10) or Section 4A-100 of the Conn. Gen. Statutes or (ii.) wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency. (2.) For the purposes of this Section, “contract” shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a contract for the sale or purchase of a fee simple interest in real property following transfer of title. (3.) Effective January 1, 2006, notwithstanding the contract value listed in Conn. Gen. Stat. §§ 4-250 and 4-251, all procurements between state agencies and private entities with a value of $50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift affidavit requirements of said Sections. Certification by agency officials or employees required by Conn. Gen. Stat. § 4-252 shall not be affected by this Section.

22. HIPAA Provisions

(a.) If the Contactor is a Business Associate under HIPAA, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the contract in accordance “with all applicable federal and state law regarding confidentiality, which includes but is not limited to the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and

The State of Connecticut Department named on page 1 of this Contract (hereinafter "Department") is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and

The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and

The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and

The Contractor and the Department agree to the following in order to secure compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E:

I. Definitions

A. Business Associate. “Business Associate” shall mean the Contractor.

B. Covered Entity. “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.

C. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

D. Individual. “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. 164.501 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).

E. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.

F. Protected Health Information. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 164.501, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.

G. Required by Law. “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.501.

H. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

I. More Stringent. “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.103.
J. **Section of Contract.** "(T)his Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.

K. **Security Incident.** "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.

L. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subparts A and C.

II. **Obligations and Activities of Business Associate**

A. Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law

B. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.

1. Business Associate agrees to use administrative, physical and technical safeguards as described in the Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.

D. Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.

E. Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.

F. Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.

G. Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.

H. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or
designated by the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule.

I. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

J. Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

K. Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.

III. Permitted Uses and Disclosures by Business Associate

A. General Use and Disclosure Provisions: Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

B. Specific Use and Disclosure Provisions:

1. Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2. Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 154.514(e)(2)(i)(B).

IV. Obligations of Covered Entity

A. Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. 164.520, or to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.
B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate’s use or disclosure of PHI.

C. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of PHI.

V. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

VI. Term and Termination

A. Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Termination for Cause. Upon Covered Entity’s knowledge of a material breach by Business Associate, Covered Entity shall either:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or

2. Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or

3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

C. Effect of Termination.

1. Except as provided in paragraph (2) of this subsection C, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return of destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI
and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

VII. Miscellaneous Provisions

A. **Regulatory References.** A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.

B. **Amendment.** The Parties agree to take such action as in necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

C. **Survival.** The respective rights and obligations of Business Associate under Section VI, Subsection C of this Section of the Contract shall survive the termination of this Contract.

D. **Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the contract shall remain in force and effect.

E. **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.

F. **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI pursuant to paragraph II D of this Section of the Contract. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

G. **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract.
The Contractor herein IS / IS NOT a Business Associate under HIPAA per Section 22*: (circle one**)

Authorized signatory for the contractor  Authorized signatory for (agency abbreviation)

_________________________________ _________________________________

(Typed name and title)  Rudolph E. Brooks, HIPAA Privacy Officer

_________________________________ _________________________________

Date       Date

** Department must make this determination before Contract is signed.