

**Additional Information Regarding Vendors Performing Work in Replacement of State Employees**

This document contains copies of purchase order contracts obtained by OMB by which a nongovernmental person or entity agrees with any department, commission, board, council, agency, or public corporation to provide services, valued at one hundred fifty thousand dollars (\$150,000) or more, which are substantially similar to and in replacement of work normally performed by an employee of the department, commission, board, council, agency or public corporation. For additional supporting contract documents, you may submit a public records request to the Department of Administration in accordance with the Rhode Island Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1 *et seq.* APRA forms, procedures and other information for the Department of Administration are available at <http://www.admin.ri.gov/publicrecords/index.php>.

**Fiscal Year:** FY20

**Agency:** Behavioral Healthcare, Dev Disabilities & Hosp, Dept Of

**Vendor Name:** RHODE ISLAND COLLEGE

**Total Amount Paid to Vendor for Services:** \$369,164.12

**Summary of Services Rendered to Agency:**

Identifying Code	Service Type	Description	Amount	Notes
PO 3649965	All Other Contracted Professional Services		\$269,164.12	
PO 3652523	All Other Contracted Professional Services		\$100,000.00	

Note: Some of the above payments may have been made under the terms of a master price agreement (MPA). MPAs are solicited as requests for proposals or requests for quotes and may have cap limits for pricing and cap limits for project cost. MPAs provide agencies with access to qualified vendors, expedited process, and opportunities for mini-bids. Such purchases are made directly under the MPA and do not require a separate and unique contract. All MPAs are public and can be viewed at <http://www.purchasing.ri.gov/MPA/MPASearch.aspx>.

**Contents:**

Item Number	Document ID	Description	Notes
Item 1	PO 3649965	Purchase Order contract	
Item 2	PO 3652523	Purchase Order contract	

# **ITEM 1**

## Notice of Contract Purchase Agreement



**State Of Rhode Island and Providence Plantations**  
**Department of Administration**  
**Division of Purchases**  
**One Capitol Hill**  
**Providence, RI 02908-5860**

<b>V E N D O R</b>	<b>RHODE ISLAND COLLEGE</b> <b>SHERLOCK CENTER ON DISABILITIES</b> <b>600 MOUNT PLEASANT AVE</b> <b>PROVIDENCE, RI 02908</b> <b>United States</b>
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<b>SHELTERED WORKSHOP CONVERSION INSTITUTE - BHDDH</b>	
Award Number	<b>3649965</b>
Revision Number	<b>0</b>
Effective Period	<b>07-OCT-2019 - 30-JUN-2020</b>
Approved PO Date	<b>09-OCT-2019</b>
Vendor Number	<b>585-iSupplier</b>

<b>S H I P  T O</b>	<b>BHDDH-INTEGRATED MENTAL HEALTH SERVICES</b> <b>14 HARRINGTON ROAD - BARRY HALL</b> <b>CRANSTON, RI 02920</b> <b>United States</b>
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Type of Requisition	<b>SOLE SOURCE / CRITICAL EXP</b>
Requisition Number	<b>1632503</b>
Change Order Requisition Number	
Solicitation Number	
Freight	<b>Paid</b>
Payment Terms	<b>NET 30</b>
Buyer	- <b>Vittorioso, Dawn</b>
Requester Name	
Work Telephone	

This Purchase Order is issued pursuant to and in accordance with the terms and conditions of the solicitation and applicable federal, state, and local law, including the State of Rhode Island's purchasing regulations, available at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).

NOT TO EXCEED: \$279,533.00

PER THE ATTACHED AGREEMENT BETWEEN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS AND RHODE ISLAND COLLEGE DATED 09/24/2019 AND THE RI'S GENERAL CONDITIONS OF PURCHASE.

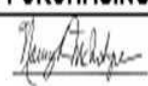
<https://rules.sos.ri.gov/regulations/part/220-30-00-13>

AGENCY CONTACT:  
ANNE LECLERC

### INVOICE TO

The State of Rhode Island accepts electronic invoices via its supplier portal. To register and submit electronic invoices, visit the supplier portal at <http://controller.admin.ri.gov/iSupplier/isup/index.php>

To submit paper invoices, mail to: Department of Administration Controller, One Capitol Hill, 4th Floor, Providence 02908.

<b>STATE PURCHASING AGENT</b>
 Nancy R. McIntyre

401-462-0192

SUPPLIER CONTACT:  
LISA SMOLSKI  
401-456-2809  
ISMOLSKI@RIC.EDU

Reference Documents: 1632503.pdf

**INVOICE TO**

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**STATE PURCHASING AGENT**



Nancy R. McIntyre

**Contract Terms and Conditions**

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**Terms and Conditions**

**PURCHASE ORDER STANDARD TERMS AND CONDITIONS**

**TERMS AND CONDITIONS FOR THIS PURCHASE ORDER**

**CAMPAIGN FINANCE COMPLIANCE**

**CAMPAIGN FINANCE:** In accordance with RI General Law 17-27-2, Every person or business entity providing goods or services of \$5,000 or more, and has in the preceding 24 months, contributed an aggregate amount in excess of \$250 within a calendar year to any general officer, or candidate for general office, any member, or candidate for general assembly, or political party, is required to electronically file an affidavit regarding political contributions at: <https://secure.ricampaignfinance.com/RhodeIslandCF/Public/VendorAffidavit.aspx>

**ARRA SUPPLEMENTAL TERMS AND CONDITIONS**

For contracts and sub-awards funded in whole or in part by the American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5 and any amendments thereto, such contracts and sub-awards shall be subject to the Supplemental Terms and Conditions For Contracts and Sub-awards Funded in Whole or in Part by the American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5 and any amendments thereto located on the Division of Purchases website at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).

**DIVESTITURE OF INVESTMENTS IN IRAN REQUIREMENT:**

No vendor engaged in investment activities in Iran as described in R.I. Gen. Laws §37-2.5-2(b) may submit a bid proposal to, or renew a contract with, the Division of Purchases. Each vendor submitting a bid proposal or entering into a renewal of a contract is required to certify that the vendor does not appear on the list maintained by the General Treasurer pursuant to R.I. Gen. Laws §37-2.5-3.

For all Purchase Orders issued on behalf of the University of Rhode Island, Community College of Rhode Island, and Rhode Island College, vendors will receive a confirming order from the respective entity prior to proceeding.

**MASTER PRICE AGREEMENT CONTRACT ADMINISTRATIVE FEE**

In 2017 the General Assembly amended the "State Purchases Act", R. I. Gen. Laws § 37-2-12 (b) to authorize the Chief Purchasing Officer to establish, charge and collect from vendors listed on master price agreements ("MPA") a contract administrative fee not to exceed one percent (1%) of the total value of the annual spend against their MPA contracts. All contract administrative fees collected from MPA vendors shall be deposited into a restricted receipt account which shall be used for the purposes of implementing and maintaining an online eProcurement system and other costs related to State procurement. In accordance with this legislative initiative the Division of Purchases is upgrading the State procurement system through the purchase and installation of an eProcurement system.

The contract administrative fee shall be applicable to all purchase orders issued relative to State MPA contracts. Therefore, effective January 1, 2020 all MPA contracts shall be assessed the 1% contract administrative fee.

**INSURANCE REQUIREMENTS (ADDITIONAL)**

ANNUAL RENEWAL INSURANCE CERTIFICATES FOR WORKERS' COMPENSATION, PUBLIC LIABILITY, PROPERTY DAMAGE INSURANCE, AUTO INSURANCE, PROFESSIONAL LIABILITY INSURANCE (AKA ERRORS & OMISSIONS), BUILDER'S RISK INSURANCE, SCHOOL BUSING AUTO LIABILITY, ENVIRONMENTAL IMPAIRMENT (AKA POLLUTION CONTROL), VESSEL OPERATION (MARINE OR AIRCRAFT) PROTECTION & INDEMNITY, ETC., MUST BE SUBMITTED TO THE SPECIFIC AGENCY IDENTIFIED IN THE "SHIP TO" SECTION OF THE PURCHASE ORDER. CERTIFICATES ARE ANNUALLY DUE PRIOR TO THE BEGINNING OF ANY CONTRACT PERIOD BEYOND THE INITIAL TWELVE-MONTH PERIOD OF A CONTRACT. FAILURE TO PROVIDE ANNUAL INSURANCE CERTIFICATION MAY BE GROUNDS FOR CANCELLATION.

#### **MULTI YEAR AWARD**

THIS IS A MULTI-YEAR BID/CONTRACT. PER RHODE ISLAND STATE LAW 37-2-33, CONTRACT OBLIGATIONS BEYOND THE CURRENT FISCAL YEAR ARE SUBJECT TO AVAILABILITY OF FUNDS. CONTINUATION OF THE CONTRACT BEYOND THE INITIAL FISCAL YEAR WILL BE AT THE DISCRETION OF THE STATE. TERMINATION MAY BE EFFECTED BY THE STATE BASED UPON DETERMINING FACTORS SUCH AS UNSATISFACTORY PERFORMANCE OR THE DETERMINATION BY THE STATE TO DISCONTINUE THE GOODS/SERVICES, OR TO REVISE THE SCOPE AND NEED FOR THE TYPE OF GOODS/SERVICES; ALSO MANAGEMENT OWNER DETERMINATIONS THAT MAY PRECLUDE THE NEED FOR GOODS/SERVICES.

#### **BLANKET PAYMENT**

DELIVERY OF GOODS OR SERVICES AS REQUESTED BY AGENCY. PAYMENTS WILL BE AUTHORIZED UPON SUBMISSION OF PROPERLY RENDERED INVOICES NO MORE THAN MONTHLY TO THE RECEIVING AGENCY. ANY UNUSED BALANCE AT END OF BLANKET PERIOD IS AUTOMATICALLY CANCELLED.

#### **EQUAL OPPORTUNITY COMPLIANCE**

THIS PURCHASE ORDER IS AWARDED SUBJECT TO EQUAL OPPORTUNITY COMPLIANCE.

#### **PURCHASE AGREEMENT AWARD**

THIS IS A NOTICE OF AWARD, NOT AN ORDER. Any quantity reference in the agreement or in the bid preceding it are estimates only and do not represent a commitment on the part of the state to any level of billing activity, other than for quantities or volumes specifically released during the term. No action is to be taken except as specifically authorized, as described herein under AUTHORIZATION AND RELEASE. ENTIRE AGREEMENT - This NOTICE OF AWARD, with all attachments, and any release(s) against it shall be subject to: (1) the specifications, terms and conditions set forth in the Request/Bid Number cited herein, (2) the General Terms and Conditions of Contracts for the State of Rhode Island and (3) all provisions of, and the Rules and Regulations promulgated pursuant to, Title 37, Chapter 2 of the General Laws of the State of Rhode Island. This NOTICE shall constitute the entire agreement between the State of Rhode Island and the Vendor. No assignment of rights or responsibility will be permitted except with the express written permission of the State Purchasing Agent or his designee. CANCELLATION, TERMINATION and EXTENSION - This Price Agreement shall automatically terminate as of the date(s) described under CONTRACT PERIOD unless this Price Agreement is altered by formal

amendment by the State Purchasing Agent or his designee upon mutual agreement between the State and the Vendor.

#### **PARTIAL PAYMENTS**

PARTIAL OR PROGRESS PAYMENTS MAY BE MADE. PAYMENT WILL BE AUTHORIZED UPON RECEIPT AND ACCEPTANCE BY THE AGENCY OF THE PORTION OF THE CONTRACT OR PURCHASE ORDER COMPLETED BY THE VENDOR. PAYMENT UPON THE RENDERING OF A PROPERLY SUBMITTED INVOICE.

#### **AUTHORIZATION AND RELEASE**

In no event shall the Vendor deliver goods or provide service until such time as a duly authorized release document is certified by the ordering Agency. A Direct Purchase Order (DPO) shall be created by the agency listing the items ordered, using the pricing and format set forth in the Master Blanket. All pricing shall be as described in the Master Blanket and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected in Master Blanket.

#### **TERMS AND CONDITIONS OF PRICING AGREEMENT**

**SCOPE AND LIMITATIONS - This Agreement covers requirements as described herein, ordered by State agencies during the Agreement Period. No additional or alternative requirements are covered, unless added to the Agreement by formal amendment by the State Purchasing Agent or his designee.**

Under State Purchasing Law, 37-2-54, no purchase or contract shall be binding on the state or any agency thereof unless approved by the department [of administration] or made under general regulations which the chief purchasing officer may prescribe. Under State Purchasing Regulation 8.2.1.1.2, any alleged oral agreement or arrangements made by a bidder or contractor with any agency or an employee of the Office of Purchases may be disregarded and shall not be binding on the state.

**PRODUCT ACCEPTANCE** - All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the State. The State reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the State's option.

- a) Failure by the state to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the State's right to subsequently reject the goods in question.
- b) Formal or informal acceptance by the State of non-conforming goods shall not constitute a precedent for successive receipts or procurements.

Where the vendor fails to cure the defect promptly or replace the goods, the State reserves the right to cancel the Release, contract with a different vendor, and to invoice the original vendor for any differential in price over the original contract price.

#### **ORDER AUTHORIZATION AND RELEASE AGAINST PRICING AGREEMENT**

**In no event shall the Vendor deliver goods or provide service until such time as a duly authorized release document is certified by the ordering Agency.**

**State Agencies shall request release as follows: All releases shall reference the Price Agreement number, the Contract Issue number, the item(s) covered, and the unit pricing in the same format as described herein.**



A Department Purchase Order (DPO) listing the items ordered shall be created by the agency. The agency may mail or fax a copy of the order to the Vendor. In some cases the agency may request delivery by telephone, but must provide the Vendor with a DPO Order Number reference for billing purposes. Vendors are encouraged to require written orders to assure payments are processed accurately and promptly.

**DELIVERY** If this is an MPA, Vendor will obtain "ship to" information from each participating agency. This information will be contained in the DPO. APA delivery information will be contained in the Notice of Award.

**PRICING** - All pricing shall be as described herein, and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected herein.

**INVOICING** All invoices shall reference the DPO Order Number(s), Price Agreement number, the Contract Issue number, the item(s) covered, and the unit pricing in the same format as described herein. If this is an MPA, Vendor will obtain "bill to" information from each participating agency. This information will be contained in the DPO. APA billing information will be contained in the Notice of Award.

**PAYMENT** - Invoices for items not received, not priced according to contract or for work not yet performed will not be honored. No payment will be processed to any vendor for whom there is no IRS W-9 on file with the State Controller.

**AGREEMENT**

**Between the**

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF BEHAVIORAL HEALTHCARE,  
DEVELOPMENTAL DISABILITIES AND HOSPITALS**

**and**

**RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES**

**Name of Contractor:** **RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES**

**Title of Agreement:** **Sheltered Workshop Conversion Institute and  
Sheltered Workshop Conversion Trust Fund**

**Basis for Contract:** **United States of America Consent Decree. Rhode Island will  
Establish a Sheltered Workshop Conversion Institute.  
Single Source**

**Contract Award:** **\$279,533.00**

**Performance Period:** **September 1, 2019 – June 30, 2020**

## A G R E E M E N T

This agreement, hereinafter "Agreement", including attached ADDENDA, is hereby entered into this 1<sup>st</sup> day September 2019, by and between the State of Rhode Island acting by and through the **Department of Behavioral Healthcare, Developmental Disabilities and Hospitals** (hereinafter referred to as "BHDDH"), and **Rhode Island College - Sherlock Center on Disabilities** (hereinafter referred to as "the Contractor").

WHEREAS, the BHDDH desires to engage the Contractor to offer services and activities further described, but not limited to the work described in this Agreement, including any Exhibit(s) or Addenda, that are attached hereto and are hereby incorporated by reference into this Agreement.

WHEREAS the Contractor is willing and qualified to provide services, the parties hereto do mutually agree as follows:

### PAR. 1. GOVERNING LAW AND GENERAL TERMS AND CONDITIONS

The State's Purchasing Law (Chapter 37-2 of the Rhode Island General Laws) and Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing apply as the governing terms and conditions of this Agreement, which can be obtained at <http://www.purchasing.ri.gov/rulesandregulations/rulesAndRegulations.aspx>. In addition, the provisions of Federal Laws, Regulations and Procedures governing the implementation of federal funds apply to this Agreement. See also **PAR. 35. - GOVERNING LAW** for further governing law issues. All **ADDENDA** referenced herein and attached hereto are made a part of and are inclusive in this Agreement.

### PAR. 2. PERFORMANCE

The Contractor shall perform all obligations, duties and the required scope of work for the period of time listed in this Agreement, Exhibit(s) and/or Addenda that are attached hereto and are incorporated by reference herein, in a satisfactory manner to be determined at the sole and absolute discretion of the BHDDH, and in accordance with requirements of this Agreement. The Contractor shall perform in accordance with applicable State statutory and policy requirements as well as Federal statutory and policy requirements (as defined in 2 CFR §200.300). More specifically, the **ADDENDUM I - SCOPE OF WORK** shall include performance measurement(s) 2 CFR §200.301, monitoring and reporting program performance 2 CFR §200.328, and performance must be in accordance with requirements for pass-through entities 2 CFR § 200.331. The BHDDH shall have the right at any time, to review the work being performed as well as the place where such work is performed; and to that end, the BHDDH shall be given reasonable access to all activities related to this Agreement.

In accordance with 2 CFR §200.331 (d) the BHDDH will:

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR §200.521 Management decision.

The BHDDH may request at any time additional monitoring, reporting, site visits, and audits in accordance with 2 CFR §200.501 or if applicable “Yellow Book” audits (see Paragraph 24). All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the BHDDH or the Federal Government in accordance with 2 CFR §200.333.

### **PAR. 3. TIME OF PERFORMANCE**

The Contractor shall commence performance of this Agreement on the 1<sup>st</sup> day of September 2019 and shall complete performance no later than the 30<sup>th</sup> day of June 2020 (hereinafter the “Initial Term”), unless terminated prior to that day by other provisions of this Agreement. *If this contract was awarded as a result of an RFP or bid process, then, by mutual agreement, this contract may be extended as stated in the RFP or bid process (hereinafter “Renewal Term(s)”) beyond the Initial Term upon one hundred twenty (120) days prior written notice of the expiration of the Initial Term or any Renewal Term to the Contractor.*

In the event the BHDDH or the Contractor gives notice of its intent not to renew this Agreement, the BHDDH shall have the right to extend all or any services to be performed under this Agreement for an additional period of one hundred and eighty (180) days, or such longer period as mutually agreed by the parties in writing.

### **PAR. 4. PROJECT OFFICER – BHDDH**

The BHDDH shall appoint a Contract Officer to manage this Agreement. The Contractor agrees to maintain close and continuing communication with the Contract Officer throughout the performance of work and services undertaken under the terms of this Agreement. The Contract Officer is responsible for authorizing or seeking authorization of all payments made by the BHDDH to the Contractor under this Agreement.

### **PAR. 5. PROJECT OFFICER – CONTRACTOR**

The Contractor shall appoint a Project Officer to be responsible for coordinating and reporting work performed by the Contractor agency under this Agreement. The Project Officer shall notify the BHDDH in writing immediately, and seek approval from the BHDDH, should a change to this Agreement be necessary in the opinion of the Project Officer. Under no circumstances will a change be undertaken without the prior written approval of the BHDDH.

**PAR. 6. BUDGET**

Total payment for services to be provided under this Agreement shall not exceed the total budget as detailed in **ADDENDUM II**. Expenditures exceeding budget line-item categories by ten percent (10%) shall not be authorized unless prior written approval is first obtained pursuant to **PAR. 10. - MODIFICATION OF AGREEMENT**, subject to the maximum amount of this Agreement as stated above.

**PAR. 7. METHOD OF PAYMENT AND REPORTS**

The BHDDH will make payments to the Contractor in accordance with provisions of **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE** attached hereto and incorporated by reference herein. The BHDDH acknowledges and agrees that any increase in expenses due to delays by the BHDDH which extends the time of performance shall be subject to reimbursement of the costs associated with such delays. The Contractor will complete and forward narrative, fiscal, and all other reports per **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE**.

**PAR. 8. TERMINATION AND/OR DEFAULT OF AGREEMENT**

This Agreement shall be subject to termination under any of the following conditions:

- a) Mutual Agreement  
The contracting parties mutually agree in writing to termination.
- b) Default by Contractor  
The BHDDH may, by not less than thirty (30) days prior written notice to the Contractor, terminate the Contractor's right to proceed as to the Agreement if the Contractor:
  - 1. Materially fails to perform the services within the time specified or any extension thereof; or
  - 2. So fails to make progress as to materially endanger performance of the Agreement in accordance with its terms; or
  - 3. Materially breaches any provision of this Agreement.Termination, at the option of the BHDDH shall be effective not less than thirty (30) days after receipt of such notice, unless the Contractor shall have corrected such failure(s) thirty (30) days after the receipt by the Contractor of such written notice; any failure which, in the exercise of due diligence, cannot be cured within such thirty (30) day period shall not be deemed a default so long as the Contractor shall within such period commence and thereafter continue diligently to cure such failure.
- c) Termination in the Interest of the BHDDH  
The BHDDH may terminate this agreement at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, not less than thirty (30) days prior to the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of the BHDDH, become its property. If the agreement is terminated by the BHDDH as provided herein, the Contractor will be paid an amount which bears the same rate to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Agreement, less payment of compensation previously made.

**PAR. 9. RESPONSIBILITIES UPON TERMINATION AND/OR DEFAULT OF AGREEMENT**

Upon delivery to the Contractor of a notice of termination, specifying the nature of the termination, the extent to which performance of work under this contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

1. Stop work under this contract on the date and to the extent specified in the notice of termination.
2. Take such action as may be necessary, or as the BHDDH's project manager may reasonably direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the BHDDH has or may acquire an interest.
3. Terminate all orders to the extent that they relate to the performance of work terminated by the notice of termination.
4. Subject to the provisions of this paragraph, assign to the BHDDH in the manner and to the extent directed by the BHDDH's project officer all of the rights, title, and interest of the Contractor under the orders so terminated, in which case the BHDDH shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders, however, notwithstanding this provision, the Contractor will not be obligated to assign any such rights, title or interest in the absence of payment therefore by the BHDDH.
5. With the approval or ratification of the BHDDH's project manager, initiate settlement of all outstanding liabilities and all claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract. Prior to a final settlement of said outstanding liabilities and claims arising out of such termination, final written approval of the BHDDH's project manager must be obtained. Final approval by the BHDDH shall not be unreasonably withheld.
6. Subject to the provisions of this paragraph, transfer title, or if the Contractor does not have title, then transfer their rights to the BHDDH (to the extent that title has not already been transferred) and deliver in the manner, at reasonable times, and to the extent reasonably directed by the BHDDH's project manager all files, processing systems, data manuals, or other documentation, in any form, that relate to all the work completed or in progress prior to the notice of termination.
7. Complete the performance of such part of the work as shall not have been terminated by the notice of termination. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.
8. Unless terminated by the BHDDH for default of the Contractor, the Contractor shall be entitled to reasonable account shut down expenses associated with such termination including the penalties associated with early termination of lease, software, hardware, and any other unamortized or incremental expenses accrued but not charged, excluding anticipated profits which shall not be reimbursed. The Contractor shall submit all identified shut down expenses associated with such termination incurred before and prior to the termination date. Any damages to the BHDDH shall offset any shutdown expenses to the BHDDH.
9. The Contractor acknowledges and agrees the services and/or deliverables provided under this Agreement are very important to the BHDDH and that upon expiration or

termination of the Agreement, must be continued without interruption whether by the State, the BHDDH, governmental agency or another private entity (“successor entity”). Prior to the end of the Termination and up to sixty (60) days thereafter, the Contractor agrees to make an orderly transition of contract and/or deliverables hereunder and to perform any and all tasks in good faith that are necessary to preserve the integrity of the work performed by the Contractor on behalf of the BHDDH. Upon termination or expiration of the Agreement, the Contractor, shall, if requested by the BHDDH at least thirty (30) days prior to such termination or expiration, provide reasonable training for the successor entity and/or continued performance of services. For providing such training or continued performance after the Term of the Agreement, the BHDDH shall pay the Contractor at mutually agreed rates for personnel used in providing such training and/or services unless services delivered are already defined herein and rates established then such rates shall apply for such period. Should any missing data, materials, documents, etc., be discovered after expiration or termination, a grace period of one hundred and twenty (120) days shall be in effect during which the data, materials, documents, etc., is to be provided at a predetermined cost or at no additional cost if the Contractor caused the loss. Lost data shall be provided to the BHDDH in form acceptable to the BHDDH.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Agreement price, or both, and the agreement shall be modified, in writing, accordingly, if:

- a) The stop work order results in an increase in the time required for, or in the Contractor’s cost properly allocable to the performance of any part of this agreement; and
- b) The Contractor asserts its right to an equitable adjustment within ninety (90) days after the end of the period of work stoppage; provided, that if the state decides the facts justify the action, the state may receive and act upon a proposal submitted at any time before final payment under this Agreement.

The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause, however, unless termination is for a default by the Contractor, the Contractor shall have the right to recover costs associated with maintaining the personnel, leases and equipment during the period of time the stop work order was in effect that cannot otherwise be reasonably utilized by the Contractor during the stop work period.

If the agreement is terminated for default, following a reasonable notice and cure period not to exceed thirty (30) days unless agreed to by both parties, the BHDDH may withhold payment of any amount in excess of fair compensation for the work actually completed by the Contractor prior to termination of this Agreement and will be entitled to pursue all of its other available legal remedies against the Contractor. Notwithstanding the above, the Contractor shall not be relieved of liability to the BHDDH for damages sustained by virtue of any breach of this Agreement by the Contractor.

The Contractor's liability to the BHDDH for any damages arising out of or related to this Agreement, regardless of the form of action that imposes liability, whether in contract, equity, negligence, intended conduct, tort or otherwise, and including any direct damages incurred by the BHDDH due to the intentional tortious actions of the Contractor in the

performance or nonperformance of its obligations under this Agreement is not limited to the total fees paid by the BHDDH to the Contractor under this Agreement. Also, there should be no limitation of the Contractor's liability for disclosure of confidential information or intellectual property infringement. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement; provided, however, that the foregoing shall not be deemed to limit in any way the provisions of **ADDENDUM XIII - LIQUIDATED DAMAGES** of this Agreement.

The imposition of liquidated damages shall not limit the BHDDH's rights to pursue any other non-monetary remedies available to it.

The BHDDH may, by written notice of default to the Contractor, provide that the Contractor may cure a failure or breach of this contract within a period of thirty (30) days (or such longer period as the BHDDH's agreement administrator or project manager may authorize in writing), said period to commence upon receipt of the notice of default specifying such failure or breach. The BHDDH's exercise of this provision allowing the Contractor time to cure a failure or breach of this Agreement does not constitute a waiver of the BHDDH's right to terminate this Agreement, without providing a cure period, for any other failure or breach of this Agreement.

In the event the Contractor has failed to perform any substantial obligation under this Agreement, or has otherwise committed a breach of this Agreement, the BHDDH may withhold all monies due and payable to the Contractor directly related to the breach, without penalty, until such failure is cured or otherwise adjudicated.

Assurances before breach

a) If documentation or any other deliverables due under this contract are not in accordance with the contract requirements as reasonably determined by the project manager, upon the BHDDH's request, the Contractor, to the extent commercially reasonable, will deliver additional the Contractor resources to the project in order to complete the deliverable as required by the agreement as reasonably determined by the BHDDH and to demonstrate that other project schedules will not be affected. Upon written notice by the BHDDH's project manager of the BHDDH's concerns regarding the quality or timeliness of an upcoming deliverable, the Contractor shall, within five (5) business days of receipt of said notice, submit a corrective action plan documenting the Contractor's approach to completing the deliverable to the satisfaction of the BHDDH's project officer without affecting other project schedules. The BHDDH's project manager, within five (5) business days of receipt of the corrective action plan, shall approve the plan, reject the plan, or return the plan to the Contractor with specific instructions as to how the plan can be modified to merit approval and a specific time period in which the revised plan must be resubmitted.

Nothing in the language contained in "limitation of liability" article, "Contractor's liability for injury to person's or damage to property" article and "indemnification" article shall be construed to waive or limit the state or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Laws, Title 9 Chapter 31, "Governmental Tort Liability."



BHDDH's options at termination

In the event the BHDDH terminates this contract pursuant to this paragraph, the BHDDH may at its option:

a) Retain all or a portion of such hardware, equipment, software, and documentation as has been provided, obtaining clear title or rights to the same, and procure upon such terms and in such manner as the BHDDH's project manager may deem appropriate, hardware, equipment, software, documentation, or services as are necessary to complete the project; or

b) Notwithstanding the above, except as otherwise agreed, nothing herein shall limit the right of the BHDDH to pursue any other legal remedies against the Contractor.

In order to take into account any changes in funding levels because of executive or legislative actions or because of any fiscal limitations not presently anticipated, the BHDDH may reduce or eliminate the amount of the contract as a whole with the scope of services being reduced accordingly, or subject to agreement by the parties concerning the scope and pricing, reduce or eliminate any line item(s).

Notwithstanding the terms, conditions and/or requirements set out in Paragraphs 7 and 8, the Contractor shall not be relieved of liability to the BHDDH for damages sustained by the BHDDH by virtue of any breach of the Agreement by the Contractor, and the BHDDH may withhold payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the BHDDH from the Contractor is determined.

**PAR. 10. MODIFICATION OF AGREEMENT**

The BHDDH may permit changes in the scope of services, time of performance, or approved budget of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by the BHDDH and the Contractor, must be in writing and shall be made a part of this agreement by numerically consecutive amendment excluding "Special Projects", if applicable, and are incorporated by reference into this Agreement. No changes are effective unless reflected in an approved change order issued by the State's Division of Purchases.

Special Projects are defined as additional services available to the BHDDH on a time and materials basis with the amounts not to exceed the amounts referenced on the Contractor's RFP cost proposal or as negotiated by project or activity. The change order will specify the scope of the change and the expected completion date. Any change order shall be subject to the same terms and conditions of this Agreement unless otherwise specified in the change order and agreed upon by the parties. The parties will negotiate in good faith and in a timely manner all aspects of the proposed change order.

Availability of Funds

It is understood and agreed by the parties hereto that all obligations of the BHDDH, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and Federal funds, and in no event shall the BHDDH be liable for any payments hereunder in excess of such available and appropriated funds. In the event that the amount of any available or appropriated funds provided by the State or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason

whatsoever, the BHDDH shall notify the Contractor of such reduction of funds available and the BHDDH shall be entitled to reduce its commitment hereunder as it deems necessary, but shall be obligated for payments due to the Contractor up to the time of such notice. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement.

#### **PAR. 11. SUBCONTRACTS**

It is expressly agreed that the Contractor shall not enter into any subcontract(s) nor delegate any responsibilities to perform the services listed in this Agreement without the advanced, written approval of the BHDDH. If in **ADDENDUM XVI – BID PROPOSAL**, the Bid Proposal permits Subcontracting, the Contractor must provide the name and the extent of services provided by the Subcontractor in the **BUDGET** paragraph 6, and more fully explained in **ADDENDUM II** of this Agreement, and as further agreed to by the BHDDH and the Contractor in **ADDENDUM IX – SUBCONTRACTOR COMPLIANCE**, which is incorporated by reference herein, and which outlines the expectations and requirements of subcontracted vendors to this Agreement.

If the Contractor subsequently needs to enlist the services of a Subcontractor, the Contractor shall obtain prior written approval of the BHDDH. Approval of the BHDDH for the Contractor to enter into subcontracts to perform the services or obligations of the Contractor pursuant to this Agreement shall not be unreasonably withheld. Nothing in this Agreement or in a subcontract or sub-agreement between the Contractor and subcontractors shall create any contractual relationship between the subcontractor and the BHDDH. Approval by the BHDDH of the Contractor's request to subcontract shall not relieve the Contractor of its responsibilities under this contract and the Contractor shall therefore remain responsible and liable to the BHDDH for any conduct, negligence, acts and omissions, whether intentional or unintentional, by any subcontractor

The positions named by the Contractor and detailed in **ADDENDUM XVII – CORE STAFF POSITIONS**, which is incorporated by reference herein, will be considered core project staff positions for this project. The Contractor will not alter the core project team or use an independent contractor, company or subcontractor to meet required deliverables without the prior written consent of the BHDDH's project officer or other appointed designee(s) for which consent shall not be unreasonably withheld. Failure to comply with the provisions of this Paragraph could result in denial of reimbursement for such non-approved sub-contracts.

#### **PAR. 12. CONTRACTOR'S LIABILITY/INDEMNIFICATION**

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the "Indemnitees" and their subcontractors) harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney's fees) to the extent arising in whole or part from the Contractor's willful misconduct, negligence, or omission in provision of services or breach of this Agreement including, but not limited to, injuries of any kind which the staff

of the Contractor or its subcontractor may suffer directly or may cause to be suffered by any staff person or persons in the performance of this Agreement, unless caused by the willful misconduct or gross negligence of the Indemnitees.

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the “Indemnitees” and their subcontractors”) harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney’s fees) to the extent arising in whole or part for infringement by the Contractor of any intellectual property right by any product or service provided hereunder.

Nothing in this agreement shall limit the Contractor’s liability to indemnify the State for infringements by the Contractor of any intellectual property right.

Nothing in the language contained in this Agreement shall be construed to waive or limit the State or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Law, Title 9, Chapter 31 et al., entitled “Governmental Tort Liability.”

### **PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

By signing this Agreement, the Contractor agrees to comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794); Americans with Disabilities Act of 1990 (42 USC 12101 et. seq.); Title IX of the Education Amendments of 1972 (20 USC 1681 et. seq.); The Food Stamp Act, and the Age Discrimination Act of 1975, The United States Department of Health and Human Services Regulations found in 45 CFR, Parts 80 and 84; the United States Department of Education Implementing regulations (34 CFR, Parts 104 and 106; and the United States Department of Agriculture, Food and Nutrition Services (7 CFR §272.6), which prohibit discrimination on the basis of race, color, national origin (limited English proficiency persons), age, sex, disability, religion, political beliefs, in acceptance for or provision of services, employment, or treatment in educational or other programs or activities, or as any of the Acts are amended from time to time.

Pursuant to Title VI and Section 504, as listed above and as referenced in **ADDENDA V AND VI**, which are incorporated herein by reference and made part of this Agreement, the Contractor shall have policies and procedures in effect, including, mandatory written compliance plans, which are designed to assure compliance with Title VI section 504, as referenced above. An electronic copy of the Contractor’s written compliance plan, all relevant policies, procedures, workflows, relevant chart of responsible personnel, and/or self-assessments must be available to the BHDDH upon request.

The Contractor’s written compliance plans and/or self-assessments referenced above and detailed in **ADDENDA V AND VI** of this Agreement must include but are not limited to the requirements detailed in **ADDENDA V AND VI** of this Agreement.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS

or EOHHS, full and complete information on Title VI and/or Section 504 compliance and/or self-assessments, as referenced above, by the Contractor and/or any subcontractor or vendor of the Contractor.

The Contractor acknowledges receipt of **ADDENDUM V - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964** and **ADDENDUM VI - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**, which are incorporated herein by reference and made part of this Agreement.

The Contractor further agrees to comply with all other provisions applicable to law, including the Americans with Disabilities Act of 1990; the Governor's Executive Order No. 05-01, Promotion of Equal Opportunity and the Prevention of Sexual Harassment in State Government.

The Contractor also agrees to comply with the requirements of the BHDDH of Health and Human Services for safeguarding of client information as such requirements are made known to the Contractor at the time of this contract. Changes to any of the requirements contained herein shall constitute a change and be handled in accordance with **PAR. 10. - MODIFICATION OF AGREEMENT** above.

Failure to comply with this Paragraph may be the basis for cancellation of this Agreement.

#### **PAR. 14. ASSIGNABILITY**

The Contractor shall not assign any interest in this Agreement (whether by assignment or novation) without the prior written consent of the State's Division of Purchases, thereto; provided, however, that claims or money due or to become due to the Contractor from the BHDDH under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the BHDDH.

#### **PAR. 15. COPYRIGHTS**

Any and all data, technical information, information systems, materials gathered, originated, developed, prepared, modified, used or obtained by the Contractor in performance of the Agreement used to create and/or maintain work performed by the Contractor, including but not limited to, all hardware, software computer programs, data files, application programs, intellectual property, source code, documentation and manuals, regardless of state of completion shall be deemed to be owned and remain owned by the State ("State Property"), and the State has the right to (1) reproduce, publish, disclose or otherwise use and to authorize others to use the State Property for State or federal government purposes, and (2) receive delivery of such State Property upon 30 days notice by the State throughout the term of the contract and including 120 days thereafter. To be clear with respect to State Property, the work shall be considered "work for hire," i.e., the State, not the selected Contractor or any subcontractor, shall have full and complete ownership of all State Property. The selected Contractor and any

subcontractor hereby convey, assign and transfer to State any and all of its or their right, title and interest in State Property, if any, including but not limited to trademarks and copyrights. The State hereby grants to the federal government, and the federal government reserves, a royalty-free, nonexclusive and irrevocable license to reproduce, publish, disclose or otherwise use and to authorize others to use for federal government purposes such software, modifications and documentation designed, developed or installed with federal financial participation.

The Contractor agrees that no findings, listing, or information derived from information obtained through performance, as described in the Scope of Work in Addendum I with or without identifiers, may be released or publicly disclosed in any form for any purpose if such findings, listing, or information contain any combination of data elements that might allow an individual to determine a beneficiary's identification without first obtaining written authorization from the BHDDH's project officer. Examples of such data elements include, but are not limited to geographic indicators, age, sex, diagnosis, procedure, date of birth, or admission/discharge date(s). The Contractor agrees further that the BHDDH shall be the sole judge as to whether any finding, listing, information, or any combination of data extracted or derived from the BHDDH's files identify or would, with reasonable effort, permit one to identify an individual, or to deduce the identifying of an individual to a reasonable degree of certainty. The Contractor agrees that the conditions set forth herein apply to any materials presented or submitted review and/or publication that contain individual identifying elements in the information obtained, as stated above, unless such information is presented in the aggregate. Under no circumstance, shall the Contractor publicly disclose or present or submit any materials for review and/or publication that contains an individual's social security number, in part or in whole. The Contractor is hereby notified that all initial data received from EOHHS is considered confidential by the BHDDH. For further requirements regarding confidentiality of information please refer to Paragraph 23 of this Agreement.

With respect to claims arising from computer hardware or software manufactured by a third party and sold by the Contractor as a reseller, the Contractor will pass through to the BHDDH such indemnity rights as it receives from such third party ("third party obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the third party obligation, the Contractor will provide the BHDDH with indemnity protection equal to that called for by the third party obligation, but in no event greater than that called for in the first sentence of this Paragraph the provisions of the preceding sentence apply only to third party computer hardware or software sold as a distinct unit and accepted by the BHDDH. Unless a third party obligation provides otherwise, the defense and payment obligations set forth in this Paragraph will be conditional upon the following:

1. The BHDDH will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time;
2. The Contractor will have sole control of the defense of any action on all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Rights by any product or service provided hereunder; and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future state operations or liability, or

when involvement of the state is otherwise mandated by law, the state may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the state will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and

3. The State will reasonably cooperate in the defense and in any related settlement negotiations.

Should the deliverables or software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Rights, the BHDDH shall permit the Contractor at its option and expense either to procure for the BHDDH the right to continue using the deliverables or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such deliverables or software by the BHDDH shall be prevented by injunction, the Contractor agrees to take back such deliverables or software and make every reasonable effort to assist the BHDDH in procuring substitute deliverables or software. If, in the sole opinion of the BHDDH, the return of such infringing deliverables or software makes the retention of other deliverables or software acquired from the Contractor under this Agreement impractical, the BHDDH shall then have the option of terminating such agreements, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such deliverables or software and refund any sums the BHDDH has paid the Contractor less any reasonable amount for use or damage.

The Contractor shall have no liability to the BHDDH under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement that is based upon:

- The combination or utilization of deliverables furnished hereunder with equipment or devices not made or furnished by the Contractor; or,
- The operation of equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of the Contractor-supplied operating software; or
- The modification by the BHDDH of the equipment furnished hereunder or of the software; or
- The combination or utilization of software furnished hereunder with non-Contractor supplied software.

The Contractor certifies that it has appropriate systems and controls in place to ensure that BHDDH funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

## **PAR. 16. PARTNERSHIP**

It is understood and agreed that nothing herein is intended or should be construed in any manner as creating or establishing the legal relation of partnership between the parties hereto, or as constituting the employees, agents, or representatives of the Contractor included in this Agreement as employees, agents, or representatives of the BHDDH.

**PAR. 17. INTEREST OF CONTRACTOR**

The Contractor covenants that it presently has no pecuniary interest and shall not acquire any such interest, direct or indirect, without first disclosing to the BHDDH in writing and then subsequently obtaining approval, in writing, from the BHDDH, that would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor further covenants that no person having any such interest shall be employed by the Contractor for the performance of any work associated with this Agreement.

**PAR. 18. FEDERAL FUNDING PROVISIONS**

Funds made available to the Contractor under this Agreement are or may be derived from federal funds made available to the BHDDH. The Provisions of Paragraph 5 and Addendum II notwithstanding, the Contractor agrees to make claims for payment under this Agreement in accordance with applicable federal policies. The Contractor agrees that no payments under this Agreement will be claimed for reimbursement under any other Agreement, grant or contract that the Contractor may hold that provides funding from the same State or Federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of claims for payment under this Agreement. The Contractor specifically agrees to abide by all applicable federal requirements for Contractors, including laws, regulations and requirements related to services performed outside the United States by Contractor or its subcontractors. Additionally, the Federal Award must be used in accordance with the specific Catalog of Federal Domestic Assistance (CFDA) number listed in **ADDENDUM IV – FISCAL ASSURANCES**. <https://www.cfda.gov/>

States are required to collect information from contractors for awards greater than \$25,000 as described in **ADDENDUM XVIII – FEDERAL SUBAWARD REPORTING** (hereafter referred to as the FFATA form). The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide new FFATA forms for each contract year. When applicable in multiyear contracts, the Contractor is required to review and update the FFATA form, this must be provided to the BHDDH 30 days prior to the end of the first contract year. For example, if the contract performance period is July 1, 2015 to June 30, 2018; then the FFATA form for the second contract year is due June 1, 2016. Any sub-contractor paid with Federal Funding will provide the FFATA form for each contract year to the Contractor, the Contractor must then provide all sub-contractor FFATA forms to the BHDDH. Sub-contractor forms must be provided within fifteen (15) days of date of signature of this Agreement, and if applicable, within fifteen (15) days of the end of each contract year for all subsequent contract years.

**PAR. 19. FUNDING DENIED**

It is understood and agreed that in the event that less than full federal funding or other funding is received by the BHDDH due directly to the failure of the Contractor to comply with the terms of this Agreement, the Contractor is liable to the State of Rhode Island for an amount equal to the amount of the denied funding. Should the Contractor be liable for the amount of the denied funding, then such amount shall be payable upon demand of

the BHDDH.

The Contractor agrees that no expenditures claimed for reimbursement under this Agreement will be claimed for reimbursement under any other agreement, grant, or contract that the Contractor may hold which provides funding from state or federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of expenditures: (a) claimed by the Contractor for reimbursement under this Agreement, and/or (b) submitted by the Contractor in meeting any cost participation requirements.

## **PAR. 20. ACCESSIBILITY AND RETENTION OF RECORDS**

The Contractor agrees to make accessible and to maintain all fiscal and activity records relating to this Agreement to state and/or federal officials, or their designated representatives, necessary to verify the accuracy of Contractor invoices or compliance with this Agreement. This accessibility requirement shall include the right to review and copy such records. This requirement is also intended to include but is not limited to any auditing, monitoring, and evaluation procedures, including on-site visits, performed individually or jointly, by state or federal officials or their agents necessary to verify the accuracy of Contractor invoices or compliance with this Agreement (in accordance with 2 CFR §200.331). If such records are maintained out of the State of Rhode Island, such records shall be made accessible by the Contractor at a Rhode Island location. Minutes of board of directors' meetings, fiscal records, and narrative records pertaining to activities performed will be retained for audit purposes for a period of at least three (3) years following the submission of the final expenditure report for this Agreement. Additionally, if any litigation, claim, or audit is started before the expiration of the 3 year period, as mentioned in Paragraph 2 of this Agreement, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR §200.333. If audit findings have not been resolved at the end of the three (3) years, the records shall be retained for an additional three (3) years after the resolution of the audit findings are made or as otherwise required by law.

The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide and maintain a quality assurance system acceptable to the state covering deliverables and services under this Agreement and will tender to the state only those deliverables that have been inspected and found to conform to this Agreement's requirements. The Contractor will keep records evidencing inspections and their result and will make these records available to the state during Agreement performance and for three (3) years after final payment. The Contractor shall permit the state to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance system or other similar business practices related to performance of the Agreement.

Further, the Contractor agrees to include a similar right of the state to audit records and interview staff in any subcontract related to performance of this Agreement.

The parties agree that in regard to fixed price portions of the contract, the state's access to the Contractor's books, records and documents shall be limited to those necessary to verify the accuracy of the Contractor's invoice. In no event will the state have access to



the Contractors internal cost data as they relate to fixed price portion of the contract.

**PAR. 21. CAPITAL ASSETS**

The Contractor agrees that any capital assets purchased on behalf of the BHDDH on a pass-through basis and used on behalf of the BHDDH by the Contractor shall upon payment by the BHDDH, become the property of the BHDDH unless otherwise agreed to by the parties and may be utilized by the Contractor in a reasonable manner. Capital assets are defined as any item having a life expectancy of greater than one (1) year and an initial cost of greater than five thousand dollars (\$5,000) per unit, except greater than five hundred dollars (\$500) per unit for computer equipment.

Upon written request by the BHDDH, the Contractor agrees to execute and deliver to the BHDDH a security interest in such capital assets in the amount of the value of such capital asset (or for a lesser amount as determined by the BHDDH).

**PAR. 22. COMPETITIVE BIDS**

With the exception of services or products obtained for use in a leveraged environment, the Contractor agrees competitive bidding will be utilized for all purchases in direct and exclusive support of the BHDDH which are made under this Agreement in excess of five hundred dollars (\$500) or an aggregate of one thousand dollars (\$1,000) for any like items during the time of performance of this Agreement. Evidence of competitive bids must be retained in accordance with **PAR. 20. - ACCESSIBILITY AND RETENTION OF RECORDS.**

**PAR. 23. SECURITY AND CONFIDENTIALITY**

The Contractor shall take security measures to protect against the improper use, loss, access of and disclosure of any confidential information it may receive or have access to under this Agreement as required by this Agreement, the RFP and proposal, or which becomes available to the Contractor in carrying out this Agreement and the RFP and the proposal, and agrees to comply with the requirements of the BHDDH for safeguarding of client and such aforementioned information. Confidential information includes, but is not limited to: names, dates of birth, home and/or business addresses, social security numbers, protected health information, financial and/or salary information, employment information, statistical, personal, technical and other data and information relating to the State of Rhode Island data, and other such data protected by Department/BHDDH laws, regulations and policies ("confidential information"), as well as State and Federal laws and regulations. All such information shall be protected by the Contractor from unauthorized use and disclosure and shall be protected through the observance of the same or more effective procedural requirements as are applicable to the BHDDH.

The Contractor expressly agrees and acknowledges that said confidential information provided to and/or transferred to provider by the BHDDH or to which the Contractor has access to for the performance of this Agreement is the sole property of the BHDDH and shall not be disclosed and/or used or misused and/or provided and/or accessed by any

other individual(s), entity(ies) and/or party(ies) without the express written consent of the BHDDH. Further, the Contractor expressly agrees to forthwith return to the BHDDH any and all said data and/or information and/or confidential information and/or database upon the BHDDH's written request and/or cancellation and/or termination of this Agreement.

The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information, which is or becomes legitimately publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties under no obligation of confidentiality.

The Contractor agrees to abide by all applicable, current and as amended Federal and State laws and regulations governing the confidentiality of information, including to but not limited to the Business Associate requirements of HIPAA ([WWW.HHS.GOV/OCR/HIPAA](http://WWW.HHS.GOV/OCR/HIPAA)), to which it may have access pursuant to the terms of this Agreement. In addition, the Contractor agrees to comply with the BHDDH confidentiality policy recognizing a person's basic right to privacy and confidentiality of personal information. ("confidential records" are the records as defined as not public in R.I. Gen. Laws 38-2-2-(4) (A)-(AA) entitled "Access to Public Records").

In accordance with this Agreement and all Addenda thereto, the Contractor will additionally receive, have access to, or be exposed to certain documents, records, that are confidential, privileged or otherwise protected from disclosure, including, but not limited to: personal information; Personally Identifiable Information (PII), Sensitive Information (SI), and other information (including electronically stored information), records sufficient to identify an applicant for or recipient of government benefits; preliminary draft, notes, impressions, memoranda, working papers—and work product of state employees; as well as any other records, reports, opinions, information, and statements required to be kept confidential by state or federal law or regulation, or rule of court ("State Confidential Information"). State Confidential Information also includes PII and SI as it pertains to any public assistance recipients as well as retailers within the SNAP Program and Providers within any of the State Public Assistance programs.

Personally Identifiable Information (PII) is defined as any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc. (As defined in 2 CFR §200.79 and as defined in OMB Memorandum M-06-19, "Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments"). PII shall also include individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts (As defined in 2 CFR § 200.82 Protected Personally Identifiable Information).

Sensitive Information (SI) is information that is considered sensitive if the loss of confidentiality, integrity, or availability could be expected to have a serious, severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals. Further, the loss of sensitive information confidentiality, integrity, or availability might: (i) cause a significant or severe degradation in mission capability to an extent and duration that the organization is unable to perform its primary functions; (ii) result in significant or major damage to organizational assets; (iii) result in significant or major financial loss; or (iv) result in significant, severe or catastrophic harm to individuals that may involve loss of life or serious life threatening injuries. (Defined in HHS Memorandum ISP-2007-005, "Departmental Standard for the Definition of Sensitive Information" as amended).

The Contractor agrees to adhere to any and all applicable State and Federal statutes and regulations relating to confidential health care and substance abuse treatment including but not limited to the Federal Regulation 42 CFR, Part 2; Rhode Island Mental Health Law, R.I. General Laws Chapter 40.1-5-26; Confidentiality of Health Care Communications and Information Act, R.I. General Laws Chapter 5-37.3-1 et seq., HIPAA 45 CFR 160 and the Rhode Island Identity Theft Protection Act, R.I. General Laws Chapter 11-49.3-1. The Contractor acknowledges that failure to comply with the provisions of this paragraph will result in the termination of this Agreement.

The Contractor shall notify the BHDDH and the BHDDH's designated security officer by telephone call plus e-mail, web form or fax upon the discovery of any breach of security of PHI, PII or SI or suspected breach of security of PHI, PII or SI (where the use or disclosure is not provided for and permitted by this Agreement) of which it becomes aware within one (1) hour and in no case later than forty-eight (48) hours of the breach and/or Security Incident. The Contractor shall, within forty-eight (48) hours, notify the BHDDH and the BHDDH's designated security officer of any suspected breach of unauthorized electronic access, disclosure or breach of confidential information or any successful breach of unauthorized electronic access, disclosure or breach of confidential information. A breach is defined pursuant to HIPAA guidelines as well as those found in the "Health Information Technology for Economic and Clinical Health Act" (HITECH). A breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PHI in violation of HIPAA privacy rules that compromise PHI security or privacy. Additionally, a breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PII or SI. The notice of a breach or suspected breach shall contain information available to the Contractor at the time of the notification to aid the BHDDH in examining the matter. More complete and detailed information shall be provided to the BHDDH as it becomes available to the Contractor.

Upon notice of a breach, suspected breach or a security incident, the BHDDH and Contractor will meet to jointly develop an incident investigation and remediation plan. Depending on the nature and severity of the confirmed breach, the plan may include the use of an independent third-party security firm to perform an objective security audit in accordance with recognized cyber security industry commercially reasonable practices. The parties will consider the scope, severity and impact of the security incident to determine the scope and duration of the third party audit. If the parties cannot agree on either the need for or the scope of such audit, then the matter shall be escalated to senior

officials of each organization for resolution. The Contractor will pay the costs of all such audits. Depending on the nature and scope of the security incident, remedies may include, among other things, information to individuals on obtaining credit reports and notification to applicable credit card companies, notification to the local office of the Secret Service, and or affected users and other applicable parties, utilization of a call center and the offering of credit monitoring services on a selected basis.

Notwithstanding any other requirement set out in this Agreement, the Contractor acknowledges and agrees that the HITECH Act and its implementing regulations impose new requirements with respect to privacy, security and breach notification and contemplates that such requirements shall be implemented by regulations to be adopted by the U.S. Department of Health and Human Services. The HITECH requirements, regulations and provisions are hereby incorporated by reference into this Agreement as if set forth in this Agreement in their entirety. Notwithstanding anything to the contrary or any provision that may be more restrictive within this Agreement, all requirements and provisions of HITECH, and its implementing regulations currently in effect and promulgated and/or implemented after the date of this Agreement, are automatically effective and incorporated herein. Where this Agreement requires stricter guidelines, the stricter guidelines must be adhered to.

Failure to abide by the BHDDH's confidentiality policy or the required signed **Business Associate Agreement (BAA)** will result in termination remedies, including but not limited to, termination of this Agreement. A **Business Associate Agreement (BAA)** shall be signed by the Contractor, simultaneously or as soon thereafter as possible, from the signing of this Agreement, as required by the BHDDH.

Nothing herein shall limit the BHDDH's ability to seek injunctive relief or any and all damages resulting from the Contractor's negligent or intentional disclosure of confidential information.

#### **PAR. 24. AUDIT**

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least twenty-five thousand dollars (\$25,000) in any year, at no additional cost for the BHDDH, the Contractor shall prepare an annual financial statement of the Contractor or the Contractor's parent, where applicable, within nine (9) months of the end of the Contractor's fiscal year. The financial statements must provide full and frank disclosures of all assets, liabilities, changes in the fund balances, all revenue, and all expenditures. Upon written or oral request by the BHDDH, the Contractor shall provide the BHDDH a copy of the above described financial statement(s) within ten (10) days of the BHDDH's request or within twenty (20) days of the end of the Time of Performance, Paragraph 3 herein. If additional financial documentation is required by the Federal funding source, these additional financial requirements must be met in addition to the preparation of the above financial statements.

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, at no additional cost for the BHDDH, the audit must be performed in accordance with 2 CFR § 200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller

General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR §200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the BHDDH.

In the case wherein the Contractor expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR § 200.501, et seq. at no additional cost for the BHDDH, the audit must be performed in accordance with 2 CFR §200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR § 200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the BHDDH.

Moreover, if the Contractor has Agreements and/or Federal Awards which **in aggregate** are at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, including the amount identified in **PAR. 6 – BUDGET**, the audit must be performed in accordance with federal requirements as outlined above (2 CFR §200.500 et seq.).

Should the Contractor expend less than seven hundred and fifty thousand federal dollars (\$750,000) in a fiscal year and be, therefore, exempt from having to perform an audit in accordance with 2 CFR §200.500 et. seq., the Contractor may not charge the cost of such an audit to a federal award.

Pursuant to 2 CFR §200.501 (h), "for-profit" entities shall conduct a "Yellow Book" audit annually by a Public Accounting Firm in accordance with Government Auditing Standards, mentioned above, and standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the U.S. (GAGAS) and provide a copy thereof to Client, the Contractor may not charge the cost of such an audit to a federal award.

The Contractor agrees that the state or its designated representative will be given access to any part of the system which is delivered under this Agreement to inventory and/or inspect the system.

The Contractor expressly agrees that any overpayment identified through an audit must be repaid to the BHDDH within a period of six (6) months from the issuance of the audit.

#### **PAR. 25. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

#### **PAR. 26. ON-SITE INSPECTION**

The Contractor agrees to permit on-site monitoring, evaluation and inspection of all

activities related to the Agreement by officials of the BHDDH, its designee, and where appropriate, the Federal government. On-site inspections and monitoring shall be in accordance with 2 CFR §200.328. All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the BHDDH or the Federal Government in accordance with 2 CFR §200.333.

If, as a result of on-site inspections, changes are requested by the BHDDH to ensure compliance with this Agreement and/or Federal Awards, the Contractor must perform changes within a time period defined by the BHDDH. All changes shall be documented by the Contractor and provided to the BHDDH upon request. All requested changes shall comply with 2 CFR §200.331.

**PAR. 27. DRUG-FREE WORKPLACE POLICY**

The Contractor agrees to comply with the provisions of the Governor's Executive Order 91-14, the State's Drug Free Workplace Policy, and the Federal Omnibus Drug Abuse Act of 1988. As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM VII - DRUG-FREE WORKPLACE POLICY**, and in accordance therewith has executed **ADDENDUM VIII - DRUG-FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE**.

Furthermore, the Contractor agrees to submit to the BHDDH any report or forms which may from time-to-time be required to determine the Contractor's compliance with this policy.

The Contractor acknowledges that a violation of the Drug-Free Workplace Policy may, at the BHDDH's option, result in termination of this Agreement.

**PAR. 28. PRO-CHILDREN ACT OF 1994 (ACT)**

As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**, and in accordance has executed **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**.

**PAR. 29. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Contractor agrees to abide by **ADDENDUM XI – INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**, and in accordance has executed the required certification included in **ADDENDUM XII – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**.

**PAR. 30. CHIEF PURCHASING OFFICER**

This Agreement shall take effect upon the issuance of a Purchase Order by the State of Rhode Island's Chief Purchasing Officer or his/her designee. No modifications to this

agreement shall be effective unless in an authorized change order issued by the State's Division of Purchases.

### PAR. 31. OWNERSHIP

The following additional paragraphs are added to the Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing.

PROPRIETARY SOFTWARE. Each party will retain all rights in any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the date of this Agreement or acquired or developed after the date of this Agreement without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third party vendor will be and remain the property of such vendor.

DEVELOPED SOFTWARE. All software that is developed by the Contractor and delivered by the Contractor to the BHDDH under this Agreement and paid for by the BHDDH ("Developed Software") is and shall remain the property of the BHDDH. For a period of ninety (90) days following acceptance of any developed software in accordance with the approval procedures adopted by the parties, the Contractor warrants that each item of developed software will conform in all material respects to the written technical specifications agreed to by the parties in accordance with the software development methodologies adopted by the parties and set forth in the procedures manual. As soon as reasonably practicable after discovery by State or Contractor of a failure of the Developed Software to so conform (a "**non-conformance**"), State or Contractor, as applicable, will deliver to the other a statement and supporting documentation describing in reasonable detail the alleged nonconformance. If Contractor confirms that there is a non-conformance, then Contractor will use commercially reasonable efforts to correct such non-conformance. The methods and techniques for correcting non-conformances will be at the sole discretion of the BHDDH. The foregoing warranty will not extend to any non-conformances caused (i) by any change or modification to software without Contractor's prior written consent; or (ii) by state operating software otherwise than in accordance with the applicable documentation, for the purpose for which it was designed, or on hardware not recommended, supplied or approved in writing by Contractor. Furthermore, if, after undertaking commercially reasonable efforts to remedy a breach by Contractor of the foregoing warranty, Contractor, in the exercise of its reasonable business judgment, determines that any repair, adjustment, modification or replacement is not feasible, or in the event that the developed software subsequent to all repairs, adjustments, modifications and replacements continues to fail to meet the foregoing warranty, the BHDDH will return the developed software to Contractor, and Contractor will credit to the State, in a manner and on a schedule agreed to by the parties and as the BHDDH's sole and exclusive remedy for such failure, an amount equal to the charges actually paid by the BHDDH to the Contractor for the developed software that has failed to meet the foregoing warranty. Upon written request of the BHDDH, the Contractor will use commercially reasonable efforts to correct an alleged non-conformance for which Contractor is not otherwise responsible hereunder because it is caused or contributed to by one of the factors listed above and, to the extent that such correction cannot be performed within the scope of the Contractor services, such correction will be paid for by the BHDDH at the Contractor's

then current commercial billing rates for the technical and programming personnel and other materials utilized by the Contractor. Notwithstanding anything to the contrary in this Agreement, the Contractor will continue to own, and will be free to use, the development tools and the residual technology, so long as such use does not breach Contractor's obligations of confidentiality set forth herein

OTHER. Notwithstanding anything to the contrary in this Agreement, the Contractor (i) will retain all right, title and interest in and to all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the services hereunder which are based on trade secrets or proprietary information of the Contractor, are developed or created by or on behalf of the Contractor without reference to or use of the intellectual property of the BHDDH or are otherwise owned or licensed by the Contractor (collectively, "tools"); (ii) subject to the confidentiality obligations set forth in this Agreement, will be free to use the ideas, concepts, methodologies, processes and know-how which are developed or created in the course of performing the services and may be retained by the Contractor's employees in an intangible form, all of which constitute substantial rights on the part of the Contractor in the technology developed as a result of the services performed under this Agreement; and (iii) will retain ownership of any Contractor-owned software or tools that are used in producing the developed software and become embedded therein. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks or copyrights, except as otherwise expressly provided in this Agreement.

**PAR. 32. FORCE MAJEURE**

Except for defaults of subcontractors at any tier, in the event that any party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of (or if failure to perform the services is caused by) natural disaster, actions or decrees of governmental bodies, or other event or failure not the fault or within control of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other parties and shall use reasonable efforts to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended

**PAR. 33. RESERVED**

**PAR. 34. DISPUTES**

The parties shall use good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. When a dispute arises between the BHDDH and Contractor, both parties will attempt to resolve the dispute pursuant to this subsection. When a dispute arises, the party initiating the dispute shall notify the other party in writing of the dispute, with the notice specifying the disputed issues and the position of the party submitting the notice. The BHDDH's project officer and Contractor project officer shall use good faith efforts to resolve the dispute within ten (10) State business days of submission by either party to the other of such notice of the dispute.

If the BHDDH's Project Officer and the Contractor's Project Officer are unable to resolve the dispute, either party may request that the dispute be escalated for resolution to the



BHDDH Director or his or her designee, the Contractor's President or his or her designee and a mutually agreed upon third party shall attempt to resolve the issue.

If the issue is not resolved, the parties shall proceed pursuant to R.I. General Laws § 37-2-46 and applicable State Procurement Regulations (1.5).

If the issue is not resolved, the parties shall endeavor to resolve their claims by mediation which, shall be administered by the Presiding Justice of the Providence County Superior Court. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the court. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this paragraph, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the State of Rhode Island where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**PAR. 35. GOVERNING LAW**

This Agreement is deemed executed and delivered in the City of Cranston, State of Rhode Island, and all questions arising out of or under this Agreement shall be governed by the laws of the State of Rhode Island.

**PAR. 36. WAIVER AND ESTOPPEL**

Nothing in this Agreement shall be considered waived by any party, unless the party claiming the waiver receives the waiver in writing. No breach of this Agreement is considered to be waived unless the non-breaching party waives it in writing. A waiver of one provision shall not constitute a waiver of any other. A failure of any party to enforce at any time any provisions(s) of this contract, or to exercise any option which is herein provided, shall in no way be construed as a waiver of such provision of this contract. No consent, or excuse by either party, express or implied, shall constitute a subsequent consent, waiver or excuse.

**PAR. 37. INSURANCE**

Throughout the term of the Agreement, the Contractor and any subcontractor shall procure and maintain, at its own cost and expense, insurance as required by the Bid Specifications.

**PAR. 38. WORK REVIEWS**

The Contractor agrees that all work performed under this Agreement may be reviewed by the Rhode Island BHDDH of Health and Human Services, Department of

Administration, and/or by any third party designated by the BHDDH of Health and Human Services.

**PAR. 39. BUSINESS CONTINUITY PLAN**

The Contractor shall prepare and maintain a Business Continuity Plan upon execution of this Agreement, which shall include, but not be limited to, the Contractor's procedure for recovery of data and recovery for all operation components in case of an emergency or disaster. Upon written or oral request by the BHDDH, the Contractor shall provide the BHDDH a copy of the above described Business Continuity Plan within ten (10) days of the BHDDH's request.

**PAR. 40. NOTICES**

No notice, approval or consent permitted or required to be given by this Agreement will be effective unless the same is in writing and sent postage prepaid, certified mail or registered mail, return receipt requested, or by reputable overnight delivery service to the other party at the address set forth in **ADDENDUM XVII – CORE STAFF POSITIONS**, or such other address as either party may direct by notice given to the other as provided **ADDENDUM XVII – CORE STAFF POSITIONS**, and shall be deemed to be given when received by the addressee. The Contractor and the BHDDH shall list, in **ADDENDUM XVII – CORE STAFF POSITIONS**, the names, addresses, email addresses, telephone numbers, and the facsimile numbers of all individuals that the above such notice, approval or consent shall be sent to or copied on. The Parties agree to update any changes to the designated notice recipients, in writing pursuant to the terms outlined in **PARAGRAPH 40**.

**PAR. 41. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages and the parties will follow such delivery by prompt delivery of originals of such pages.

**PAR. 42. AMENDMENTS**

Except as may otherwise set forth in this Agreement, the Agreement may only be amended by the parties agreeing to the amendment, in writing, duly executed by the parties and shall only be effective upon incorporation by the State's Division of Purchases through the issuance of a change order.

**PAR. 43. SURVIVAL**


Any obligations and provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement, including but not limited to safeguarding confidential information and indemnification, shall survive the expiration or termination of this Agreement.

**PAR. 44. ADDITIONAL APPROVALS**

The parties acknowledge that this Agreement requires issuance of a valid Purchase Order by the State of Rhode Island for this Agreement to remain in full force and effect.


**IN WITNESS WHEREOF**, the parties hereto have hereunder set their hands as of the date first above written and this Agreement made legally binding upon the issuance of a valid Purchase Order by the State of Rhode Island as follows:

**STATE OF RHODE ISLAND:**

  
REBECCA BOSS, DIRECTOR  
DEPARTMENT OF BEHAVIORAL  
HEALTHCARE, DEVELOPMENTAL  
DISABILITIES & HOSPITALS

9/24/2019  
DATE

**RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES:**

  
AUTHORIZED AGENT/SIGNATURE  
TITLE: Provost & Vice President for Academic Affairs

Sue Pearlmutt  
PRINT NAME

9/16/2019  
DATE

## ADDENDA

Attached hereto, incorporated into and made a part herein of this agreement, are the following addenda:

- ADDENDUM I - REQUEST FOR PROPOSAL AND/OR SCOPE OF WORK**
- ADDENDUM II - BUDGET**
- ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE**
- ADDENDUM IV - FISCAL ASSURANCES**
- ADDENDUM V - NOTICE TO EXECUTIVE OF HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**
- ADDENDUM VI - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**
- ADDENDUM VII - DRUG-FREE WORKPLACE POLICY**
- ADDENDUM VIII - DRUG FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE**
- ADDENDUM IX - SUBCONTRACTOR COMPLIANCE**
- ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**
- ADDENDUM XI - INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**
- ADDENDUM XII - CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**
- ADDENDUM XIII - LIQUIDATED DAMAGES**
- ADDENDUM XIV - EQUAL EMPLOYMENT OPPORTUNITY**
- ADDENDUM XV - BYRD ANTI-LOBBYING AMENDMENT**
- ADDENDUM XVI - BID PROPOSAL**
- ADDENDUM XVII - CORE STAFF POSITIONS**
- ADDENDUM XVIII - FEDERAL SUBAWARD REPORTING**
- ADDENDUM XIX - BUSINESS ASSOCIATE AGREEMENT**

## ADDENDUM I

### REQUEST FOR PROPOSAL / SCOPE OF WORK

**Requirements:**

1. Detailed reporting must be provided on all contract activities on a quarterly basis.
2. In order for monthly invoices to be paid, backup must be provided detailing the billable activities for the month. Salaries and wages charged on an invoice must be accompanied by timesheets or alternative description asserting the time worked and the contract activities performed during that time by each person.
3. Sherlock must submit the curriculum for any trainings provided under this contract to DDD annually for review and approval before they are used.
4. Resources developed under this contract will not be released until approved by DDD.
5. Materials, curricula, and other resources developed with DDD funds must include an acknowledgment and logo of BHDDH.

	<b>Tasks</b>	<b>Projected Costs</b>
<b>Data</b>	<p>Task 1: Sherlock Employment and Day Activity Survey</p> <ul style="list-style-type: none"> <li>• Review survey with BHDDH for consistency and continued relevance</li> <li>• Develop and pilot measures for changes in life outcomes and add to survey                             <ul style="list-style-type: none"> <li>○ Use components of high-quality community life from RRTC on Community Living</li> <li>○ Select indicators from NCI</li> <li>○ Add other RI specific indicators</li> <li>○ Pilot with 100 people</li> <li>○ Develop report</li> </ul> </li> <li>• Annual survey and reports: one per year, due in June</li> <li>• Abbreviated survey with focus on integrated day (data fields to be determined): one per year, due in January</li> </ul> <p>Annual collection of Sherlock Survey</p> <ul style="list-style-type: none"> <li>• Preparation of providers</li> <li>• Data collection</li> <li>• Data cleaning</li> <li>• Statewide Reports</li> <li>• Agency Reports</li> <li>• Contribute to Consent Decree Tracker</li> </ul> <p>Task 2: National Core Indicators (January: June)</p> <ul style="list-style-type: none"> <li>• Sample selection</li> <li>• Refresher training for interviewers</li> <li>• Database: data entry</li> <li>• Complete surveys</li> </ul>	
Person-Centered Thinking	<p>Task 1: Six sections of PCT Facilitator training</p> <ul style="list-style-type: none"> <li>• 2 in Fall, 2019</li> <li>• 2 in Spring, 2020</li> </ul>	

	<p>Task 2: Complete and roll out online PCT training. This will be a hybrid training including (a) 11 modules, (b) 2-3 in person coaching sessions, (c) required completion of one plan.</p> <ul style="list-style-type: none"> <li>• Modules recorded using moodle as a platform– September</li> <li>• Roll out – late September</li> <li>• Develop process and schedule – September</li> </ul> <p>Task 3: Analyze and summarize pilot data – two reports (September)</p> <ul style="list-style-type: none"> <li>• How people implemented PCT process (formative and fidelity to components)</li> <li>• Changes in people’s lives (outcomes)</li> </ul> <p>Task 4: Continuing Community of Practice for agencies implementing PCT and self-direction – bi-monthly</p> <p>Task 5: Revise PCT training targeted to direct line staff. Deliver at least 2 staff trainings.</p> <p>Task 6: Develop an orientation (potentially the introductory module of the online training series) for families and a broader audience re: Person Centered Thinking.</p> <ul style="list-style-type: none"> <li>• Develop and disseminate informational materials</li> </ul>	
<p>DSP Training</p>	<p>Task 1: Meet with CPNRI to determine plan for the year. Mary Madden has agreed to be facilitator.</p> <ul style="list-style-type: none"> <li>• Complete curriculum</li> <li>• Safe Start Training – by December</li> <li>• DSP 2 – by December</li> <li>• Supervisor Training – March 2020</li> </ul> <p>Task 2: Continue Elsevier contract (1500 learners) through June 2020. Review in Spring, 2020</p> <ul style="list-style-type: none"> <li>• Survey providers and those taking the training for feedback on effectiveness of training.</li> </ul>	
<p>Employment Specialist Training</p>	<p>Task 1: Supporting Meaningful Employment (Full ACRE Certificate): 3 sections – Fall, Winter, Spring</p> <ul style="list-style-type: none"> <li>• Integrate customized employment into SME using ACRE requirements</li> </ul> <p>Task 2: SME (Vocational Assessment Mini Certificate): 1 section</p> <p>Task 3: SME (Job Development Mini Certificate): 1 section</p> <p>Task 4: SME (Job Coaching and Retention Mini Certificate): 3 sections – Fall, Winter, Spring</p>	

	<p>Task 5: SME Refresher – 1 section</p> <p>Task 6: Online College of Employment Services: 3 cohorts. Continue relationship with Elsevier (subcontract) and ICI College of Employment Services. Coaches/instructors will continue to work with learners and agencies to facilitate implementation of ACRE/APSE practices.</p> <p>Task 7: Follow-up survey of participants re: use and impact of each section/cohort of training to include measure of job retention in the related jobs.</p>	
Statewide Trainings & Other Training Tasks	<p>Task 1: Applied Technology Conference for state and provider leadership (by invitation only) – September 6</p> <p>Task 2: Develop Applied Technology training (full day) for program staff, DSPs, supervisors, families, individuals. Coleman Institute staff will lead these.</p> <ul style="list-style-type: none"> <li>• Develop – January</li> <li>• 6 trainings – February-June</li> </ul>	
Technical Assistance	<p>Task 1: Targeted technical assistance to 8-10 agencies participating in PCSEP 3.</p> <ul style="list-style-type: none"> <li>• Participate in developing application.</li> <li>• Ongoing technical assistance – minimum of two days per agency per month (Madden, Colantuano, others).</li> </ul> <p>Task 2: Outreach and Technical Assistance related to transition and plan development in partnership with DD’s Transition Coordinator leveraging the UCEDD’s other work with schools.</p> <p>Task 3: Assistance with Health Homes:</p> <ul style="list-style-type: none"> <li>• Assist with design of HH</li> <li>• Assist with training for HH provider(s)</li> </ul> <p>Task 4: System Redesign and Transformation Research and Recommendations</p> <ul style="list-style-type: none"> <li>• Assist with development of center-based service guidelines aligned with consent decree requirements</li> <li>• Assistance with developing timeline for transformation</li> <li>• Review final report from Conversion Institute, evaluate progress and next steps, and facilitate system change for former sheltered workshop agencies to finalize the movement of services out of the former workshop buildings.</li> </ul>	
Community/Family Outreach	<p>Task 1: 2 sessions of Family Employment Awareness Training (FEAT) and/or New Path will be offered.</p> <ul style="list-style-type: none"> <li>• Coordinate with BHDDH to review materials and ensure consistency of messaging.</li> </ul>	

	<p>Task 2: Community engagement and evaluation</p> <ul style="list-style-type: none"> <li>• For START (Systemic, Therapeutic, Assessment, Resources, and Treatment), serve as a bridge to special educators and the professional learning community and assist with family and participant engagement, including of families with youth in transition</li> <li>• Outreach to self-directed users around Electronic Visit Verification.</li> </ul>	
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## Reporting

**Monthly Reports:** due by the 15<sup>th</sup> of the following month.

- Invoice Backup: invoices will not be processed until all backup is received
  - List of participants in any course or training billed under this contract. Costs associated with each course/training must be provided.
  - Staff time must be documented with description of the activities performed related to this scope of work.
    - If travel is being charged, it must be detailed with the staff person's activities.
  - Details on any materials and supplies charged to this contract with an explanation of the relevance to the contract activities.

Note: billed costs must be detailed not just aggregated.

### Quarterly Reporting:

Quarter 1: July 1: September 30	Due: October 15 <sup>th</sup>
Quarter 2: October 1: December 31	Due: January 15 <sup>th</sup>
Quarter 3: January 1: March 31	Due: April 15 <sup>th</sup>
Quarter 4: April 1: June 30	Due: July 15 <sup>th</sup>

- Schedule of all upcoming training events.
- For all scheduled trainings, confirmation that each training occurred with details on the following:
  - number registered for each training event or cohort.
  - number attending and completing each training event or cohort.
  - Cost/participant
- List of the names and provider agency of each person receiving a certification through SME or the Elsevier trainings during that quarter.
- Qualitative report of trends and changes observed in technical assistance activities.

### Due Upon Completion

- Copies of all data products/reports/summaries
- Curriculum and Training Products
- Copies of any other products developed and disseminated that relate to the Conversion Institute or this contract.



**ADDENDUM II**

**BUDGET**

**RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE,  
DEVELOPMENTAL DISABILITIES AND HOSPITALS**

**BUDGET**

NAME OF AGENCY: **RHODE ISLAND COLLEGE - Sherlock Center on Disabilities**

FEDERAL EMPLOYER IDENTIFICATION NUMBER: **05-6016315**

ADDRESS: **600 Mount Pleasant Ave. Bld 4 - Grant Accounting**

CITY/TOWN: **Providence, RI** ZIP CODE: **02908**

PHONE NUMBER: **401-456-2809** FAX:

EXECUTIVE DIRECTOR: **Lisa Smolski**

TIME OF PERFORMANCE: FROM **September 1, 2019** TO **June 30, 2020**

**BUDGET SUMMARY**

**COST CATEGORY**

**TOTAL CONTRACT AMOUNT**

1.	SALARIES AND WAGES	<b>\$172,975.00</b>
2.	FRINGE BENEFITS	<b>\$34,652.00</b>
3.	STIPENDS	
4.	SUBCONTRACTS	<b>\$45,000.00</b>
5.	TRAVEL	<b>\$2,000.00</b>
6.	MATERIALS AND SERVICES	<b>\$4,200.00</b>
7.	ADMINISTRATIVE COSTS	<b>\$20,706.00</b>

**TOTAL FUNDS REQUESTED: \$279,533.00**

RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS				
PERSONNEL REQUEST - 9/1/2019 - 6/30/2020				
Bi Weekly Personnel – Salaries	Actual Cost or Projected Hours	FTE or Hourly Rate	Cost	Description of Expense with Linkage to Scope
Conversion Institute Coordinator	200 hours	\$55 per hour	\$11,000	Overall Management; PCT - Tasks 2 & 3; Statewide Training
Pallack - Data Coordinator	\$86,206	.20 FTE	\$14,368	Data - Task 1 & 2
Ferrara - Data, Training, Benefits Counseling	\$80,469	.50 FTE	\$33,529	Data - Task 1; Employment Training; Benefits Counseling
Rosenbaum - Family Outreach	\$63,934	.20 FTE	\$7,992	Community/Family Outreach - Tasks 1 & 2
Williams - Bilingual Family Outreach	\$50,390	.15 FTE	\$6,299	Community/Family Outreach - Tasks 1 & 2
Panicci - Office Support	\$43,840	.35 FTE	\$12,787	All Tasks
Scarpacci - Online Curriculum Development	200 hours	\$60 per hour	\$12,000	Data - Task 2
Madden - Technical Assistance	550 hours	\$40 per hour	\$22,000	Technical Assistance - Tasks 1,3,4; DSP - Task 1
Colantuano - Technical Assistance	500 hours	\$40 per hour	\$20,000	Technical Assistance - Tasks 1,3,4; DSP - Task 1
Other Technical Assistance	100 hours	\$40 per hour	\$4,000	Technical Assistance - Tasks 1 & 2
Vandal - NCI Coordinator	250 hours	\$25 per hour	\$6,250	Data - Task 2
NCI Interviewers	350 interviews	\$50 per interview	\$17,500	Data Task 2
Trainers/Lecturers/Coaches	150	\$35 per hour	\$5,250	Employment Training, PCT Training, DSP Training
<b>Salaries Total</b>			<b>\$172,975</b>	
<b>Biweekly Personnel – Benefits</b>				
Conversion Institute Coordinator		7.65%	842.00	
Pallack - Data Coordinator		48%	6,897.00	
Ferrara - Data, Training, Benefits Counseling		26%	8,717.00	
Rosenbaum - Family Outreach		27%	1,688.00	
Williams - Bilingual Family Outreach		32%	2,016.00	
Panicci - Office Support		71%	9,079.00	
Scarpacci - On line Curriculum		8%	918.00	
Madden - Technical Assistance		7.65%	1,683.00	
Colantuano - Technical Assistance		7.65%	1,530.00	
Other Technical Assistance		7.65%	306.00	
Vandal - NCI Coordination		7.65%	574.00	
NCI Interviewers			0.00	
Trainers/Lecturers/Coaches		7.65%	402.00	
<b>Benefits Total</b>			<b>\$ 34,652.00</b>	

RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS

BUDGET DETAIL - 9/1/2019- 6/30/2020

STIPENDS	DESCRIPTION				COST
			Enter on page 1, line 3	CATEGORY TOTAL→	-
SUBCONTRACTS	DESCRIPTION				COST
	Elsivier online training		DSP Training - Task 2		45,000.00
			Enter on page 1, line 4	CATEGORY TOTAL→	45,000.00
TRAVEL	DESCRIPTION				COST
	Out of State Travel for Statewide Trainers				2,000.00
			Enter on page 1, line 5	CATEGORY TOTAL→	2,000.00
MATERIALS AND SERVICES	DESCRIPTION				COST
	Generic Office Supplies				700.00
	Printing Training Materials				2,000.00
	Meeting Expenses				1,500.00
			Enter on page 1, line 6	CATEGORY TOTAL→	4,200.00
ADMINISTRATOR COSTS	DESCRIPTION				COST
	RIC Overhead		8%		20,706.00
			Enter on page 1, line 7	CATEGORY TOTAL→	20,706.00

**ADDENDUM III**

**PAYMENTS AND REPORTS SCHEDULE**

<u>PAYMENTS</u>	<u>AMOUNT</u>	<u>TIMETABLE</u>	<u>DOCUMENTATION</u>
Monthly reimbursement of expenditures.  The Provider agrees to submit a Monthly Expenditure Report of actual expenses no later than the 10 <sup>th</sup> of the following month, in accordance with the Budget.  The Provider agrees to submit a final Monthly Expenditure Report for the period ending June 30, 2020, no later than July 15, 2019. The Provider also agrees to reimburse any excess payments to the Department no later than June 30, 2020.  If the audit reveals that the combined amounts of the payment to the Provider by the Department under this Agreement and the client assessment (where applicable) is greater than the total reasonable allowable cost less applicable income offsets, the Provider must reimburse the excess payment to the Department.  1. "Reasonable Allowable Costs" are defined as those categories of expenditures necessary to deliver program services as defined in Budget: Salaries, Fringe Benefits, Consultants, Operating Costs and Indirect Costs.  2. The extent of BHDDH funding is limited to and shall not exceed the amount \$279,533.00. The Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, at the time of the audit, reserves the right to review and adjust costs to the extent of actual expenditures based upon the agreed Budget.  The parties agree that all changes greater than 10% of the BHDDH budget line item must be requested in writing to the Department (Division of Developmental Disabilities) and must have prior written approval from the Department (Division of Developmental Disabilities). The Department (Division of Developmental Disabilities) will only consider changes within the total budget and these changes cannot exceed the funding of \$279,533.00.  The Provider will submit an annual report 60 day after the end period of the contract June 30, 2020. Annual report to encompass all participant(s) and their agencies, and all program(s), for contract period Sept. 1, 2019 through June 30, 2020.	To be determined by monthly expenditure	Monthly  Quarter 1: July 1 – Sept. 30 Due: October 15 <sup>th</sup>  Quarter 2: Oct 1 – Dec. 31 Due: January 15 <sup>th</sup>  Quarter 3: Jan 1 – March 31 Due: April 15 <sup>th</sup>  Quarter 4: April 1 – June 30 Due: July 15 <sup>th</sup>	Monthly expenditure report.  As detailed in the Addendum I- Scope of Work

**PLEASE SUBMIT ALL DOCUMENTS (Invoices & Reports) TO: [anne.leclerc@bhddh.ri.gov](mailto:anne.leclerc@bhddh.ri.gov) or send to Department of Developmental Disabilities, 41 West Rd., Cranston, R.I. 02920  
Attention: Anne LeClerc**

**ADDENDUM IV  
FISCAL ASSURANCES**

1. The Contractor agrees to segregate all receipts and disbursements pertaining to this agreement from recipients and disbursements from all other sources, whether by separate accounts or by utilizing a fiscal code system.
2. The Contractor assures a system of adequate internal control will be implemented to ensure a separation of duties in all cash transactions.
3. The Contractor assures the existence of an audit trail which includes: cancelled checks, voucher authorization, invoices, receiving reports, and time distribution reports.
4. The Contractor assures a separate subsidiary ledger of equipment and property will be maintained.
5. The Contractor agrees any unexpended funds from this agreement are to be returned to the BHDDH at the end of the time of performance unless the BHDDH gives written consent for their retention.
6. The Contractor assures insurance coverage is in effect in the following categories: bonding, vehicles, fire and theft, and liability.
7. The following Federal requirements shall apply pursuant to OMB Guidance for Grants and Agreements. Where applicable:
  - Subpart A - Acronyms and Definitions (200.0 – 200.99)
  - Subpart B – General Provisions (200.100 – 200.113)
  - Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards (200.200 – 200.211)
  - Subpart D – Post Federal Award (200.300 – 200.345)
  - Subpart E – Cost Principles (200.400 – 200.475)
  - Subpart F – Audit Requirements(200.500 – 200.521)
  - All Subsequent Addenda
8. If the Contractor expends Federal awards during the Contractor's particular fiscal year of \$750,000 or more, then 2 CFR § 200.500 et. seq., audits of states, local governments and non-profit organizations shall also apply or if applicable, an audit shall be performed in accordance with "Government Auditing Standards" as published by the Comptroller General of the United States (see Paragraph 24).
9. This agreement may be funded in whole or in part with Federal funds. If so, the CFDA reference number is \_\_\_\_\_. The Contractor must review applicable Federal Statutes, regulations, terms and conditions of the Federal Award in accordance with 2 CFR § 200.331 (a)(2).

## **ADDENDUM V**

### **RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES**

#### **NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the BHDDH of Health and Human Services (EOHHS) are subject to the provisions of Title VI of the Civil Rights Act of 1964 and the implementing regulations of the United States Department of Health And Human Services (DHHS), which is located at 45 CFR, Part 80, collectively referred to hereinafter as Title VI. EOHHS contracts with Contractors include a Contractor's assurance that in compliance with Title VI and the implementing regulations, no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in its programs and activities on the grounds of race, color, or national origin. Additional DHHS guidance is located at 68 FR 47311-02.

EOHHS reserves its right to at any time review Contractors to assure that they are complying with these requirements. Further, EOHHS reserves its right to at any time require from Contractors, Sub-Contractors and Vendors that they are also complying with Title VI.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Title VI. An electronic copy of the service providers written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to EOHHS upon request.

The Contractor's written compliance plan must address the following requirements:

- Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Title VI standards.
- Designation of a compliance officer who is accountable to the service provider's senior management.
- Effective training and education for the compliance officer and the organization's employees.
- Enforcement of standards through well-publicized guidelines.
- Provision for internal monitoring and auditing.
- Written complaint procedures
- Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Title VI.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to it, DHHS or EOHHS on request full and complete information related to Title VI compliance.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS or EOHHS, full and complete information on Title VI compliance by the Contractor and/or any Sub-Contractor or Vendor of the Contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Title VI regulations. A copy of the regulations is available upon request from the community relations liaison officer, **BHDDH of Health and Human Services**, 74 West Road, Cranston, RI 02920; telephone number: (401) 462-5274.

**THE REGULATIONS ADDRESS THE FOLLOWING TOPICS:**

**SECTION:**

- 80.1 PURPOSE
- 80.2 APPLICATION OF THIS REGULATION
- 80.3 DISCRIMINATION PROHIBITED
- 80.4 ASSURANCES REQUIRED
- 80.5 ILLUSTRATIVE APPLICATION
- 80.6 COMPLIANCE INFORMATION
- 80.7 CONDUCT OF INVESTIGATIONS
- 80.8 PROCEDURE FOR EFFECTING COMPLIANCE
- 80.9 HEARINGS
- 80.10 DECISIONS AND NOTICES
- 80.11 JUDICIAL REVIEW
- 80.12 EFFECT ON OTHER REGULATIONS; FORMS AND INSTRUCTIONS
- 80.13 DEFINITION



## ADDENDUM VI

### RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES

#### NOTICE TO RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES' CONTRACTORS OF THEIR RESPONSIBILITIES UNDER SECTION USC 504 OF THE REHABILITATION ACT OF 1973

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the **BHDDH Of Health and Human Services (EOHHS)** are subject to the provisions of Section 504 of the Rehabilitation Act of 1973 and the Implementing Regulations of the United States Department of Health And Human Services (DHHS), which are located at 45 CFR, part 84 hereinafter collectively referred to as Section 504. EOHHS contracts with service providers include the provider's assurance that it will comply with Section 504 of the regulations, which prohibits discrimination against handicapped persons in providing health, welfare, or other social services or benefits.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Section 504. An electronic copy of the Contractor's written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to EOHHS upon request.

The Contractor's written compliance plan must address the following requirements:

- Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Section 504 standards.
- Designation of a compliance officer who is accountable to the service provider's senior management.
- Effective training and education for the compliance officer and the organization's employees.
- Enforcement of standards through well-publicized guidelines.
- Provision for internal monitoring and auditing.
- Written complaint procedures
- Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Section 504.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to the contractor, DHHS or EOHHS on request full and complete information related to Section 504 compliance.

The contractor must submit, within thirty-five (35) days of the date of a request by DHHS or EOHHS, full and complete information on Section 504 compliance by the Contractor and/or any Sub-Contractor or Vendor of the contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Section 504 regulations. A copy of the regulations, together with an August 14, 1978 Policy Interpretation of General Interest to Providers of Health, Welfare, or Other Social Services or Benefits, is available upon request from the Community Relations Liaison Officer, **BHDDH of Health and Human Services**, 74 West Road, Cranston, RI 02920; telephone number (401) 462-5274.

Contractors should pay particular attention to subparts A, B, C, and F of the regulations which pertain to the following:

**SUBPART A - GENERAL PROVISIONS**

**SECTION:**

- 84.1 PURPOSE
- 84.2 APPLICATION
- 84.3 DEFINITIONS
- 84.4 DISCRIMINATION PROHIBITED
- 84.5 ASSURANCE REQUIRED
- 84.6 REMEDIAL ACTION, VOLUNTARY ACTION, AND SELF-EVALUATION
- 84.7 DESIGNATION OF RESPONSIBLE EMPLOYEE AND ADOPTION OF GRIEVANCE PROCEDURES
- 84.8 NOTICE
- 84.9 ADMINISTRATIVE REQUIREMENTS FOR SMALL RECIPIENTS
- 84.10 EFFECT OF STATE OR LOCAL LAW OR OTHER REQUIREMENTS AND EFFECT OF EMPLOYMENT OPPORTUNITIES

**SUBPART B - EMPLOYMENT PRACTICES**

**SECTION:**

- 84.11 DISCRIMINATION PROHIBITED
- 84.12 REASONABLE ACCOMMODATION
- 84.13 EMPLOYMENT CRITERIA
- 84.14 PREEMPLOYMENT INQUIRIES
- 84.15 - 84.20 (RESERVED)

**SUBPART C - ACCESSIBILITY**

**SECTION:**

- 84.21 DISCRIMINATION PROHIBITED
- 84.22 EXISTING FACILITIES
- 84.23 NEW CONSTRUCTION
- 84.24 - 84.30 (RESERVED)

**SUBPART F - HEALTH, WELFARE, AND SOCIAL SERVICES**

**SECTION:**

- 84.51 APPLICATION OF THIS SUBPART
- 84.52 HEALTH, WELFARE, AND OTHER SOCIAL SERVICES
- 84.53 DRUG AND ALCOHOL ADDICTS
- 84.54 EDUCATION AND INSTITUTIONALIZED PERSONS
- 84.55 PROCEDURES RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS
- 84.56 - 84.60 (RESERVED)

## ADDENDUM VII

### DRUG-FREE WORKPLACE POLICY

Drug use and abuse at the workplace or while on duty are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. From a safety perspective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to property. Therefore, it is the policy of the state that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace. Any employee(s) violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for a conviction involving illicit drug use, regardless of whether the employee's conduct was detected within employment hours or whether his/her actions were connected in any way with his or her employment. The specifics of this policy are as follows:

1. Any unauthorized employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on duty, regardless of whether the employee is on or off the premises of the employer will be subject to discipline up to and including termination.
2. The term "controlled substance" means any drugs listed in 21 USC, Section 812 and other Federal regulations. Generally, all illegal drugs and substances are included, such as marijuana, heroin, morphine, cocaine, codeine or opium additives, LSD, DMT, STP, amphetamines, methamphetamines, and barbiturates.
3. Each employee is required by law to inform the agency within five (5) days after he/she is convicted for violation of any Federal or State criminal drug statute. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any Federal or State Court.
4. The employer (the hiring authority) will be responsible for reporting conviction(s) to the appropriate Federal granting source within ten (10) days after receiving notice from the employee or otherwise receives actual notice of such conviction(s). All conviction(s) must be reported in writing to the Office of Personnel Administration (OPA) within the same time frame.
5. If an employee is convicted of violating any criminal drug statute while on duty, he/ she will be subject to discipline up to and including termination. Conviction(s) while off duty may result in discipline or discharge.
6. The state encourages any employee with a drug abuse problem to seek assistance from the Rhode Island Employee Assistance Program (RIEAP). Your Personnel Officer has more information on RIEAP.
7. The law requires all employees to abide by this policy.

**ADDENDUM VIII  
DRUG-FREE WORKPLACE POLICY  
CONTRACTOR CERTIFICATE OF COMPLIANCE**

I, Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities, a contractor doing business with the state of Rhode Island, hereby acknowledge that I have received a copy of the state's policy regarding the maintenance of a **Drug-Free Workplace**. I have been informed that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance (to include but not limited to such drugs as marijuana, heroin, cocaine, PCP, and crack, and may also include legal drugs which may be prescribed by a licensed physician if they are abused), is prohibited on the State's premises or while conducting State business. I acknowledge that my employees must report for work in a fit condition to perform their duties.

As a condition for contracting with the state, as a result of the Federal Omnibus Drug Act, I will require my employees to abide by the state's policy. Further, I recognize that any violation of this policy may result in termination of the contract.

SIGNATURE: Petrovic

TITLE: Interim Director, Office of Sponsored Programs

DATE: 9/5/2019

**ADDENDUM IX**

**SUBCONTRACTOR COMPLIANCE**

I, Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities a contractor doing business with the state of Rhode Island, hereby certify that all approved subcontractors performing services pursuant to this agreement will have executed written contracts with Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities. All such contracts shall contain language identical to the following provisions of this agreement as follows:

**PAR. 12. CONTRACTOR'S LIABILITY/INDEMNIFICATION**

**PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

**PAR. 18. FEDERAL FUNDING PROVISIONS**

**SIGNATURE:**

*N Petrovic*

**TITLE:**

*Interim Director, Office of Sponsored Programs.*

**DATE:**

*9/5/2019*

**ADDENDUM X**

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, Part c - Environmental Tobacco Smoke (20 U.S.C.A. § 6081-6084), also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through state or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the BHDDH Director. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred.

By signing and submitting this application the applicant/contractor certifies that it will comply with the requirements of the Act. The applicant/contractor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-contractors shall certify accordingly.

**SIGNATURE:**

Sue Pearlmut

**TITLE:**

Provost & Vice President for Academic Affairs

**DATE:**

9/16/2019

## **ADDENDUM XI**

### **INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

#### **PRIMARY COVERED TRANSACTIONS**

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the BHDDH's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the BHDDH determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the BHDDH. The BHDDH may terminate this transaction for cause or default.
3. The prospective primary participant shall provide immediate written notice to the BHDDH if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the definitions and coverage sections of the rules implementing Executive Order 12549.
5. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the BHDDH.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled certification regarding debarment, suspension, ineligibility and voluntary exclusion - lower tier covered transactions, provided by the BHDDH, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement list (of excluded parties).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by as prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the BHDDH may terminate this transaction for cause of default.



**ADDENDUM XII**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

The contractor, as the primary participant, certifies to the best of the contractor's knowledge and belief, that the contractor and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.

**SIGNATURE:**

Sue Reinhardt

**TITLE:**

Provost & vice President for Academic Affairs

**DATE:**

9/16/2019

## ADDENDUM XIII

### LIQUIDATED DAMAGES

The prospective primary participant contractor agrees that time is of the essence in the performance of certain designated portions of this contract. The BHDDH and the contractor agree that in the event of a failure to meet the milestones and project deliverable dates or any standard of performance within the time set forth in the BHDDH 's bid proposal and the contractor's proposal response (Addendum XVI), damage shall be sustained by the BHDDH and that it may be impractical and extremely difficult to ascertain and determine the actual damages which the BHDDH will sustain by reason of such failure. It is therefore agreed that BHDDH, at its sole option, may require the contractor to pay liquidated damages for such failures with the following provisions:

1. Where the failure is the sole and exclusive fault of the BHDDH, no liquidated damages shall be imposed. To the extent that each party is responsible for the failure, liquidated damages shall be reduced by the apportioned share of such responsibility.
2. For any failure by the contractor to meet any performance standard, milestone or project deliverable, the BHDDH may require the contractor to pay liquidated damages in the amount(s) and as set forth in the state's general conditions of purchase as described particularly in the LOI, RFP, RFQ, or scope of work, however, any liquidated damages assessed by the BHDDH shall not exceed 10% of the total amount of any such month's invoice in which the liquidated damages are assessed and shall not in the aggregate, over the life of the agreement, exceed the total contract value.

Written notification of failure to meet a performance requirement shall be given by the BHDDH 's project officer to the contractor's project officer. The contractor shall have a reasonable period designated by the BHDDH from the date of receipt of written notification. If the failure is not materially resolved within this period, liquidated damages may be imposed retroactively to the date of expected delivery.

In the event that liquidated damages have been imposed and retained by the BHDDH, any such damages shall be refunded, provided that the entire system takeover has been accomplished and approved by the BHDDH according to the original schedule detailed in the contractor's proposal response included in this contract (Addendum XVI) as modified by mutually agreed upon change orders.

To the extent liquidated damages have been assessed, such damages shall be the sole monetary remedy available to the BHDDH for such failure. This does not preclude the state from taking other legal action.

## **ADDENDUM XIV**

### **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this agreement, the contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment relating to this agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated equally during employment, without regard to their race, color, religion, sex, age, national origin, or physical or mental disability.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

2. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the contractor relating to this agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.
3. The Contractor shall inform the contracting BHDDH's equal employment opportunity coordinator of any discrimination complaints brought to an external regulatory body (RI Ethics Commission, RI Department of Administration, US DHHS Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
4. The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
5. Contractors and subcontractors with agreements in excess of \$50,000 shall also pursue in good faith affirmative action programs.
6. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**ADDENDUM XV**

**BYRD ANTI-LOBBYING AMENDMENT**

No Federal or State appropriated funds shall be expended by the contractor for influencing or attempting to influence an officer or employee of any agency, a member of congress or State Legislature, an officer or employee of congress or state legislature, or an employee of a member of congress or state legislature in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this agreement fulfills the requirement that contractors receiving over \$100,000 in Federal or State funds file with the BHDDH on this provision.

If any Non-Federal or State Funds have been or will be paid to any person in connection with any of the covered actions in this provision, the Contractor shall complete and submit a "Disclosure of Lobbying Activities" form.

The Contractor must certify compliance with all terms of the Byrd Anti-Lobbying Amendment (31 U.S.C 1352) as published in the Federal Register May 27, 2003, Volume 68, Number 101.

The Contractor hereby certifies that it will comply with Byrd Anti-Lobbying Amendment provisions as defined in 45 CFR Part 93 and as amended from time to time.

**SIGNATURE:**

Sue Pearlmutter

**TITLE:**

Provost & Vice President for Academic Affairs

**DATE:**

9/16/2019

**ADDENDUM XVI**

**BID PROPOSAL**

**ADDENDUM XVII**  
**CORE STAFF POSITIONS**

**BHDDH's Project Officer: Anne LeClerc**

**BHDDH's Financial Officer: Jennifer White**

**Contractor's Project Officer: Lisa Smolski**

**Contractor's Financial Officer: Mary West**

## ADDENDUM XVIII

### FEDERAL SUBAWARD REPORTING FFATA FORM

See Attached RI Office of Management and Budget, Sub-Award Reporting Worksheet

#### **Directions:**

For contracts awarding more than \$25,000 in FEDERAL funds, include Transparency Act Questionnaire for agency to complete and return.

If award is not for Federal funds, or is for less than \$25,000, enter "Reserved" under the above heading, and no questionnaire should be provided.

#### **IMPORTANT ITEMS TO NOTE ABOUT NEW REQUIREMENT**

The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282, as amended by section 6202(a) of P.L. 110-252) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains current information on all Federal spending awards. That site is at [www.USASpending.gov](http://www.USASpending.gov).

- Includes both mandatory and discretionary grants
- Do not include grants funded by the Recovery Act (ARRA)
- For more information about Federal Spending Transparency, refer to <http://www.whitehouse.gov/omb/open>
- If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award will be subject to the reporting requirements, as of the date the award exceeds \$25,000
- If the initial award equals or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency ACT and this Guidance

# Rhode Island Office of Management & Budget

## Sub-Award Reporting Worksheet

Please type or print clearly in black or blue ink, answer all questions, and sign and date the form.

Section 1: State Agency and Federal Award Information											
Agency Contact Name						Agency Contact Telephone					
Sub-Award Program Name						Agency Contact Email					
Sub-Award Program Description											
Federal Award Information											
Federal Program Name						Federal Awarding Agency					
Federal Award Number						Date of Federal Award					
Award Type						CFDA Number					
Prime Agency DUNS +4						Amount Obligated from this Award					
Is sub-award funded by more than one federal award?						<input type="checkbox"/> Yes *			<input type="checkbox"/> No		

If yes, use Attachment 1-A to provide information on additional federal awards funding this sub-award.

Section 2: Sub-Awardee Information											
Sub-Awardee DUNS+4						System for Award Management Registration Expiration Date (if applicable)					
Sub-Awardee Name (as registered in DUNS)											
Sub-Awardee Address (as registered in DUNS)						Sub-Award Principal Place of Performance (where work performed)					
Number and Street						Number and Street					
City						City					
State						State					
ZIP+4						ZIP+4					
Executive Compensation† (to be completed by sub-awardee)											
In preceding fiscal year, did federal funds from all sources make up more than 80% of agency budget? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.								<input type="checkbox"/> Yes		<input type="checkbox"/> No	
In preceding fiscal year, did your agency receive more than \$25 million in federal funds? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.								Yes		No	
Is information about the compensation of the senior executives in the subrecipient's organization (including parent organization, all branches, and all affiliates worldwide) publicly available? If no, report executive compensation for five highest paid officials below.								<input type="checkbox"/> Yes		<input type="checkbox"/> No	
1. Official Name				Compensation Amount							
2. Official Name				Compensation Amount							
3. Official Name				Compensation Amount							
4. Official Name				Compensation Amount							
5. Official Name				Compensation Amount							

† See Federal Register Volume 75, No. 177, Appendix A, Paragraph E5 for guidance on reporting executive compensation.

Sub-Awardee Certification											
I certify, to the best of my knowledge and belief, that the information provided is complete and accurate, and that I am authorized to sign contracts and other legally binding documents on behalf of the entity. I understand that my typed name below shall have the same force and effect as my written signature.											
Signature				Title of Signatory				Date			

### Section 3: Sub-Award Information (for state agency administrative purposes only)



<b>Sub-Award Number</b>		<b>Sub-Award Date</b>		<b>FFATA Report Month</b>	
<b>Amendment 1 Obligation Amount</b>		<b>Amendment 1 Date</b>		<b>FFATA Report Month</b>	
<b>Amendment 2 Obligation Amount</b>		<b>Amendment 2 Date</b>		<b>FFATA Report Month</b>	

## ADDENDUM XIX

### BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Business Associate Agreement Addendum, RHODE ISLAND COLLEGE - SHERLOCK CENTER ON DISABILITIES, (hereinafter referred to as "Business Associate"), may use, access or disclose Protected Health Information to perform functions, activities or services for or on behalf of the **State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and Hospitals** (hereinafter referred to as the "Covered Entity"), as specified herein and the attached Agreement between the Business Associate and the Covered Entity (hereinafter referred to as "the Agreement"), which this addendum supplements and is made part of, provided such use, access, or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 USC 1320d et seq., and its implementing regulations including, but not limited to, 45 CFR, parts 160, 162 and 164, hereinafter referred to as the Privacy and Security Rules and patient confidentiality regulations, and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (HITECH Act) and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of business associates, Rhode Island Mental Health Law, R.I. General Laws Chapter 40.1-5-26, and Confidentiality of Health Care Communications and Information Act, R.I. General Laws Chapter 5-37.3-1 et seq. Business Associate recognizes and agrees it is obligated by law to meet the applicable provisions of the HITECH Act.

#### 1. Definitions

##### Generally:

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 160.103, 164.103, and 164.304, 164.501 and 164.502.

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA, the Privacy and Security Rules and the HITECH Act: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

##### Specific:

- A. "Addendum" means this Business Associate Agreement Addendum.
- B. "Agreement" means the contractual Agreement by and between the State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and Hospitals and Business Associate, awarded pursuant to State of Rhode Island's Purchasing Law (Chapter 37-2 of the Rhode Island General Laws) and Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing.
- C. "Business Associate" generally has the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean RHODE ISLAND COLLEGE - SHERLOCK CENTER ON DISABILITIES.
- D. "Client/Patient" means Covered Entity funded person who is a recipient and/or the client or patient of the Business Associate.
- E. "Covered Entity" generally has the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and

## Hospitals

- F. "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed or consulted by authorized health care clinicians and staff.
- G. "Electronic Protected Health Information" or "Electronic PHI" means PHI that is transmitted by or maintained in electronic media as defined in the HIPAA Security Regulations.
- H. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- I. "HIPAA Privacy Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the privacy of Protected Health Information including, the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- J. "HITECH Act" means the privacy, security and security Breach notification provisions applicable to Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act, which is Title XII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and any regulations promulgated thereunder and as amended from time to time.
- K. "Secured PHI" means PHI that was rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of technologies or methodologies specified under or pursuant to Section 13402 (h)(2) of the HITECH Act under ARRA.
- L. "Security Incident" means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information.
- M. "Security Rule" means the Standards for the security of Electronic Protected Health Information found at 45 CFR Parts 160 and 162, and Part 164, Subparts A and C. The application of Security provisions Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations shall apply to Business Associate of Covered Entity in the same manner that such sections apply to the Covered Entity.
- N. "Suspected breach" is a suspected acquisition, access, use or disclosure of protected health information ("PHI") in violation of HIPAA privacy rules, as referenced above, that compromises the security or privacy of PHI.
- O. "Unsecured PHI" means PHI that is not secured, as defined in this section, through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.

## 2. Obligations and Activities of Business Associate

- A. Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by Law, provided such use or disclosure would also be permissible by law by Covered Entity.
- B. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. Business Associate agrees to implement Administrative Safeguards, Physical Safeguards and Technical Safeguards (“Safeguards”) that reasonably and appropriately protect the confidentiality, integrity and availability of PHI as required by the “Security Rule.”
- C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- D. Business Associate agrees to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware, within five (5) days of the incident.
- E. Business Associate agrees to ensure that any agent, including a subcontractor or vendor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information through a contractual arrangement that complies with 45 C.F.R. § 164.314.
- F. Business Associate agrees to provide paper or electronic access, at the request of Covered Entity and in the time and manner designated by Covered Entity, 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. If the Individual requests an electronic copy of the information, Business Associate must provide Covered Entity with the information requested in the electronic form and format requested by the Individual and/or Covered Entity if it is readily producible in such form and format; or, if not, in a readable electronic form and format as requested by Covered Entity.
- G. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity. If Business Associate receives a request for amendment to PHI directly from an Individual, Business Associate shall notify Covered Entity upon receipt of such request.
- H. Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from, created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for the purposes of the Secretary determining compliance with the Privacy Rule and Security 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 or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures for PHI in accordance with 45 §C.F.R. 164.528.
- K. If Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured Protected Health Information (as defined in

45 C.F.R. § 164.402) for Covered Entity, it shall, following the discovery of a breach of such information, notify Covered Entity of such breach within a period of five (5) days after discovery of the breach. Such notice shall include: a) the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired or disclosed during such breach; b) a brief description of what happened, including the date of the breach and discovery of the breach; c) a description of the type of Unsecured PHI that was involved in the breach; d) a description of the investigation into the breach, mitigation of harm to the individuals and protection against further breaches; e) the results of any and all investigation performed by Business Associate related to the breach; and f) contact information of the most knowledgeable individual for Covered Entity to contact relating to the breach and its investigation into the breach.

- L. To the extent the Business Associate is carrying out an obligation of the Covered Entity's under the Privacy Rule, the Business Associate must comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligation.
- M. Business Associate agrees that it will not receive remuneration directly or indirectly in exchange for PHI without authorization unless an exception under 45 C.F.R. § 164.502(a)(5)(ii)(B)(2) applies.
- N. Business Associate agrees that it will not receive remuneration for certain communications that fall within the exceptions to the definition of Marketing under 45 C.F.R. § 164.501, unless permitted by 45 C.F.R. § 164.508(a)(3)(A)-(B).
- O. If applicable, Business Associate agrees that it will not use or disclose genetic information for underwriting purposes, as that term is defined in 45 C.F.R. § 164.502.
- P. Business Associate hereby agrees to comply with state laws and rules and regulations applicable to PHI and personal information of individuals' information it receives from Covered Entity during the term of the Agreement.
  - i. Business Associate agrees to: (a) implement and maintain appropriate physical, technical and administrative security measures for the protection of personal information as required by any state law and rules and regulations; including, but not limited to: (i) encrypting all transmitted records and files containing personal information that will travel across public networks, and encryption of all data containing personal information to be transmitted wirelessly; (ii) prohibiting the transfer of personal information to any portable device unless such transfer has been approved in advance; and (iii) encrypting any personal information to be transferred to a portable device; and (b) implement and maintain a Written Information Security Program as required by any state law as applicable.
  - ii. The safeguards set forth in this Agreement shall apply equally to PHI, confidential and "personal information." Personal information means an individual's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided, however, that "personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

### **3. Permitted Uses and Disclosures by Business Associate**

- A. Except as otherwise limited to this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Arrangement, 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 Covered Entity required by 45 C.F.R. §164.514(d).
- B. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- C. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- D. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. §164.504 (e)(2)(i)(B).
- E. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j)(1).

### **4. Obligations of Covered Entity**

- A. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, 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 an 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.

### **5. 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 Covered Entity, provided that, to the extent permitted by the Service Arrangement, Business Associate may use or disclose PHI for Business Associate's Data Aggregation activities or proper management and administrative activities.

### **6. Term and Termination**

- A. The term of this Agreement shall begin as of the effective date of the Service Arrangement 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 of this Section.
- B. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
- i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Service Arrangement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.
  - ii. Immediately terminate this Agreement and the Service arrangement if Business Associate has breached a material term of this Agreement and cure is not possible.
- C. Except as provided in paragraph (d) of this Section, upon any termination or expiration of this Agreement, 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. Business Associate shall ensure that its subcontractors or vendors return or destroy any of Covered Entity's PHI received from Business Associate.
- D. 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 Covered Entity's written agreement that return, or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## **7. Miscellaneous**

- a) A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- b) The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the Privacy and Security Rules and HITECH.
- c) The respective rights and obligations of Business Associate under Section 6 (c) and (d) of this Agreement shall survive the termination of this Agreement.
- d) Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA and HITECH.
- e) Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- f) Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, Business Associate and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.
- g) Modification of the terms of this Agreement shall not be effective or binding upon the parties unless and until such modification is committed to writing and executed by the parties hereto.
- h) This Agreement shall be binding upon the parties hereto, and their respective legal representatives, trustees, receivers, successors and permitted assigns.
- i) Should any provision of this Agreement be found unenforceable, it shall be deemed severable and the balance of the Agreement shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.
- j) This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Rhode Island, including all matters of construction, validity and performance.
- k) All notices and communications required or permitted to be given hereunder shall be sent by certified or regular mail, addressed to the other party as its respective address as shown on the

signature page, or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

- l) This Agreement, including such portions as are incorporated by reference herein, constitutes the entire agreement by, between and among the parties, and such parties acknowledge by their signature hereto that they do not rely upon any representations or undertakings by any person or party, past or future, not expressly set forth in writing herein.
- m) Business Associate shall maintain or cause to be maintained sufficient insurance coverage as shall be necessary to insure Business Associate and its employees, agents, representatives or subcontractors against any and all claims or claims for damages arising under this Business Associate Agreement and such insurance coverage shall apply to all services provided by Business Associate or its agents or subcontractors pursuant to this Business Associate Agreement. Business Associate shall indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs and other expenses (including but not limited to, reasonable attorneys' fees and costs, administrative penalties and fines, costs expended to notify individuals and/or to prevent or remedy possible identity theft, financial harm, reputational harm, or any other claims of harm related to a breach) incurred as a result of, or arising directly or indirectly out of or in connection with any acts or omissions of Business Associate, its employees, agents, representatives or subcontractors, under this Business Associate Agreement, including, but not limited to, negligent or intentional acts or omissions. This provision shall survive termination of this Agreement.

**8. Acknowledgment**

The undersigned affirms that he/she is a duly authorized representative of the Business Associate for which he/she is signing and has the authority to execute this Addendum on behalf of the Business Associate.

Acknowledged and agreed to by:

State of Rhode Island, Department of Behavioral  
Healthcare, Developmental Disabilities & Hospitals:

Rhode Island College  
Sherlock Center on Disabilities:

Deputy Director  
Title of Authorized Agent

Provost & President for Academic Affairs  
Title of Authorized Agent

Locus A. Cerbo  
Printed Name of Authorized Agent

Sue Pearlman-Her  
Printed Name of Authorized Agent

Locus A. Cerbo  
Signature of Authorized Agent

Sue Pearlman-Her  
Signature of Authorized Agent

9/24/2019  
Date

9/16/2019  
Date



## **ITEM 2**

## Notice of Contract Purchase Agreement



**State Of Rhode Island and Providence Plantations**  
**Department of Administration**  
**Division of Purchases**  
**One Capitol Hill**  
**Providence, RI 02908-5860**

<b>V E N D O R</b>	<b>RHODE ISLAND COLLEGE</b> <b>SHERLOCK CENTER ON DISABILITIES</b> <b>600 MOUNT PLEASANT AVE</b> <b>PROVIDENCE, RI 02908</b> <b>United States</b>
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<b>SHELTERED WORKSHOP CONVERSION INSTITUTE BENEFITS PLANNING - BHDDH</b>	
Award Number	<b>3652523</b>
Revision Number	<b>0</b>
Effective Period	<b>23-OCT-2019 - 30-JUN-2020</b>
Approved PO Date	<b>25-OCT-2019</b>
Vendor Number	<b>585-iSupplier</b>

<b>S H I P  T O</b>	<b>BHDDH-INTEGRATED MENTAL HEALTH SERVICES</b> <b>14 HARRINGTON ROAD - BARRY HALL</b> <b>CRANSTON, RI 02920</b> <b>United States</b>
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Type of Requisition	<b>SOLE SOURCE / CRITICAL EXP</b>
Requisition Number	<b>1633860</b>
Change Order Requisition Number	
Solicitation Number	
Freight	<b>Paid</b>
Payment Terms	<b>NET 30</b>
Buyer	- <b>Vittorioso, Dawn</b>
Requester Name	
Work Telephone	

This Purchase Order is issued pursuant to and in accordance with the terms and conditions of the solicitation and applicable federal, state, and local law, including the State of Rhode Island's purchasing regulations, available at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).

NOT TO EXCEED: \$100,000.00

PER THE ATTACHED AGREEMENT BETWEEN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS AND RHODE ISLAND COLLEGE DATED 10/02/2019 AND THE RI'S GENERAL CONDITIONS OF PURCHASE.

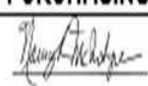
<https://rules.sos.ri.gov/regulations/part/220-30-00-13>

AGENCY CONTACT:

### INVOICE TO

The State of Rhode Island accepts electronic invoices via its supplier portal. To register and submit electronic invoices, visit the supplier portal at <http://controller.admin.ri.gov/iSupplier/isup/index.php>

To submit paper invoices, mail to: Department of Administration Controller, One Capitol Hill, 4th Floor, Providence 02908.

<b>STATE PURCHASING AGENT</b>
 Nancy R. McIntyre

ANNE LECLERC  
401-462-0192

SUPPLIER CONTACT:  
LISA SMOLSKI  
401-456-2809

Reference Documents: 1633860.pdf

**INVOICE TO**

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**STATE PURCHASING AGENT**



Nancy R. McIntyre

**Contract Terms and Conditions**

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**Terms and Conditions**

**PURCHASE ORDER STANDARD TERMS AND CONDITIONS**

**TERMS AND CONDITIONS FOR THIS PURCHASE ORDER**

**CAMPAIGN FINANCE COMPLIANCE**

**CAMPAIGN FINANCE:** In accordance with RI General Law 17-27-2, Every person or business entity providing goods or services of \$5,000 or more, and has in the preceding 24 months, contributed an aggregate amount in excess of \$250 within a calendar year to any general officer, or candidate for general office, any member, or candidate for general assembly, or political party, is required to electronically file an affidavit regarding political contributions at: <https://secure.ricampaignfinance.com/RhodeIslandCF/Public/VendorAffidavit.aspx>

**ARRA SUPPLEMENTAL TERMS AND CONDITIONS**

For contracts and sub-awards funded in whole or in part by the American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5 and any amendments thereto, such contracts and sub-awards shall be subject to the Supplemental Terms and Conditions For Contracts and Sub-awards Funded in Whole or in Part by the American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5 and any amendments thereto located on the Division of Purchases website at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).

**DIVESTITURE OF INVESTMENTS IN IRAN REQUIREMENT:**

No vendor engaged in investment activities in Iran as described in R.I. Gen. Laws §37-2.5-2(b) may submit a bid proposal to, or renew a contract with, the Division of Purchases. Each vendor submitting a bid proposal or entering into a renewal of a contract is required to certify that the vendor does not appear on the list maintained by the General Treasurer pursuant to R.I. Gen. Laws §37-2.5-3.

For all Purchase Orders issued on behalf of the University of Rhode Island, Community College of Rhode Island, and Rhode Island College, vendors will receive a confirming order from the respective entity prior to proceeding.

**MASTER PRICE AGREEMENT CONTRACT ADMINISTRATIVE FEE**

In 2017 the General Assembly amended the "State Purchases Act", R. I. Gen. Laws § 37-2-12 (b) to authorize the Chief Purchasing Officer to establish, charge and collect from vendors listed on master price agreements ("MPA") a contract administrative fee not to exceed one percent (1%) of the total value of the annual spend against their MPA contracts. All contract administrative fees collected from MPA vendors shall be deposited into a restricted receipt account which shall be used for the purposes of implementing and maintaining an online eProcurement system and other costs related to State procurement. In accordance with this legislative initiative the Division of Purchases is upgrading the State procurement system through the purchase and installation of an eProcurement system.

The contract administrative fee shall be applicable to all purchase orders issued relative to State MPA contracts. Therefore, effective January 1, 2020 all MPA contracts shall be assessed the 1% contract administrative fee.

**INSURANCE REQUIREMENTS (ADDITIONAL)**

ANNUAL RENEWAL INSURANCE CERTIFICATES FOR WORKERS' COMPENSATION, PUBLIC LIABILITY, PROPERTY DAMAGE INSURANCE, AUTO INSURANCE, PROFESSIONAL LIABILITY INSURANCE (AKA ERRORS & OMISSIONS), BUILDER'S RISK INSURANCE, SCHOOL BUSING AUTO LIABILITY, ENVIRONMENTAL IMPAIRMENT (AKA POLLUTION CONTROL), VESSEL OPERATION (MARINE OR AIRCRAFT) PROTECTION & INDEMNITY, ETC., MUST BE SUBMITTED TO THE SPECIFIC AGENCY IDENTIFIED IN THE "SHIP TO" SECTION OF THE PURCHASE ORDER. CERTIFICATES ARE ANNUALLY DUE PRIOR TO THE BEGINNING OF ANY CONTRACT PERIOD BEYOND THE INITIAL TWELVE-MONTH PERIOD OF A CONTRACT. FAILURE TO PROVIDE ANNUAL INSURANCE CERTIFICATION MAY BE GROUNDS FOR CANCELLATION.

#### **MULTI YEAR AWARD**

THIS IS A MULTI-YEAR BID/CONTRACT. PER RHODE ISLAND STATE LAW 37-2-33, CONTRACT OBLIGATIONS BEYOND THE CURRENT FISCAL YEAR ARE SUBJECT TO AVAILABILITY OF FUNDS. CONTINUATION OF THE CONTRACT BEYOND THE INITIAL FISCAL YEAR WILL BE AT THE DISCRETION OF THE STATE. TERMINATION MAY BE EFFECTED BY THE STATE BASED UPON DETERMINING FACTORS SUCH AS UNSATISFACTORY PERFORMANCE OR THE DETERMINATION BY THE STATE TO DISCONTINUE THE GOODS/SERVICES, OR TO REVISE THE SCOPE AND NEED FOR THE TYPE OF GOODS/SERVICES; ALSO MANAGEMENT OWNER DETERMINATIONS THAT MAY PRECLUDE THE NEED FOR GOODS/SERVICES.

#### **BLANKET PAYMENT**

DELIVERY OF GOODS OR SERVICES AS REQUESTED BY AGENCY. PAYMENTS WILL BE AUTHORIZED UPON SUBMISSION OF PROPERLY RENDERED INVOICES NO MORE THAN MONTHLY TO THE RECEIVING AGENCY. ANY UNUSED BALANCE AT END OF BLANKET PERIOD IS AUTOMATICALLY CANCELLED.

#### **EQUAL OPPORTUNITY COMPLIANCE**

THIS PURCHASE ORDER IS AWARDED SUBJECT TO EQUAL OPPORTUNITY COMPLIANCE.

#### **PURCHASE AGREEMENT AWARD**

THIS IS A NOTICE OF AWARD, NOT AN ORDER. Any quantity reference in the agreement or in the bid preceding it are estimates only and do not represent a commitment on the part of the state to any level of billing activity, other than for quantities or volumes specifically released during the term. No action is to be taken except as specifically authorized, as described herein under AUTHORIZATION AND RELEASE. ENTIRE AGREEMENT - This NOTICE OF AWARD, with all attachments, and any release(s) against it shall be subject to: (1) the specifications, terms and conditions set forth in the Request/Bid Number cited herein, (2) the General Terms and Conditions of Contracts for the State of Rhode Island and (3) all provisions of, and the Rules and Regulations promulgated pursuant to, Title 37, Chapter 2 of the General Laws of the State of Rhode Island. This NOTICE shall constitute the entire agreement between the State of Rhode Island and the Vendor. No assignment of rights or responsibility will be permitted except with the express written permission of the State Purchasing Agent or his designee. CANCELLATION, TERMINATION and EXTENSION - This Price Agreement shall automatically terminate as of the date(s) described under CONTRACT PERIOD unless this Price Agreement is altered by formal

amendment by the State Purchasing Agent or his designee upon mutual agreement between the State and the Vendor.

#### **PARTIAL PAYMENTS**

PARTIAL OR PROGRESS PAYMENTS MAY BE MADE. PAYMENT WILL BE AUTHORIZED UPON RECEIPT AND ACCEPTANCE BY THE AGENCY OF THE PORTION OF THE CONTRACT OR PURCHASE ORDER COMPLETED BY THE VENDOR. PAYMENT UPON THE RENDERING OF A PROPERLY SUBMITTED INVOICE.

#### **AUTHORIZATION AND RELEASE**

In no event shall the Vendor deliver goods or provide service until such time as a duly authorized release document is certified by the ordering Agency. A Direct Purchase Order (DPO) shall be created by the agency listing the items ordered, using the pricing and format set forth in the Master Blanket. All pricing shall be as described in the Master Blanket and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected in Master Blanket.

#### **TERMS AND CONDITIONS OF PRICING AGREEMENT**

**SCOPE AND LIMITATIONS - This Agreement covers requirements as described herein, ordered by State agencies during the Agreement Period. No additional or alternative requirements are covered, unless added to the Agreement by formal amendment by the State Purchasing Agent or his designee.**

Under State Purchasing Law, 37-2-54, no purchase or contract shall be binding on the state or any agency thereof unless approved by the department [of administration] or made under general regulations which the chief purchasing officer may prescribe. Under State Purchasing Regulation 8.2.1.1.2, any alleged oral agreement or arrangements made by a bidder or contractor with any agency or an employee of the Office of Purchases may be disregarded and shall not be binding on the state.

**PRODUCT ACCEPTANCE** - All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the State. The State reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the State's option.

- a) Failure by the state to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the State's right to subsequently reject the goods in question.
- b) Formal or informal acceptance by the State of non-conforming goods shall not constitute a precedent for successive receipts or procurements.

Where the vendor fails to cure the defect promptly or replace the goods, the State reserves the right to cancel the Release, contract with a different vendor, and to invoice the original vendor for any differential in price over the original contract price.

#### **ORDER AUTHORIZATION AND RELEASE AGAINST PRICING AGREEMENT**

**In no event shall the Vendor deliver goods or provide service until such time as a duly authorized release document is certified by the ordering Agency.**

**State Agencies shall request release as follows: All releases shall reference the Price Agreement number, the Contract Issue number, the item(s) covered, and the unit pricing in the same format as described herein.**

A Department Purchase Order (DPO) listing the items ordered shall be created by the agency. The agency may mail or fax a copy of the order to the Vendor. In some cases the agency may request delivery by telephone, but must provide the Vendor with a DPO Order Number reference for billing purposes. Vendors are encouraged to require written orders to assure payments are processed accurately and promptly.

**DELIVERY** If this is an MPA, Vendor will obtain "ship to" information from each participating agency. This information will be contained in the DPO. APA delivery information will be contained in the Notice of Award.

**PRICING** - All pricing shall be as described herein, and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected herein.

**INVOICING** All invoices shall reference the DPO Order Number(s), Price Agreement number, the Contract Issue number, the item(s) covered, and the unit pricing in the same format as described herein. If this is an MPA, Vendor will obtain "bill to" information from each participating agency. This information will be contained in the DPO. APA billing information will be contained in the Notice of Award.

**PAYMENT** - Invoices for items not received, not priced according to contract or for work not yet performed will not be honored. No payment will be processed to any vendor for whom there is no IRS W-9 on file with the State Controller.



**AGREEMENT**

**Between the**

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF BEHAVIORAL HEALTHCARE,  
DEVELOPMENTAL DISABILITIES AND HOSPITALS**

**and**

**RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES**

**Name of Contractor:** **RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES**

**Title of Agreement:** **Sheltered Workshop Conversion Institute  
Benefits Planning**

**Basis for Contract:** **United States of America Consent Decree. Rhode Island will  
Establish a Sheltered Workshop Conversion Institute.  
Single Source**

**Contract Award:** **\$100,000.00**

**Performance Period:** **September 1, 2019 – June 30, 2020**

## A G R E E M E N T

This agreement, hereinafter "Agreement", including attached ADDENDA, is hereby entered into this 1<sup>st</sup> day September 2019, by and between the State of Rhode Island acting by and through the **Department of Behavioral Healthcare, Developmental Disabilities and Hospitals** (hereinafter referred to as "BHDDH"), and **Rhode Island College - Sherlock Center on Disabilities** (hereinafter referred to as "the Contractor").

WHEREAS, the BHDDH desires to engage the Contractor to offer services and activities further described, but not limited to the work described in this Agreement, including any Exhibit(s) or Addenda, that are attached hereto and are hereby incorporated by reference into this Agreement.

WHEREAS the Contractor is willing and qualified to provide services, the parties hereto do mutually agree as follows:

### **PAR. 1. GOVERNING LAW AND GENERAL TERMS AND CONDITIONS**

The State's Purchasing Law (Chapter 37-2 of the Rhode Island General Laws) and Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing apply as the governing terms and conditions of this Agreement, which can be obtained at <http://www.purchasing.ri.gov/rulesandregulations/rulesAndRegulations.aspx>. In addition, the provisions of Federal Laws, Regulations and Procedures governing the implementation of federal funds apply to this Agreement. See also **PAR. 35. - GOVERNING LAW** for further governing law issues. All **ADDENDA** referenced herein and attached hereto are made a part of and are inclusive in this Agreement.

### **PAR. 2. PERFORMANCE**

The Contractor shall perform all obligations, duties and the required scope of work for the period of time listed in this Agreement, Exhibit(s) and/or Addenda that are attached hereto and are incorporated by reference herein, in a satisfactory manner to be determined at the sole and absolute discretion of the BHDDH, and in accordance with requirements of this Agreement. The Contractor shall perform in accordance with applicable State statutory and policy requirements as well as Federal statutory and policy requirements (as defined in 2 CFR §200.300). More specifically, the **ADDENDUM I - SCOPE OF WORK** shall include performance measurement(s) 2 CFR §200.301, monitoring and reporting program performance 2 CFR §200.328, and performance must be in accordance with requirements for pass-through entities 2 CFR § 200.331. The BHDDH shall have the right at any time, to review the work being performed as well as the place where such work is performed; and to that end, the BHDDH shall be given reasonable access to all activities related to this Agreement.

In accordance with 2 CFR §200.331 (d) the BHDDH will:

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR §200.521 Management decision.

The BHDDH may request at any time additional monitoring, reporting, site visits, and audits in accordance with 2 CFR §200.501 or if applicable “Yellow Book” audits (see Paragraph 24). All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the BHDDH or the Federal Government in accordance with 2 CFR §200.333.

### **PAR. 3. TIME OF PERFORMANCE**

The Contractor shall commence performance of this Agreement on the 1<sup>st</sup> day of September 2019 and shall complete performance no later than the 30<sup>th</sup> day of June 2020 (hereinafter the “Initial Term”), unless terminated prior to that day by other provisions of this Agreement. *If this contract was awarded as a result of an RFP or bid process, then, by mutual agreement, this contract may be extended as stated in the RFP or bid process (hereinafter “Renewal Term(s)”) beyond the Initial Term upon one hundred twenty (120) days prior written notice of the expiration of the Initial Term or any Renewal Term to the Contractor.*

In the event the BHDDH or the Contractor gives notice of its intent not to renew this Agreement, the BHDDH shall have the right to extend all or any services to be performed under this Agreement for an additional period of one hundred and eighty (180) days, or such longer period as mutually agreed by the parties in writing.

### **PAR. 4. PROJECT OFFICER – BHDDH**

The BHDDH shall appoint a Contract Officer to manage this Agreement. The Contractor agrees to maintain close and continuing communication with the Contract Officer throughout the performance of work and services undertaken under the terms of this Agreement. The Contract Officer is responsible for authorizing or seeking authorization of all payments made by the BHDDH to the Contractor under this Agreement.

### **PAR. 5. PROJECT OFFICER – CONTRACTOR**

The Contractor shall appoint a Project Officer to be responsible for coordinating and reporting work performed by the Contractor agency under this Agreement. The Project Officer shall notify the BHDDH in writing immediately, and seek approval from the BHDDH, should a change to this Agreement be necessary in the opinion of the Project Officer. Under no circumstances will a change be undertaken without the prior written approval of the BHDDH.

**PAR. 6. BUDGET**

Total payment for services to be provided under this Agreement shall not exceed the total budget as detailed in **ADDENDUM II**. Expenditures exceeding budget line-item categories by ten percent (10%) shall not be authorized unless prior written approval is first obtained pursuant to **PAR. 10. - MODIFICATION OF AGREEMENT**, subject to the maximum amount of this Agreement as stated above.

**PAR. 7. METHOD OF PAYMENT AND REPORTS**

The BHDDH will make payments to the Contractor in accordance with provisions of **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE** attached hereto and incorporated by reference herein. The BHDDH acknowledges and agrees that any increase in expenses due to delays by the BHDDH which extends the time of performance shall be subject to reimbursement of the costs associated with such delays. The Contractor will complete and forward narrative, fiscal, and all other reports per **ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE**.

**PAR. 8. TERMINATION AND/OR DEFAULT OF AGREEMENT**

This Agreement shall be subject to termination under any of the following conditions:

- a) Mutual Agreement  
The contracting parties mutually agree in writing to termination.
- b) Default by Contractor  
The BHDDH may, by not less than thirty (30) days prior written notice to the Contractor, terminate the Contractor's right to proceed as to the Agreement if the Contractor:
  - 1. Materially fails to perform the services within the time specified or any extension thereof; or
  - 2. So fails to make progress as to materially endanger performance of the Agreement in accordance with its terms; or
  - 3. Materially breaches any provision of this Agreement.Termination, at the option of the BHDDH shall be effective not less than thirty (30) days after receipt of such notice, unless the Contractor shall have corrected such failure(s) thirty (30) days after the receipt by the Contractor of such written notice; any failure which, in the exercise of due diligence, cannot be cured within such thirty (30) day period shall not be deemed a default so long as the Contractor shall within such period commence and thereafter continue diligently to cure such failure.
- c) Termination in the Interest of the BHDDH  
The BHDDH may terminate this agreement at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof, not less than thirty (30) days prior to the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of the BHDDH, become its property. If the agreement is terminated by the BHDDH as provided herein, the Contractor will be paid an amount which bears the same rate to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Agreement, less payment of compensation previously made.

**PAR. 9. RESPONSIBILITIES UPON TERMINATION AND/OR DEFAULT OF AGREEMENT**

Upon delivery to the Contractor of a notice of termination, specifying the nature of the termination, the extent to which performance of work under this contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

1. Stop work under this contract on the date and to the extent specified in the notice of termination.
2. Take such action as may be necessary, or as the BHDDH's project manager may reasonably direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the BHDDH has or may acquire an interest.
3. Terminate all orders to the extent that they relate to the performance of work terminated by the notice of termination.
4. Subject to the provisions of this paragraph, assign to the BHDDH in the manner and to the extent directed by the BHDDH's project officer all of the rights, title, and interest of the Contractor under the orders so terminated, in which case the BHDDH shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders, however, notwithstanding this provision, the Contractor will not be obligated to assign any such rights, title or interest in the absence of payment therefore by the BHDDH.
5. With the approval or ratification of the BHDDH's project manager, initiate settlement of all outstanding liabilities and all claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract. Prior to a final settlement of said outstanding liabilities and claims arising out of such termination, final written approval of the BHDDH's project manager must be obtained. Final approval by the BHDDH shall not be unreasonably withheld.
6. Subject to the provisions of this paragraph, transfer title, or if the Contractor does not have title, then transfer their rights to the BHDDH (to the extent that title has not already been transferred) and deliver in the manner, at reasonable times, and to the extent reasonably directed by the BHDDH's project manager all files, processing systems, data manuals, or other documentation, in any form, that relate to all the work completed or in progress prior to the notice of termination.
7. Complete the performance of such part of the work as shall not have been terminated by the notice of termination. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.
8. Unless terminated by the BHDDH for default of the Contractor, the Contractor shall be entitled to reasonable account shut down expenses associated with such termination including the penalties associated with early termination of lease, software, hardware, and any other unamortized or incremental expenses accrued but not charged, excluding anticipated profits which shall not be reimbursed. The Contractor shall submit all identified shut down expenses associated with such termination incurred before and prior to the termination date. Any damages to the BHDDH shall offset any shutdown expenses to the BHDDH.
9. The Contractor acknowledges and agrees the services and/or deliverables provided under this Agreement are very important to the BHDDH and that upon expiration or

termination of the Agreement, must be continued without interruption whether by the State, the BHDDH, governmental agency or another private entity (“successor entity”). Prior to the end of the Termination and up to sixty (60) days thereafter, the Contractor agrees to make an orderly transition of contract and/or deliverables hereunder and to perform any and all tasks in good faith that are necessary to preserve the integrity of the work performed by the Contractor on behalf of the BHDDH. Upon termination or expiration of the Agreement, the Contractor, shall, if requested by the BHDDH at least thirty (30) days prior to such termination or expiration, provide reasonable training for the successor entity and/or continued performance of services. For providing such training or continued performance after the Term of the Agreement, the BHDDH shall pay the Contractor at mutually agreed rates for personnel used in providing such training and/or services unless services delivered are already defined herein and rates established then such rates shall apply for such period. Should any missing data, materials, documents, etc., be discovered after expiration or termination, a grace period of one hundred and twenty (120) days shall be in effect during which the data, materials, documents, etc., is to be provided at a predetermined cost or at no additional cost if the Contractor caused the loss. Lost data shall be provided to the BHDDH in form acceptable to the BHDDH.

If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Agreement price, or both, and the agreement shall be modified, in writing, accordingly, if:

- a) The stop work order results in an increase in the time required for, or in the Contractor’s cost properly allocable to the performance of any part of this agreement; and
- b) The Contractor asserts its right to an equitable adjustment within ninety (90) days after the end of the period of work stoppage; provided, that if the state decides the facts justify the action, the state may receive and act upon a proposal submitted at any time before final payment under this Agreement.

The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this clause, however, unless termination is for a default by the Contractor, the Contractor shall have the right to recover costs associated with maintaining the personnel, leases and equipment during the period of time the stop work order was in effect that cannot otherwise be reasonably utilized by the Contractor during the stop work period.

If the agreement is terminated for default, following a reasonable notice and cure period not to exceed thirty (30) days unless agreed to by both parties, the BHDDH may withhold payment of any amount in excess of fair compensation for the work actually completed by the Contractor prior to termination of this Agreement and will be entitled to pursue all of its other available legal remedies against the Contractor. Notwithstanding the above, the Contractor shall not be relieved of liability to the BHDDH for damages sustained by virtue of any breach of this Agreement by the Contractor.

The Contractor's liability to the BHDDH for any damages arising out of or related to this Agreement, regardless of the form of action that imposes liability, whether in contract, equity, negligence, intended conduct, tort or otherwise, and including any direct damages incurred by the BHDDH due to the intentional tortious actions of the Contractor in the

performance or nonperformance of its obligations under this Agreement is not limited to the total fees paid by the BHDDH to the Contractor under this Agreement. Also, there should be no limitation of the Contractor's liability for disclosure of confidential information or intellectual property infringement. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement; provided, however, that the foregoing shall not be deemed to limit in any way the provisions of **ADDENDUM XIII - LIQUIDATED DAMAGES** of this Agreement.

The imposition of liquidated damages shall not limit the BHDDH's rights to pursue any other non-monetary remedies available to it.

The BHDDH may, by written notice of default to the Contractor, provide that the Contractor may cure a failure or breach of this contract within a period of thirty (30) days (or such longer period as the BHDDH's agreement administrator or project manager may authorize in writing), said period to commence upon receipt of the notice of default specifying such failure or breach. The BHDDH's exercise of this provision allowing the Contractor time to cure a failure or breach of this Agreement does not constitute a waiver of the BHDDH's right to terminate this Agreement, without providing a cure period, for any other failure or breach of this Agreement.

In the event the Contractor has failed to perform any substantial obligation under this Agreement, or has otherwise committed a breach of this Agreement, the BHDDH may withhold all monies due and payable to the Contractor directly related to the breach, without penalty, until such failure is cured or otherwise adjudicated.

Assurances before breach

a) If documentation or any other deliverables due under this contract are not in accordance with the contract requirements as reasonably determined by the project manager, upon the BHDDH's request, the Contractor, to the extent commercially reasonable, will deliver additional the Contractor resources to the project in order to complete the deliverable as required by the agreement as reasonably determined by the BHDDH and to demonstrate that other project schedules will not be affected. Upon written notice by the BHDDH's project manager of the BHDDH's concerns regarding the quality or timeliness of an upcoming deliverable, the Contractor shall, within five (5) business days of receipt of said notice, submit a corrective action plan documenting the Contractor's approach to completing the deliverable to the satisfaction of the BHDDH's project officer without affecting other project schedules. The BHDDH's project manager, within five (5) business days of receipt of the corrective action plan, shall approve the plan, reject the plan, or return the plan to the Contractor with specific instructions as to how the plan can be modified to merit approval and a specific time period in which the revised plan must be resubmitted.

Nothing in the language contained in "limitation of liability" article, "Contractor's liability for injury to person's or damage to property" article and "indemnification" article shall be construed to waive or limit the state or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Laws, Title 9 Chapter 31, "Governmental Tort Liability."

BHDDH's options at termination

In the event the BHDDH terminates this contract pursuant to this paragraph, the BHDDH may at its option:

a) Retain all or a portion of such hardware, equipment, software, and documentation as has been provided, obtaining clear title or rights to the same, and procure upon such terms and in such manner as the BHDDH's project manager may deem appropriate, hardware, equipment, software, documentation, or services as are necessary to complete the project; or

b) Notwithstanding the above, except as otherwise agreed, nothing herein shall limit the right of the BHDDH to pursue any other legal remedies against the Contractor.

In order to take into account any changes in funding levels because of executive or legislative actions or because of any fiscal limitations not presently anticipated, the BHDDH may reduce or eliminate the amount of the contract as a whole with the scope of services being reduced accordingly, or subject to agreement by the parties concerning the scope and pricing, reduce or eliminate any line item(s).

Notwithstanding the terms, conditions and/or requirements set out in Paragraphs 7 and 8, the Contractor shall not be relieved of liability to the BHDDH for damages sustained by the BHDDH by virtue of any breach of the Agreement by the Contractor, and the BHDDH may withhold payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the BHDDH from the Contractor is determined.

**PAR. 10. MODIFICATION OF AGREEMENT**

The BHDDH may permit changes in the scope of services, time of performance, or approved budget of the Contractor to be performed hereunder. Such changes, which are mutually agreed upon by the BHDDH and the Contractor, must be in writing and shall be made a part of this agreement by numerically consecutive amendment excluding "Special Projects", if applicable, and are incorporated by reference into this Agreement. No changes are effective unless reflected in an approved change order issued by the State's Division of Purchases.

Special Projects are defined as additional services available to the BHDDH on a time and materials basis with the amounts not to exceed the amounts referenced on the Contractor's RFP cost proposal or as negotiated by project or activity. The change order will specify the scope of the change and the expected completion date. Any change order shall be subject to the same terms and conditions of this Agreement unless otherwise specified in the change order and agreed upon by the parties. The parties will negotiate in good faith and in a timely manner all aspects of the proposed change order.

Availability of Funds

It is understood and agreed by the parties hereto that all obligations of the BHDDH, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and Federal funds, and in no event shall the BHDDH be liable for any payments hereunder in excess of such available and appropriated funds. In the event that the amount of any available or appropriated funds provided by the State or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason



whatsoever, the BHDDH shall notify the Contractor of such reduction of funds available and the BHDDH shall be entitled to reduce its commitment hereunder as it deems necessary, but shall be obligated for payments due to the Contractor up to the time of such notice. Neither party shall be liable for any amounts for loss of income, profit or savings or incidental, consequential, indirect, exemplary, severance pay, punitive, or special damages of any party, including third parties arising out of or related to this Agreement.

#### **PAR. 11. SUBCONTRACTS**

It is expressly agreed that the Contractor shall not enter into any subcontract(s) nor delegate any responsibilities to perform the services listed in this Agreement without the advanced, written approval of the BHDDH. If in **ADDENDUM XVI – BID PROPOSAL**, the Bid Proposal permits Subcontracting, the Contractor must provide the name and the extent of services provided by the Subcontractor in the **BUDGET** paragraph 6, and more fully explained in **ADDENDUM II** of this Agreement, and as further agreed to by the BHDDH and the Contractor in **ADDENDUM IX – SUBCONTRACTOR COMPLIANCE**, which is incorporated by reference herein, and which outlines the expectations and requirements of subcontracted vendors to this Agreement.

If the Contractor subsequently needs to enlist the services of a Subcontractor, the Contractor shall obtain prior written approval of the BHDDH. Approval of the BHDDH for the Contractor to enter into subcontracts to perform the services or obligations of the Contractor pursuant to this Agreement shall not be unreasonably withheld. Nothing in this Agreement or in a subcontract or sub-agreement between the Contractor and subcontractors shall create any contractual relationship between the subcontractor and the BHDDH. Approval by the BHDDH of the Contractor's request to subcontract shall not relieve the Contractor of its responsibilities under this contract and the Contractor shall therefore remain responsible and liable to the BHDDH for any conduct, negligence, acts and omissions, whether intentional or unintentional, by any subcontractor

The positions named by the Contractor and detailed in **ADDENDUM XVII – CORE STAFF POSITIONS**, which is incorporated by reference herein, will be considered core project staff positions for this project. The Contractor will not alter the core project team or use an independent contractor, company or subcontractor to meet required deliverables without the prior written consent of the BHDDH's project officer or other appointed designee(s) for which consent shall not be unreasonably withheld. Failure to comply with the provisions of this Paragraph could result in denial of reimbursement for such non-approved sub-contracts.

#### **PAR. 12. CONTRACTOR'S LIABILITY/INDEMNIFICATION**

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the "Indemnitees" and their subcontractors) harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney's fees) to the extent arising in whole or part from the Contractor's willful misconduct, negligence, or omission in provision of services or breach of this Agreement including, but not limited to, injuries of any kind which the staff

of the Contractor or its subcontractor may suffer directly or may cause to be suffered by any staff person or persons in the performance of this Agreement, unless caused by the willful misconduct or gross negligence of the Indemnitees.

The Contractor shall indemnify, defend and hold the State of Rhode Island, its departments, agencies, branches and its or their officers, directors, agents or employees (together the "Indemnitees" and their subcontractors") harmless against claims, demands, suits for judgments, losses or reasonable expenses or costs of any nature whatsoever (including actual reasonable attorney's fees) to the extent arising in whole or part for infringement by the Contractor of any intellectual property right by any product or service provided hereunder.

Nothing in this agreement shall limit the Contractor's liability to indemnify the State for infringements by the Contractor of any intellectual property right.

Nothing in the language contained in this Agreement shall be construed to waive or limit the State or federal sovereign immunity or any other immunity from suit provided by law including, but not limited to Rhode Island General Law, Title 9, Chapter 31 et al., entitled "Governmental Tort Liability."

#### **PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

By signing this Agreement, the Contractor agrees to comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794); Americans with Disabilities Act of 1990 (42 USC 12101 et. seq.); Title IX of the Education Amendments of 1972 (20 USC 1681 et. seq.); The Food Stamp Act, and the Age Discrimination Act of 1975, The United States Department of Health and Human Services Regulations found in 45 CFR, Parts 80 and 84; the United States Department of Education Implementing regulations (34 CFR, Parts 104 and 106; and the United States Department of Agriculture, Food and Nutrition Services (7 CFR §272.6), which prohibit discrimination on the basis of race, color, national origin (limited English proficiency persons), age, sex, disability, religion, political beliefs, in acceptance for or provision of services, employment, or treatment in educational or other programs or activities, or as any of the Acts are amended from time to time.

Pursuant to Title VI and Section 504, as listed above and as referenced in **ADDENDA V AND VI**, which are incorporated herein by reference and made part of this Agreement, the Contractor shall have policies and procedures in effect, including, mandatory written compliance plans, which are designed to assure compliance with Title VI section 504, as referenced above. An electronic copy of the Contractor's written compliance plan, all relevant policies, procedures, workflows, relevant chart of responsible personnel, and/or self-assessments must be available to the BHDDH upon request.

The Contractor's written compliance plans and/or self-assessments referenced above and detailed in **ADDENDA V AND VI** of this Agreement must include but are not limited to the requirements detailed in **ADDENDA V AND VI** of this Agreement.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS

or EOHHS, full and complete information on Title VI and/or Section 504 compliance and/or self-assessments, as referenced above, by the Contractor and/or any subcontractor or vendor of the Contractor.

The Contractor acknowledges receipt of **ADDENDUM V - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964** and **ADDENDUM VI - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**, which are incorporated herein by reference and made part of this Agreement.

The Contractor further agrees to comply with all other provisions applicable to law, including the Americans with Disabilities Act of 1990; the Governor's Executive Order No. 05-01, Promotion of Equal Opportunity and the Prevention of Sexual Harassment in State Government.

The Contractor also agrees to comply with the requirements of the BHDDH of Health and Human Services for safeguarding of client information as such requirements are made known to the Contractor at the time of this contract. Changes to any of the requirements contained herein shall constitute a change and be handled in accordance with **PAR. 10. - MODIFICATION OF AGREEMENT** above.

Failure to comply with this Paragraph may be the basis for cancellation of this Agreement.

#### **PAR. 14. ASSIGNABILITY**

The Contractor shall not assign any interest in this Agreement (whether by assignment or novation) without the prior written consent of the State's Division of Purchases, thereto; provided, however, that claims or money due or to become due to the Contractor from the BHDDH under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the BHDDH.

#### **PAR. 15. COPYRIGHTS**

Any and all data, technical information, information systems, materials gathered, originated, developed, prepared, modified, used or obtained by the Contractor in performance of the Agreement used to create and/or maintain work performed by the Contractor, including but not limited to, all hardware, software computer programs, data files, application programs, intellectual property, source code, documentation and manuals, regardless of state of completion shall be deemed to be owned and remain owned by the State ("State Property"), and the State has the right to (1) reproduce, publish, disclose or otherwise use and to authorize others to use the State Property for State or federal government purposes, and (2) receive delivery of such State Property upon 30 days notice by the State throughout the term of the contract and including 120 days thereafter. To be clear with respect to State Property, the work shall be considered "work for hire," i.e., the State, not the selected Contractor or any subcontractor, shall have full and complete ownership of all State Property. The selected Contractor and any

subcontractor hereby convey, assign and transfer to State any and all of its or their right, title and interest in State Property, if any, including but not limited to trademarks and copyrights. The State hereby grants to the federal government, and the federal government reserves, a royalty-free, nonexclusive and irrevocable license to reproduce, publish, disclose or otherwise use and to authorize others to use for federal government purposes such software, modifications and documentation designed, developed or installed with federal financial participation.

The Contractor agrees that no findings, listing, or information derived from information obtained through performance, as described in the Scope of Work in Addendum I with or without identifiers, may be released or publicly disclosed in any form for any purpose if such findings, listing, or information contain any combination of data elements that might allow an individual to determine a beneficiary's identification without first obtaining written authorization from the BHDDH's project officer. Examples of such data elements include, but are not limited to geographic indicators, age, sex, diagnosis, procedure, date of birth, or admission/discharge date(s). The Contractor agrees further that the BHDDH shall be the sole judge as to whether any finding, listing, information, or any combination of data extracted or derived from the BHDDH's files identify or would, with reasonable effort, permit one to identify an individual, or to deduce the identifying of an individual to a reasonable degree of certainty. The Contractor agrees that the conditions set forth herein apply to any materials presented or submitted review and/or publication that contain individual identifying elements in the information obtained, as stated above, unless such information is presented in the aggregate. Under no circumstance, shall the Contractor publicly disclose or present or submit any materials for review and/or publication that contains an individual's social security number, in part or in whole. The Contractor is hereby notified that all initial data received from EOHHS is considered confidential by the BHDDH. For further requirements regarding confidentiality of information please refer to Paragraph 23 of this Agreement.

With respect to claims arising from computer hardware or software manufactured by a third party and sold by the Contractor as a reseller, the Contractor will pass through to the BHDDH such indemnity rights as it receives from such third party ("third party obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the third party obligation, the Contractor will provide the BHDDH with indemnity protection equal to that called for by the third party obligation, but in no event greater than that called for in the first sentence of this Paragraph the provisions of the preceding sentence apply only to third party computer hardware or software sold as a distinct unit and accepted by the BHDDH. Unless a third party obligation provides otherwise, the defense and payment obligations set forth in this Paragraph will be conditional upon the following:

1. The BHDDH will notify the Contractor of any such claim in writing and tender the defense thereof within a reasonable time;
2. The Contractor will have sole control of the defense of any action on all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any U.S. Intellectual Property Rights by any product or service provided hereunder; and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future state operations or liability, or

when involvement of the state is otherwise mandated by law, the state may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the state will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and

3. The State will reasonably cooperate in the defense and in any related settlement negotiations.

Should the deliverables or software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a U.S. Intellectual Property Rights, the BHDDH shall permit the Contractor at its option and expense either to procure for the BHDDH the right to continue using the deliverables or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such deliverables or software by the BHDDH shall be prevented by injunction, the Contractor agrees to take back such deliverables or software and make every reasonable effort to assist the BHDDH in procuring substitute deliverables or software. If, in the sole opinion of the BHDDH, the return of such infringing deliverables or software makes the retention of other deliverables or software acquired from the Contractor under this Agreement impractical, the BHDDH shall then have the option of terminating such agreements, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such deliverables or software and refund any sums the BHDDH has paid the Contractor less any reasonable amount for use or damage.

The Contractor shall have no liability to the BHDDH under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement that is based upon:

- The combination or utilization of deliverables furnished hereunder with equipment or devices not made or furnished by the Contractor; or,
- The operation of equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of the Contractor-supplied operating software; or
- The modification by the BHDDH of the equipment furnished hereunder or of the software; or
- The combination or utilization of software furnished hereunder with non-Contractor supplied software.

The Contractor certifies that it has appropriate systems and controls in place to ensure that BHDDH funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

## **PAR. 16. PARTNERSHIP**

It is understood and agreed that nothing herein is intended or should be construed in any manner as creating or establishing the legal relation of partnership between the parties hereto, or as constituting the employees, agents, or representatives of the Contractor included in this Agreement as employees, agents, or representatives of the BHDDH.

**PAR. 17. INTEREST OF CONTRACTOR**

The Contractor covenants that it presently has no pecuniary interest and shall not acquire any such interest, direct or indirect, without first disclosing to the BHDDH in writing and then subsequently obtaining approval, in writing, from the BHDDH, that would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor further covenants that no person having any such interest shall be employed by the Contractor for the performance of any work associated with this Agreement.

**PAR. 18. FEDERAL FUNDING PROVISIONS**

Funds made available to the Contractor under this Agreement are or may be derived from federal funds made available to the BHDDH. The Provisions of Paragraph 5 and Addendum II notwithstanding, the Contractor agrees to make claims for payment under this Agreement in accordance with applicable federal policies. The Contractor agrees that no payments under this Agreement will be claimed for reimbursement under any other Agreement, grant or contract that the Contractor may hold that provides funding from the same State or Federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of claims for payment under this Agreement. The Contractor specifically agrees to abide by all applicable federal requirements for Contractors, including laws, regulations and requirements related to services performed outside the United States by Contractor or its subcontractors. Additionally, the Federal Award must be used in accordance with the specific Catalog of Federal Domestic Assistance (CFDA) number listed in **ADDENDUM IV – FISCAL ASSURANCES**. <https://www.cfda.gov/>

States are required to collect information from contractors for awards greater than \$25,000 as described in **ADDENDUM XVIII – FEDERAL SUBAWARD REPORTING** (hereafter referred to as the FFATA form). The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide new FFATA forms for each contract year. When applicable in multiyear contracts, the Contractor is required to review and update the FFATA form, this must be provided to the BHDDH 30 days prior to the end of the first contract year. For example, if the contract performance period is July 1, 2015 to June 30, 2018; then the FFATA form for the second contract year is due June 1, 2016. Any sub-contractor paid with Federal Funding will provide the FFATA form for each contract year to the Contractor, the Contractor must then provide all sub-contractor FFATA forms to the BHDDH. Sub-contractor forms must be provided within fifteen (15) days of date of signature of this Agreement, and if applicable, within fifteen (15) days of the end of each contract year for all subsequent contract years.

**PAR. 19. FUNDING DENIED**

It is understood and agreed that in the event that less than full federal funding or other funding is received by the BHDDH due directly to the failure of the Contractor to comply with the terms of this Agreement, the Contractor is liable to the State of Rhode Island for an amount equal to the amount of the denied funding. Should the Contractor be liable for the amount of the denied funding, then such amount shall be payable upon demand of

the BHDDH.

The Contractor agrees that no expenditures claimed for reimbursement under this Agreement will be claimed for reimbursement under any other agreement, grant, or contract that the Contractor may hold which provides funding from state or federal sources. The Contractor further agrees to be liable for audit exceptions that may arise from examination of expenditures: (a) claimed by the Contractor for reimbursement under this Agreement, and/or (b) submitted by the Contractor in meeting any cost participation requirements.

## **PAR. 20. ACCESSIBILITY AND RETENTION OF RECORDS**

The Contractor agrees to make accessible and to maintain all fiscal and activity records relating to this Agreement to state and/or federal officials, or their designated representatives, necessary to verify the accuracy of Contractor invoices or compliance with this Agreement. This accessibility requirement shall include the right to review and copy such records. This requirement is also intended to include but is not limited to any auditing, monitoring, and evaluation procedures, including on-site visits, performed individually or jointly, by state or federal officials or their agents necessary to verify the accuracy of Contractor invoices or compliance with this Agreement (in accordance with 2 CFR §200.331). If such records are maintained out of the State of Rhode Island, such records shall be made accessible by the Contractor at a Rhode Island location. Minutes of board of directors' meetings, fiscal records, and narrative records pertaining to activities performed will be retained for audit purposes for a period of at least three (3) years following the submission of the final expenditure report for this Agreement. Additionally, if any litigation, claim, or audit is started before the expiration of the 3 year period, as mentioned in Paragraph 2 of this Agreement, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR §200.333. If audit findings have not been resolved at the end of the three (3) years, the records shall be retained for an additional three (3) years after the resolution of the audit findings are made or as otherwise required by law.

The Contractor and its subcontractors, if subcontractors are permitted within the scope of this Agreement, will provide and maintain a quality assurance system acceptable to the state covering deliverables and services under this Agreement and will tender to the state only those deliverables that have been inspected and found to conform to this Agreement's requirements. The Contractor will keep records evidencing inspections and their result and will make these records available to the state during Agreement performance and for three (3) years after final payment. The Contractor shall permit the state to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance system or other similar business practices related to performance of the Agreement.

Further, the Contractor agrees to include a similar right of the state to audit records and interview staff in any subcontract related to performance of this Agreement.

The parties agree that in regard to fixed price portions of the contract, the state's access to the Contractor's books, records and documents shall be limited to those necessary to verify the accuracy of the Contractor's invoice. In no event will the state have access to

the Contractors internal cost data as they relate to fixed price portion of the contract.

**PAR. 21. CAPITAL ASSETS**

The Contractor agrees that any capital assets purchased on behalf of the BHDDH on a pass-through basis and used on behalf of the BHDDH by the Contractor shall upon payment by the BHDDH, become the property of the BHDDH unless otherwise agreed to by the parties and may be utilized by the Contractor in a reasonable manner. Capital assets are defined as any item having a life expectancy of greater than one (1) year and an initial cost of greater than five thousand dollars (\$5,000) per unit, except greater than five hundred dollars (\$500) per unit for computer equipment.

Upon written request by the BHDDH, the Contractor agrees to execute and deliver to the BHDDH a security interest in such capital assets in the amount of the value of such capital asset (or for a lesser amount as determined by the BHDDH).

**PAR. 22. COMPETITIVE BIDS**

With the exception of services or products obtained for use in a leveraged environment, the Contractor agrees competitive bidding will be utilized for all purchases in direct and exclusive support of the BHDDH which are made under this Agreement in excess of five hundred dollars (\$500) or an aggregate of one thousand dollars (\$1,000) for any like items during the time of performance of this Agreement. Evidence of competitive bids must be retained in accordance with **PAR. 20. - ACCESSIBILITY AND RETENTION OF RECORDS.**

**PAR. 23. SECURITY AND CONFIDENTIALITY**

The Contractor shall take security measures to protect against the improper use, loss, access of and disclosure of any confidential information it may receive or have access to under this Agreement as required by this Agreement, the RFP and proposal, or which becomes available to the Contractor in carrying out this Agreement and the RFP and the proposal, and agrees to comply with the requirements of the BHDDH for safeguarding of client and such aforementioned information. Confidential information includes, but is not limited to: names, dates of birth, home and/or business addresses, social security numbers, protected health information, financial and/or salary information, employment information, statistical, personal, technical and other data and information relating to the State of Rhode Island data, and other such data protected by Department/BHDDH laws, regulations and policies (“confidential information”), as well as State and Federal laws and regulations. All such information shall be protected by the Contractor from unauthorized use and disclosure and shall be protected through the observance of the same or more effective procedural requirements as are applicable to the BHDDH.

The Contractor expressly agrees and acknowledges that said confidential information provided to and/or transferred to provider by the BHDDH or to which the Contractor has access to for the performance of this Agreement is the sole property of the BHDDH and shall not be disclosed and/or used or misused and/or provided and/or accessed by any



other individual(s), entity(ies) and/or party(ies) without the express written consent of the BHDDH. Further, the Contractor expressly agrees to forthwith return to the BHDDH any and all said data and/or information and/or confidential information and/or database upon the BHDDH's written request and/or cancellation and/or termination of this Agreement.

The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information, which is or becomes legitimately publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties under no obligation of confidentiality.

The Contractor agrees to abide by all applicable, current and as amended Federal and State laws and regulations governing the confidentiality of information, including to but not limited to the Business Associate requirements of HIPAA ([WWW.HHS.GOV/OCR/HIPAA](http://WWW.HHS.GOV/OCR/HIPAA)), to which it may have access pursuant to the terms of this Agreement. In addition, the Contractor agrees to comply with the BHDDH confidentiality policy recognizing a person's basic right to privacy and confidentiality of personal information. ("confidential records" are the records as defined as not public in R.I. Gen. Laws 38-2-2-(4) (A)-(AA) entitled "Access to Public Records").

In accordance with this Agreement and all Addenda thereto, the Contractor will additionally receive, have access to, or be exposed to certain documents, records, that are confidential, privileged or otherwise protected from disclosure, including, but not limited to: personal information; Personally Identifiable Information (PII), Sensitive Information (SI), and other information (including electronically stored information), records sufficient to identify an applicant for or recipient of government benefits; preliminary draft, notes, impressions, memoranda, working papers—and work product of state employees; as well as any other records, reports, opinions, information, and statements required to be kept confidential by state or federal law or regulation, or rule of court ("State Confidential Information"). State Confidential Information also includes PII and SI as it pertains to any public assistance recipients as well as retailers within the SNAP Program and Providers within any of the State Public Assistance programs.

Personally Identifiable Information (PII) is defined as any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc. (As defined in 2 CFR §200.79 and as defined in OMB Memorandum M-06-19, "Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments"). PII shall also include individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts (As defined in 2 CFR § 200.82 Protected Personally Identifiable Information).

Sensitive Information (SI) is information that is considered sensitive if the loss of confidentiality, integrity, or availability could be expected to have a serious, severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals. Further, the loss of sensitive information confidentiality, integrity, or availability might: (i) cause a significant or severe degradation in mission capability to an extent and duration that the organization is unable to perform its primary functions; (ii) result in significant or major damage to organizational assets; (iii) result in significant or major financial loss; or (iv) result in significant, severe or catastrophic harm to individuals that may involve loss of life or serious life threatening injuries. (Defined in HHS Memorandum ISP-2007-005, "Departmental Standard for the Definition of Sensitive Information" as amended).

The Contractor agrees to adhere to any and all applicable State and Federal statutes and regulations relating to confidential health care and substance abuse treatment including but not limited to the Federal Regulation 42 CFR, Part 2; Rhode Island Mental Health Law, R.I. General Laws Chapter 40.1-5-26; Confidentiality of Health Care Communications and Information Act, R.I. General Laws Chapter 5-37.3-1 *et seq.*, HIPAA 45 CFR 160 and the Rhode Island Identity Theft Protection Act, R.I. General Laws Chapter 11-49.3-1. The Contractor acknowledges that failure to comply with the provisions of this paragraph will result in the termination of this Agreement.

The Contractor shall notify the BHDDH and the BHDDH's designated security officer by telephone call plus e-mail, web form or fax upon the discovery of any breach of security of PHI, PII or SI or suspected breach of security of PHI, PII or SI (where the use or disclosure is not provided for and permitted by this Agreement) of which it becomes aware within one (1) hour and in no case later than forty-eight (48) hours of the breach and/or Security Incident. The Contractor shall, within forty-eight (48) hours, notify the BHDDH and the BHDDH's designated security officer of any suspected breach of unauthorized electronic access, disclosure or breach of confidential information or any successful breach of unauthorized electronic access, disclosure or breach of confidential information. A breach is defined pursuant to HIPAA guidelines as well as those found in the "Health Information Technology for Economic and Clinical Health Act" (HITECH). A breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PHI in violation of HIPAA privacy rules that compromise PHI security or privacy. Additionally, a breach or suspected breach may be an acquisition, access, use or disclosure or suspected acquisition, access, use or disclosure of PII or SI. The notice of a breach or suspected breach shall contain information available to the Contractor at the time of the notification to aid the BHDDH in examining the matter. More complete and detailed information shall be provided to the BHDDH as it becomes available to the Contractor.

Upon notice of a breach, suspected breach or a security incident, the BHDDH and Contractor will meet to jointly develop an incident investigation and remediation plan. Depending on the nature and severity of the confirmed breach, the plan may include the use of an independent third-party security firm to perform an objective security audit in accordance with recognized cyber security industry commercially reasonable practices. The parties will consider the scope, severity and impact of the security incident to determine the scope and duration of the third party audit. If the parties cannot agree on either the need for or the scope of such audit, then the matter shall be escalated to senior

officials of each organization for resolution. The Contractor will pay the costs of all such audits. Depending on the nature and scope of the security incident, remedies may include, among other things, information to individuals on obtaining credit reports and notification to applicable credit card companies, notification to the local office of the Secret Service, and or affected users and other applicable parties, utilization of a call center and the offering of credit monitoring services on a selected basis.

Notwithstanding any other requirement set out in this Agreement, the Contractor acknowledges and agrees that the HITECH Act and its implementing regulations impose new requirements with respect to privacy, security and breach notification and contemplates that such requirements shall be implemented by regulations to be adopted by the U.S. Department of Health and Human Services. The HITECH requirements, regulations and provisions are hereby incorporated by reference into this Agreement as if set forth in this Agreement in their entirety. Notwithstanding anything to the contrary or any provision that may be more restrictive within this Agreement, all requirements and provisions of HITECH, and its implementing regulations currently in effect and promulgated and/or implemented after the date of this Agreement, are automatically effective and incorporated herein. Where this Agreement requires stricter guidelines, the stricter guidelines must be adhered to.

Failure to abide by the BHDDH's confidentiality policy or the required signed **Business Associate Agreement (BAA)** will result in termination remedies, including but not limited to, termination of this Agreement. A **Business Associate Agreement (BAA)** shall be signed by the Contractor, simultaneously or as soon thereafter as possible, from the signing of this Agreement, as required by the BHDDH.

Nothing herein shall limit the BHDDH's ability to seek injunctive relief or any and all damages resulting from the Contractor's negligent or intentional disclosure of confidential information.

#### **PAR. 24. AUDIT**

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least twenty-five thousand dollars (\$25,000) in any year, at no additional cost for the BHDDH, the Contractor shall prepare an annual financial statement of the Contractor or the Contractor's parent, where applicable, within nine (9) months of the end of the Contractor's fiscal year. The financial statements must provide full and frank disclosures of all assets, liabilities, changes in the fund balances, all revenue, and all expenditures. Upon written or oral request by the BHDDH, the Contractor shall provide the BHDDH a copy of the above described financial statement(s) within ten (10) days of the BHDDH's request or within twenty (20) days of the end of the Time of Performance, Paragraph 3 herein. If additional financial documentation is required by the Federal funding source, these additional financial requirements must be met in addition to the preparation of the above financial statements.

In the case wherein the amount identified in **PAR. 6. - BUDGET** is at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, at no additional cost for the BHDDH, the audit must be performed in accordance with 2 CFR § 200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller

General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR §200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the BHDDH.

In the case wherein the Contractor expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR § 200.501, et seq. at no additional cost for the BHDDH, the audit must be performed in accordance with 2 CFR §200.500 et. seq., or with "Government Auditing Standards" as published by the Comptroller General of the United States. The audit must address areas of compliance and internal controls as outlined in 2 CFR § 200.500 et. seq. If a management letter is also issued as part of the audit, the management letter must be submitted as well (2 CFR §200.512). All financial statements and audits must be submitted in a format that is acceptable to the BHDDH.

Moreover, if the Contractor has Agreements and/or Federal Awards which **in aggregate** are at least seven hundred and fifty thousand federal dollars (\$750,000) in any fiscal year, including the amount identified in **PAR. 6 – BUDGET**, the audit must be performed in accordance with federal requirements as outlined above (2 CFR §200.500 et seq.).

Should the Contractor expend less than seven hundred and fifty thousand federal dollars (\$750,000) in a fiscal year and be, therefore, exempt from having to perform an audit in accordance with 2 CFR §200.500 et. seq., the Contractor may not charge the cost of such an audit to a federal award.

Pursuant to 2 CFR §200.501 (h), "for-profit" entities shall conduct a "Yellow Book" audit annually by a Public Accounting Firm in accordance with Government Auditing Standards, mentioned above, and standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the U.S. (GAGAS) and provide a copy thereof to Client, the Contractor may not charge the cost of such an audit to a federal award.

The Contractor agrees that the state or its designated representative will be given access to any part of the system which is delivered under this Agreement to inventory and/or inspect the system.

The Contractor expressly agrees that any overpayment identified through an audit must be repaid to the BHDDH within a period of six (6) months from the issuance of the audit.

**PAR. 25. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

**PAR. 26. ON-SITE INSPECTION**

The Contractor agrees to permit on-site monitoring, evaluation and inspection of all

activities related to the Agreement by officials of the BHDDH, its designee, and where appropriate, the Federal government. On-site inspections and monitoring shall be in accordance with 2 CFR §200.328. All reports pertaining to 2 CFR §200.331, shall be maintained by the Contractor. The Contractor must retain any documents pertaining to changes requested from the BHDDH or the Federal Government in accordance with 2 CFR §200.333.

If, as a result of on-site inspections, changes are requested by the BHDDH to ensure compliance with this Agreement and/or Federal Awards, the Contractor must perform changes within a time period defined by the BHDDH. All changes shall be documented by the Contractor and provided to the BHDDH upon request. All requested changes shall comply with 2 CFR §200.331.

**PAR. 27. DRUG-FREE WORKPLACE POLICY**

The Contractor agrees to comply with the provisions of the Governor's Executive Order 91-14, the State's Drug Free Workplace Policy, and the Federal Omnibus Drug Abuse Act of 1988. As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM VII - DRUG-FREE WORKPLACE POLICY**, and in accordance therewith has executed **ADDENDUM VIII - DRUG-FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE**.

Furthermore, the Contractor agrees to submit to the BHDDH any report or forms which may from time-to-time be required to determine the Contractor's compliance with this policy.

The Contractor acknowledges that a violation of the Drug-Free Workplace Policy may, at the BHDDH's option, result in termination of this Agreement.

**PAR. 28. PRO-CHILDREN ACT OF 1994 (ACT)**

As a condition of contracting with the State of Rhode Island, the Contractor hereby agrees to abide by **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**, and in accordance has executed **ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**.

**PAR. 29. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Contractor agrees to abide by **ADDENDUM XI – INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**, and in accordance has executed the required certification included in **ADDENDUM XII – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**.

**PAR. 30. CHIEF PURCHASING OFFICER**

This Agreement shall take effect upon the issuance of a Purchase Order by the State of Rhode Island's Chief Purchasing Officer or his/her designee. No modifications to this

agreement shall be effective unless in an authorized change order issued by the State's Division of Purchases.

### PAR. 31. OWNERSHIP

The following additional paragraphs are added to the Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing.

PROPRIETARY SOFTWARE. Each party will retain all rights in any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the date of this Agreement or acquired or developed after the date of this Agreement without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third party vendor will be and remain the property of such vendor.

DEVELOPED SOFTWARE. All software that is developed by the Contractor and delivered by the Contractor to the BHDDH under this Agreement and paid for by the BHDDH ("Developed Software") is and shall remain the property of the BHDDH. For a period of ninety (90) days following acceptance of any developed software in accordance with the approval procedures adopted by the parties, the Contractor warrants that each item of developed software will conform in all material respects to the written technical specifications agreed to by the parties in accordance with the software development methodologies adopted by the parties and set forth in the procedures manual. As soon as reasonably practicable after discovery by State or Contractor of a failure of the Developed Software to so conform (a "**non-conformance**"), State or Contractor, as applicable, will deliver to the other a statement and supporting documentation describing in reasonable detail the alleged nonconformance. If Contractor confirms that there is a non-conformance, then Contractor will use commercially reasonable efforts to correct such non-conformance. The methods and techniques for correcting non-conformances will be at the sole discretion of the BHDDH. The foregoing warranty will not extend to any non-conformances caused (i) by any change or modification to software without Contractor's prior written consent; or (ii) by state operating software otherwise than in accordance with the applicable documentation, for the purpose for which it was designed, or on hardware not recommended, supplied or approved in writing by Contractor. Furthermore, if, after undertaking commercially reasonable efforts to remedy a breach by Contractor of the foregoing warranty, Contractor, in the exercise of its reasonable business judgment, determines that any repair, adjustment, modification or replacement is not feasible, or in the event that the developed software subsequent to all repairs, adjustments, modifications and replacements continues to fail to meet the foregoing warranty, the BHDDH will return the developed software to Contractor, and Contractor will credit to the State, in a manner and on a schedule agreed to by the parties and as the BHDDH's sole and exclusive remedy for such failure, an amount equal to the charges actually paid by the BHDDH to the Contractor for the developed software that has failed to meet the foregoing warranty. Upon written request of the BHDDH, the Contractor will use commercially reasonable efforts to correct an alleged non-conformance for which Contractor is not otherwise responsible hereunder because it is caused or contributed to by one of the factors listed above and, to the extent that such correction cannot be performed within the scope of the Contractor services, such correction will be paid for by the BHDDH at the Contractor's

then current commercial billing rates for the technical and programming personnel and other materials utilized by the Contractor. Notwithstanding anything to the contrary in this Agreement, the Contractor will continue to own, and will be free to use, the development tools and the residual technology, so long as such use does not breach Contractor's obligations of confidentiality set forth herein

OTHER. Notwithstanding anything to the contrary in this Agreement, the Contractor (i) will retain all right, title and interest in and to all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the services hereunder which are based on trade secrets or proprietary information of the Contractor, are developed or created by or on behalf of the Contractor without reference to or use of the intellectual property of the BHDDH or are otherwise owned or licensed by the Contractor (collectively, "tools"); (ii) subject to the confidentiality obligations set forth in this Agreement, will be free to use the ideas, concepts, methodologies, processes and know-how which are developed or created in the course of performing the services and may be retained by the Contractor's employees in an intangible form, all of which constitute substantial rights on the part of the Contractor in the technology developed as a result of the services performed under this Agreement; and (iii) will retain ownership of any Contractor-owned software or tools that are used in producing the developed software and become embedded therein. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks or copyrights, except as otherwise expressly provided in this Agreement.

**PAR. 32. FORCE MAJEURE**

Except for defaults of subcontractors at any tier, in the event that any party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of (or if failure to perform the services is caused by) natural disaster, actions or decrees of governmental bodies, or other event or failure not the fault or within control of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other parties and shall use reasonable efforts to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended

**PAR. 33. RESERVED**

**PAR. 34. DISPUTES**

The parties shall use good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. When a dispute arises between the BHDDH and Contractor, both parties will attempt to resolve the dispute pursuant to this subsection. When a dispute arises, the party initiating the dispute shall notify the other party in writing of the dispute, with the notice specifying the disputed issues and the position of the party submitting the notice. The BHDDH's project officer and Contractor project officer shall use good faith efforts to resolve the dispute within ten (10) State business days of submission by either party to the other of such notice of the dispute.

If the BHDDH's Project Officer and the Contractor's Project Officer are unable to resolve the dispute, either party may request that the dispute be escalated for resolution to the

BHDDH Director or his or her designee, the Contractor's President or his or her designee and a mutually agreed upon third party shall attempt to resolve the issue.

If the issue is not resolved, the parties shall proceed pursuant to R.I. General Laws § 37-2-46 and applicable State Procurement Regulations (1.5).

If the issue is not resolved, the parties shall endeavor to resolve their claims by mediation which, shall be administered by the Presiding Justice of the Providence County Superior Court. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the court. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this paragraph, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the State of Rhode Island where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**PAR. 35. GOVERNING LAW**

This Agreement is deemed executed and delivered in the City of Cranston, State of Rhode Island, and all questions arising out of or under this Agreement shall be governed by the laws of the State of Rhode Island.

**PAR. 36. WAIVER AND ESTOPPEL**

Nothing in this Agreement shall be considered waived by any party, unless the party claiming the waiver receives the waiver in writing. No breach of this Agreement is considered to be waived unless the non-breaching party waives it in writing. A waiver of one provision shall not constitute a waiver of any other. A failure of any party to enforce at any time any provisions(s) of this contract, or to exercise any option which is herein provided, shall in no way be construed as a waiver of such provision of this contract. No consent, or excuse by either party, express or implied, shall constitute a subsequent consent, waiver or excuse.

**PAR. 37. INSURANCE**

Throughout the term of the Agreement, the Contractor and any subcontractor shall procure and maintain, at its own cost and expense, insurance as required by the Bid Specifications.

**PAR. 38. WORK REVIEWS**

The Contractor agrees that all work performed under this Agreement may be reviewed by the Rhode Island BHDDH of Health and Human Services, Department of



Administration, and/or by any third party designated by the BHDDH of Health and Human Services.

**PAR. 39. BUSINESS CONTINUITY PLAN**

The Contractor shall prepare and maintain a Business Continuity Plan upon execution of this Agreement, which shall include, but not be limited to, the Contractor's procedure for recovery of data and recovery for all operation components in case of an emergency or disaster. Upon written or oral request by the BHDDH, the Contractor shall provide the BHDDH a copy of the above described Business Continuity Plan within ten (10) days of the BHDDH's request.

**PAR. 40. NOTICES**

No notice, approval or consent permitted or required to be given by this Agreement will be effective unless the same is in writing and sent postage prepaid, certified mail or registered mail, return receipt requested, or by reputable overnight delivery service to the other party at the address set forth in **ADDENDUM XVII – CORE STAFF POSITIONS**, or such other address as either party may direct by notice given to the other as provided **ADDENDUM XVII – CORE STAFF POSITIONS**, and shall be deemed to be given when received by the addressee. The Contractor and the BHDDH shall list, in **ADDENDUM XVII – CORE STAFF POSITIONS**, the names, addresses, email addresses, telephone numbers, and the facsimile numbers of all individuals that the above such notice, approval or consent shall be sent to or copied on. The Parties agree to update any changes to the designated notice recipients, in writing pursuant to the terms outlined in **PARAGRAPH 40**.

**PAR. 41. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages and the parties will follow such delivery by prompt delivery of originals of such pages.

**PAR. 42. AMENDMENTS**

Except as may otherwise set forth in this Agreement, the Agreement may only be amended by the parties agreeing to the amendment, in writing, duly executed by the parties and shall only be effective upon incorporation by the State's Division of Purchases through the issuance of a change order.

**PAR. 43. SURVIVAL**

Any obligations and provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement, including but not limited to safeguarding confidential information and indemnification, shall survive the expiration or termination of this Agreement.

**PAR. 44. ADDITIONAL APPROVALS**

The parties acknowledge that this Agreement requires issuance of a valid Purchase Order by the State of Rhode Island for this Agreement to remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have hereunder set their hands as of the date first above written and this Agreement made legally binding upon the issuance of a valid Purchase Order by the State of Rhode Island as follows:

**STATE OF RHODE ISLAND:**



REBECCA BOSS, DIRECTOR  
DEPARTMENT OF BEHAVIORAL  
HEALTHCARE, DEVELOPMENTAL  
DISABILITIES & HOSPITALS

10/2/19  
DATE

**RHODE ISLAND COLLEGE  
SHERLOCK CENTER ON DISABILITIES:**

Sue Pearlmuter  
AUTHORIZED AGENT/SIGNATURE  
TITLE: Provost & Vice President for  
Academic Affairs, RIC

Sue Pearlmuter  
PRINT NAME

9/9/19  
DATE

## ADDENDA

Attached hereto, incorporated into and made a part herein of this agreement, are the following addenda:

- ADDENDUM I - REQUEST FOR PROPOSAL AND/OR SCOPE OF WORK**
- ADDENDUM II - BUDGET**
- ADDENDUM III - PAYMENTS AND REPORTS SCHEDULE**
- ADDENDUM IV - FISCAL ASSURANCES**
- ADDENDUM V - NOTICE TO EXECUTIVE OF HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**
- ADDENDUM VI - NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**
- ADDENDUM VII - DRUG-FREE WORKPLACE POLICY**
- ADDENDUM VIII - DRUG FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE**
- ADDENDUM IX - SUBCONTRACTOR COMPLIANCE**
- ADDENDUM X - CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**
- ADDENDUM XI - INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**
- ADDENDUM XII - CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**
- ADDENDUM XIII - LIQUIDATED DAMAGES**
- ADDENDUM XIV - EQUAL EMPLOYMENT OPPORTUNITY**
- ADDENDUM XV - BYRD ANTI-LOBBYING AMENDMENT**
- ADDENDUM XVI - BID PROPOSAL**
- ADDENDUM XVII - CORE STAFF POSITIONS**
- ADDENDUM XVIII - FEDERAL SUBAWARD REPORTING**
- ADDENDUM XIX - BUSINESS ASSOCIATE AGREEMENT**

## **Benefits Planning Scope of Work 9/1/2019-6/30/2020**

**Goal:** Supplement the activities of WIPA grant and DLT funding with DD funding for additional benefits plans.

### **Task 1 – Provide Benefits Counseling.**

- Cost: \$400/plan for writing a full plan and all administrative costs of the Sherlock Center associated with benefits counseling.
  - This does not include amended or updated plans, which will be \$100.
- Total Cost: Up to \$100,000
- Up to 250 plans will be completed under this contract.
- Benefits plans will be prioritized as indicated by DDD.
- Cumulative tracking by individual of all referrals received, date received, status of referral, counselor name, and date of plan completion or case closure.
  - Tracking will ensure no duplicates are recorded and correct ID numbers are attached.
  - Reasons for any delay in completing plans will be noted.

### **Task 2 – Provide at least 20 group Information Sessions and Webinars.**

- Report monthly on the sessions held, location, and number of attendees.
- Cost per session/webinar: included above
- Total cost – included in personnel costs for Task 1

### **Task 3 – Ensure informational products are up-to-date, reviewed by BHDDH, and meet BHDDH requirements for branding.**

- Print copies of the approved materials to be distributed at information sessions and through other networks.
- Printing costs – In Kind
- Staff costs to update materials: Included in personnel costs for Task 1

<b>Total Budget: \$100,000</b>
--------------------------------

### **Monthly Reports:**

Reports are due by the 15<sup>th</sup> of the following month. Invoices will not be paid without the corresponding backup report.

- Benefits Plan Monthly Report: an approved tracking document must be submitted monthly.
  - Cumulative tracker described above in the scope of work.
  - Evaluate effectiveness of approach in providing benefits plans.
- Documentation of the completion of information sessions, webinars, or printing must be provided with the invoices.
  - List of participants in any information session or webinar included under this contract.
  - Qualitative report of trends or comments observed in providing contract activities.
  - Evaluate effectiveness of information sessions and webinars.
- Schedule of all upcoming events.
- Staff time must be documented with description of the activities performed related to this scope of work.

**ADDENDUM II**

**BUDGET**

**RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE,  
DEVELOPMENTAL DISABILITIES AND HOSPITALS**

**BUDGET**

NAME OF AGENCY: **RHODE ISLAND COLLEGE - Sherlock Center on Disabilities**

FEDERAL EMPLOYER IDENTIFICATION NUMBER: **05-6016315**

ADDRESS: **600 Mount Pleasant Ave. Bld 4 - Grant Accounting**

CITY/TOWN: **Providence, RI** ZIP CODE: **02908**

PHONE NUMBER: **401-456-2809** FAX:

EXECUTIVE DIRECTOR: **Lisa Smolski**

TIME OF PERFORMANCE: FROM **September 1, 2019** TO **June 30, 2020**

**BUDGET SUMMARY**

	<b>COST CATEGORY</b>	<b>TOTAL CONTRACT AMOUNT</b>
1.	SALARIES AND WAGES	
2.	FRINGE BENEFITS	
3.	STIPENDS	
4.	SUBCONTRACTS	
5.	TRAVEL	
6.	MATERIALS AND SERVICES	<b>\$100,000.00</b>
7.	ADMINISTRATIVE COSTS	
	<b>TOTAL FUNDS REQUESTED:</b>	<b>\$100,000.00</b>

RHODE ISLAND DEPARTMENT OF BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS

BUDGET DETAIL - 9/1/2019- 6/30/2020

	DESCRIPTION				COST
STIPENDS					
			Enter on page 1, line 3	CATEGORY TOTAL→	-
SUBCONTRACTS	DESCRIPTION				
			Enter on page 1, line 4	CATEGORY TOTAL→	-
TRAVEL	DESCRIPTION				COST
			Enter on page 1, line 5	CATEGORY TOTAL→	-
MATERIALS AND SERVICES	DESCRIPTION				COST
	\$400/plan for writing a full plan and all administrative costs of the Sherlock Center associated with benefits counseling		\$400x225 plans		90,000.00
	Amended or updated plans will cost \$100		\$100x100		10,000.00
			Enter on page 1, line 6	CATEGORY TOTAL→	100,000.00
ADMINISTRATOR COSTS	DESCRIPTION				COST
			Enter on page 1, line 7	CATEGORY TOTAL→	-

**ADDENDUM III**

**PAYMENTS AND REPORTS SCHEDULE**

<u>PAYMENTS</u>	<u>AMOUNT</u>	<u>TIMETABLE</u>	<u>DOCUMENTATION</u>
Monthly reimbursement of expenditures.  The Provider agrees to submit a Monthly Expenditure Report of actual expenses no later than the 10 <sup>th</sup> of the following month, in accordance with the Budget.  The Provider agrees to submit a final Monthly Expenditure Report for the period ending June 30, 2020, no later than July 15, 2019. The Provider also agrees to reimburse any excess payments to the Department no later than June 30, 2020.  If the audit reveals that the combined amounts of the payment to the Provider by the Department under this Agreement and the client assessment (where applicable) is greater than the total reasonable allowable cost less applicable income offsets, the Provider must reimburse the excess payment to the Department.  1. "Reasonable Allowable Costs" are defined as those categories of expenditures necessary to deliver program services as defined in Budget: Salaries, Fringe Benefits, Consultants, Operating Costs and Indirect Costs.  2. The extent of BHDDH funding is limited to and shall not exceed the amount \$100,000.00. The Department of Behavioral Healthcare, Developmental Disabilities and Hospitals, at the time of the audit, reserves the right to review and adjust costs to the extent of actual expenditures based upon the agreed Budget.  The parties agree that all changes greater than 10% of the BHDDH budget line item must be requested in writing to the Department (Division of Developmental Disabilities) and must have prior written approval from the Department (Division of Developmental Disabilities). The Department (Division of Developmental Disabilities) will only consider changes within the total budget and these changes cannot exceed the funding of \$100,000.00.  The Provider will submit an annual report 60 day after the end period of the contract June 30, 2020. Annual report to encompass all participant(s) and their agencies, and all program(s), for contract period Sept. 1, 2019 through June 30, 2020.	To be determined by monthly expenditure	Monthly	Monthly expenditure report.

**PLEASE SUBMIT ALL DOCUMENTS (Invoices & Reports) TO: [anne.leclerc@bhddh.ri.gov](mailto:anne.leclerc@bhddh.ri.gov) or send to Department of Developmental Disabilities, 41 West Rd., Cranston, R.I. 02920 Attention: Anne LeClerc**



**ADDENDUM IV  
FISCAL ASSURANCES**

1. The Contractor agrees to segregate all receipts and disbursements pertaining to this agreement from recipients and disbursements from all other sources, whether by separate accounts or by utilizing a fiscal code system.
2. The Contractor assures a system of adequate internal control will be implemented to ensure a separation of duties in all cash transactions.
3. The Contractor assures the existence of an audit trail which includes: cancelled checks, voucher authorization, invoices, receiving reports, and time distribution reports.
4. The Contractor assures a separate subsidiary ledger of equipment and property will be maintained.
5. The Contractor agrees any unexpended funds from this agreement are to be returned to the BHDDH at the end of the time of performance unless the BHDDH gives written consent for their retention.
6. The Contractor assures insurance coverage is in effect in the following categories: bonding, vehicles, fire and theft, and liability.
7. The following Federal requirements shall apply pursuant to OMB Guidance for Grants and Agreements. Where applicable:
  - Subpart A - Acronyms and Definitions (200.0 – 200.99)
  - Subpart B – General Provisions (200.100 – 200.113)
  - Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards (200.200 – 200.211)
  - Subpart D – Post Federal Award (200.300 – 200.345)
  - Subpart E – Cost Principles (200.400 – 200.475)
  - Subpart F – Audit Requirements(200.500 – 200.521)
  - All Subsequent Addenda
8. If the Contractor expends Federal awards during the Contractor's particular fiscal year of \$750,000 or more, then 2 CFR § 200.500 et. seq., audits of states, local governments and non-profit organizations shall also apply or if applicable, an audit shall be performed in accordance with "Government Auditing Standards" as published by the Comptroller General of the United States (see Paragraph 24).
9. This agreement may be funded in whole or in part with Federal funds. If so, the CFDA reference number is \_\_\_\_\_. The Contractor must review applicable Federal Statutes, regulations, terms and conditions of the Federal Award in accordance with 2 CFR § 200.331 (a)(2).

## **ADDENDUM V**

### **RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES**

#### **NOTICE TO BHDDH OF HEALTH AND HUMAN SERVICES' SERVICE PROVIDERS OF THEIR RESPONSIBILITIES UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the BHDDH of Health and Human Services (EOHHS) are subject to the provisions of Title VI of the Civil Rights Act of 1964 and the implementing regulations of the United States Department of Health And Human Services (DHHS), which is located at 45 CFR, Part 80, collectively referred to hereinafter as Title VI. EOHHS contracts with Contractors include a Contractor's assurance that in compliance with Title VI and the implementing regulations, no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in its programs and activities on the grounds of race, color, or national origin. Additional DHHS guidance is located at 68 FR 47311-02.

EOHHS reserves its right to at any time review Contractors to assure that they are complying with these requirements. Further, EOHHS reserves its right to at any time require from Contractors, Sub-Contractors and Vendors that they are also complying with Title VI.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Title VI. An electronic copy of the service providers written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to EOHHS upon request.

The Contractor's written compliance plan must address the following requirements:

- Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Title VI standards.
- Designation of a compliance officer who is accountable to the service provider's senior management.
- Effective training and education for the compliance officer and the organization's employees.
- Enforcement of standards through well-publicized guidelines.
- Provision for internal monitoring and auditing.
- Written complaint procedures
- Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Title VI.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to it, DHHS or EOHHS on request full and complete information related to Title VI compliance.

The Contractor must submit, within thirty-five (35) days of the date of a request by DHHS or EOHHS, full and complete information on Title VI compliance by the Contractor and/or any Sub-Contractor or Vendor of the Contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Title VI regulations. A copy of the regulations is available upon request from the community relations liaison officer, **BHDDH of Health and Human Services**, 74 West Road, Cranston, RI 02920; telephone number: (401) 462-5274.

**THE REGULATIONS ADDRESS THE FOLLOWING TOPICS:**

**SECTION:**

- 80.1 PURPOSE
- 80.2 APPLICATION OF THIS REGULATION
- 80.3 DISCRIMINATION PROHIBITED
- 80.4 ASSURANCES REQUIRED
- 80.5 ILLUSTRATIVE APPLICATION
- 80.6 COMPLIANCE INFORMATION
- 80.7 CONDUCT OF INVESTIGATIONS
- 80.8 PROCEDURE FOR EFFECTING COMPLIANCE
- 80.9 HEARINGS
- 80.10 DECISIONS AND NOTICES
- 80.11 JUDICIAL REVIEW
- 80.12 EFFECT ON OTHER REGULATIONS; FORMS AND INSTRUCTIONS
- 80.13 DEFINITION

## ADDENDUM VI

### RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES

#### NOTICE TO RHODE ISLAND BHDDH OF HEALTH AND HUMAN SERVICES' CONTRACTORS OF THEIR RESPONSIBILITIES UNDER SECTION USC 504 OF THE REHABILITATION ACT OF 1973

Public and private agencies, organizations, institutions, and persons that receive Federal financial assistance through the **BHDDH Of Health and Human Services (EOHHS)** are subject to the provisions of Section 504 of the Rehabilitation Act of 1973 and the Implementing Regulations of the United States Department of Health And Human Services (DHHS), which are located at 45 CFR, part 84 hereinafter collectively referred to as Section 504. EOHHS contracts with service providers include the provider's assurance that it will comply with Section 504 of the regulations, which prohibits discrimination against handicapped persons in providing health, welfare, or other social services or benefits.

The Contractor shall have policies and procedures in effect, including, a mandatory written compliance plan, which are designed to assure compliance with Section 504. An electronic copy of the Contractor's written compliance plan and all relevant policies, procedures, workflows and relevant chart of responsible personnel must be available to EOHHS upon request.

The Contractor's written compliance plan must address the following requirements:

- Written policies, procedures and standards of conduct that articulate the organization's commitment to comply with all Section 504 standards.
- Designation of a compliance officer who is accountable to the service provider's senior management.
- Effective training and education for the compliance officer and the organization's employees.
- Enforcement of standards through well-publicized guidelines.
- Provision for internal monitoring and auditing.
- Written complaint procedures
- Provision for prompt response to all complaints, detected offenses or lapses, and for development and implementation of corrective action initiatives.
- Provision that all Contractors, Sub-Contractors and Vendors of the service provider execute assurances that said Contractors, Sub-Contractors and Vendors are in compliance with Section 504.

The Contractor must enter into an agreement with each Sub-Contractor or Vendor under which there is the provision to furnish to the contractor, DHHS or EOHHS on request full and complete information related to Section 504 compliance.

The contractor must submit, within thirty-five (35) days of the date of a request by DHHS or EOHHS, full and complete information on Section 504 compliance by the Contractor and/or any Sub-Contractor or Vendor of the contractor.

It is the responsibility of each Contractor to acquaint itself with all of the provisions of the Section 504 regulations. A copy of the regulations, together with an August 14, 1978 Policy Interpretation of General Interest to Providers of Health, Welfare, or Other Social Services or Benefits, is available upon request from the Community Relations Liaison Officer, **BHDDH of Health and Human Services**, 74 West Road, Cranston, RI 02920; telephone number (401) 462-5274.

Contractors should pay particular attention to subparts A, B, C, and F of the regulations which pertain to the following:

**SUBPART A - GENERAL PROVISIONS**

**SECTION:**

- 84.1 PURPOSE
- 84.2 APPLICATION
- 84.3 DEFINITIONS
- 84.4 DISCRIMINATION PROHIBITED
- 84.5 ASSURANCE REQUIRED
- 84.6 REMEDIAL ACTION, VOLUNTARY ACTION, AND SELF-EVALUATION
- 84.7 DESIGNATION OF RESPONSIBLE EMPLOYEE AND ADOPTION OF GRIEVANCE PROCEDURES
- 84.8 NOTICE
- 84.9 ADMINISTRATIVE REQUIREMENTS FOR SMALL RECIPIENTS
- 84.10 EFFECT OF STATE OR LOCAL LAW OR OTHER REQUIREMENTS AND EFFECT OF EMPLOYMENT OPPORTUNITIES

**SUBPART B - EMPLOYMENT PRACTICES**

**SECTION:**

- 84.11 DISCRIMINATION PROHIBITED
- 84.12 REASONABLE ACCOMMODATION
- 84.13 EMPLOYMENT CRITERIA
- 84.14 PREEMPLOYMENT INQUIRIES
- 84.15 - 84.20 (RESERVED)

**SUBPART C - ACCESSIBILITY**

**SECTION:**

- 84.21 DISCRIMINATION PROHIBITED
- 84.22 EXISTING FACILITIES
- 84.23 NEW CONSTRUCTION
- 84.24 - 84.30 (RESERVED)

**SUBPART F - HEALTH, WELFARE, AND SOCIAL SERVICES**

**SECTION:**

- 84.51 APPLICATION OF THIS SUBPART
- 84.52 HEALTH, WELFARE, AND OTHER SOCIAL SERVICES
- 84.53 DRUG AND ALCOHOL ADDICTS
- 84.54 EDUCATION AND INSTITUTIONALIZED PERSONS
- 84.55 PROCEDURES RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS
- 84.56 – 84.60 (RESERVED)

## **ADDENDUM VII**

### **DRUG-FREE WORKPLACE POLICY**

Drug use and abuse at the workplace or while on duty are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. From a safety perspective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to property. Therefore, it is the policy of the state that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace. Any employee(s) violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for a conviction involving illicit drug use, regardless of whether the employee's conduct was detected within employment hours or whether his/her actions were connected in any way with his or her employment. The specifics of this policy are as follows:

1. Any unauthorized employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on duty, regardless of whether the employee is on or off the premises of the employer will be subject to discipline up to and including termination.
2. The term "controlled substance" means any drugs listed in 21 USC, Section 812 and other Federal regulations. Generally, all illegal drugs and substances are included, such as marijuana, heroin, morphine, cocaine, codeine or opium additives, LSD, DMT, STP, amphetamines, methamphetamines, and barbiturates.
3. Each employee is required by law to inform the agency within five (5) days after he/she is convicted for violation of any Federal or State criminal drug statute. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any Federal or State Court.
4. The employer (the hiring authority) will be responsible for reporting conviction(s) to the appropriate Federal granting source within ten (10) days after receiving notice from the employee or otherwise receives actual notice of such conviction(s). All conviction(s) must be reported in writing to the Office of Personnel Administration (OPA) within the same time frame.
5. If an employee is convicted of violating any criminal drug statute while on duty, he/ she will be subject to discipline up to and including termination. Conviction(s) while off duty may result in discipline or discharge.
6. The state encourages any employee with a drug abuse problem to seek assistance from the Rhode Island Employee Assistance Program (RIEAP). Your Personnel Officer has more information on RIEAP.
7. The law requires all employees to abide by this policy.

**ADDENDUM VIII  
DRUG-FREE WORKPLACE POLICY  
CONTRACTOR CERTIFICATE OF COMPLIANCE**

I, Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities, a contractor doing business with the state of Rhode Island, hereby acknowledge that I have received a copy of the state's policy regarding the maintenance of a **Drug-Free Workplace**. I have been informed that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance (to include but not limited to such drugs as marijuana, heroin, cocaine, PCP, and crack, and may also include legal drugs which may be prescribed by a licensed physician if they are abused), is prohibited on the State's premises or while conducting State business. I acknowledge that my employees must report for work in a fit condition to perform their duties.

As a condition for contracting with the state, as a result of the Federal Omnibus Drug Act, I will require my employees to abide by the state's policy. Further, I recognize that any violation of this policy may result in termination of the contract.

SIGNATURE:

Petrovic

TITLE:

Interim Director, Office of Sponsored Programs

DATE:

2/5/2019

**ADDENDUM IX**

**SUBCONTRACTOR COMPLIANCE**

I, Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities a contractor doing business with the state of Rhode Island, hereby certify that all approved subcontractors performing services pursuant to this agreement will have executed written contracts with Nadia Petrovic, Interim Director, Rhode Island College – Sherlock Center on Disabilities. All such contracts shall contain language identical to the following provisions of this agreement as follows:

**PAR. 12. CONTRACTOR'S LIABILITY/INDEMNIFICATION**

**PAR. 13. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

**PAR. 18. FEDERAL FUNDING PROVISIONS**

**SIGNATURE:**

N Petrovic

**TITLE:**

Interim Director, Office of Sponsored Programs

**DATE:**

9/5/2019



## ADDENDUM X

### CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part c - Environmental Tobacco Smoke (20 U.S.C.A. § 6081-6084), also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through state or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the BHDDH Director. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred.

By signing and submitting this application the applicant/contractor certifies that it will comply with the requirements of the Act. The applicant/contractor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-contractors shall certify accordingly.

**SIGNATURE:**

Sue Roalson

**TITLE:**

Provost & Vice President for Academic Affairs

**DATE:**

September 9/2019

## ADDENDUM XI

### INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

#### PRIMARY COVERED TRANSACTIONS

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the BHDDH's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the BHDDH determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the BHDDH. The BHDDH may terminate this transaction for cause or default.
3. The prospective primary participant shall provide immediate written notice to the BHDDH if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the definitions and coverage sections of the rules implementing Executive Order 12549.
5. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the BHDDH.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled certification regarding debarment, suspension, ineligibility and voluntary exclusion - lower tier covered transactions, provided by the BHDDH, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement list (of excluded parties).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by as prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the BHDDH may terminate this transaction for cause of default.

**ADDENDUM XII**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

The contractor, as the primary participant, certifies to the best of the contractor's knowledge and belief, that the contractor and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.

**SIGNATURE:**

*Eric Pearlman*

**TITLE:**

*Provost & Vice President for Academic Affairs, RIC*

**DATE:**

*9/19/2019*

## ADDENDUM XIII

### LIQUIDATED DAMAGES

The prospective primary participant contractor agrees that time is of the essence in the performance of certain designated portions of this contract. The BHDDH and the contractor agree that in the event of a failure to meet the milestones and project deliverable dates or any standard of performance within the time set forth in the BHDDH 's bid proposal and the contractor's proposal response (Addendum XVI), damage shall be sustained by the BHDDH and that it may be impractical and extremely difficult to ascertain and determine the actual damages which the BHDDH will sustain by reason of such failure. It is therefore agreed that BHDDH, at its sole option, may require the contractor to pay liquidated damages for such failures with the following provisions:

1. Where the failure is the sole and exclusive fault of the BHDDH, no liquidated damages shall be imposed. To the extent that each party is responsible for the failure, liquidated damages shall be reduced by the apportioned share of such responsibility.
2. For any failure by the contractor to meet any performance standard, milestone or project deliverable, the BHDDH may require the contractor to pay liquidated damages in the amount(s) and as set forth in the state's general conditions of purchase as described particularly in the LOI, RFP, RFQ, or scope of work, however, any liquidated damages assessed by the BHDDH shall not exceed **10%** of the total amount of any such month's invoice in which the liquidated damages are assessed and shall not in the aggregate, over the life of the agreement, exceed the total contract value.

Written notification of failure to meet a performance requirement shall be given by the BHDDH 's project officer to the contractor's project officer. The contractor shall have a reasonable period designated by the BHDDH from the date of receipt of written notification. If the failure is not materially resolved within this period, liquidated damages may be imposed retroactively to the date of expected delivery.

In the event that liquidated damages have been imposed and retained by the BHDDH, any such damages shall be refunded, provided that the entire system takeover has been accomplished and approved by the BHDDH according to the original schedule detailed in the contractor's proposal response included in this contract (Addendum XVI) as modified by mutually agreed upon change orders.

To the extent liquidated damages have been assessed, such damages shall be the sole monetary remedy available to the BHDDH for such failure. This does not preclude the state from taking other legal action.

## **ADDENDUM XIV**

### **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this agreement, the contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment relating to this agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated equally during employment, without regard to their race, color, religion, sex, age, national origin, or physical or mental disability.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

2. The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the contractor relating to this agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.
3. The Contractor shall inform the contracting BHDDH's equal employment opportunity coordinator of any discrimination complaints brought to an external regulatory body (RI Ethics Commission, RI Department of Administration, US DHHS Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
4. The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
5. Contractors and subcontractors with agreements in excess of \$50,000 shall also pursue in good faith affirmative action programs.
6. The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**ADDENDUM XV**

**BYRD ANTI-LOBBYING AMENDMENT**

No Federal or State appropriated funds shall be expended by the contractor for influencing or attempting to influence an officer or employee of any agency, a member of congress or State Legislature, an officer or employee of congress or state legislature, or an employee of a member of congress or state legislature in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this agreement fulfills the requirement that contractors receiving over \$100,000 in Federal or State funds file with the BHDDH on this provision.

If any Non-Federal or State Funds have been or will be paid to any person in connection with any of the covered actions in this provision, the Contractor shall complete and submit a "Disclosure of Lobbying Activities" form.

The Contractor must certify compliance with all terms of the Byrd Anti-Lobbying Amendment (31 U.S.C 1352) as published in the Federal Register May 27, 2003, Volume 68, Number 101.

The Contractor hereby certifies that it will comply with Byrd Anti-Lobbying Amendment provisions as defined in 45 CFR Part 93 and as amended from time to time.

**SIGNATURE:**

*Gu. Pearlman*

**TITLE:**

*Provost & Vice President for Academic Affairs*

**DATE:**

*9/9/2019*

**ADDENDUM XVI**

**BID PROPOSAL**



**ADDENDUM XVII**

**CORE STAFF POSITIONS**

**BHDDH's Project Officer: Anne LeClerc**

**BHDDH's Financial Officer: Jennifer White**

**Contractor's Project Officer: Lisa Smolski**

**Contractor's Financial Officer: Mary West**

## ADDENDUM XVIII

### FEDERAL SUBAWARD REPORTING FFATA FORM

See Attached RI Office of Management and Budget, Sub-Award Reporting Worksheet

#### **Directions:**

For contracts awarding more than \$25,000 in FEDERAL funds, include Transparency Act Questionnaire for agency to complete and return.

If award is not for Federal funds, or is for less than \$25,000, enter “Reserved” under the above heading, and no questionnaire should be provided.

#### **IMPORTANT ITEMS TO NOTE ABOUT NEW REQUIREMENT**

The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282, as amended by section 6202(a) of P.L. 110-252) requires the Office of Management and Budget (OMB) to maintain a single, searchable website that contains current information on all Federal spending awards. That site is at [www.USASpending.gov](http://www.USASpending.gov).

- Includes both mandatory and discretionary grants
- Do not include grants funded by the Recovery Act (ARRA)
- For more information about Federal Spending Transparency, refer to <http://www.whitehouse.gov/omb/open>
- If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award will be subject to the reporting requirements, as of the date the award exceeds \$25,000
- If the initial award equals or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency ACT and this Guidance

# Rhode Island Office of Management & Budget

## Sub-Award Reporting Worksheet

Please type or print clearly in black or blue ink, answer all questions, and sign and date the form.

Section 1: State Agency and Federal Award Information											
Agency Contact Name						Agency Contact Telephone					
Sub-Award Program Name						Agency Contact Email					
Sub-Award Program Description											
Federal Award Information											
Federal Program Name						Federal Awarding Agency					
Federal Award Number						Date of Federal Award					
Award Type						CFDA Number					
Prime Agency DUNS +4						Amount Obligated from this Award					
Is sub-award funded by more than one federal award?						<input type="checkbox"/> Yes *			<input type="checkbox"/> No		

If yes, use Attachment 1-A to provide information on additional federal awards funding this sub-award.

Section 2: Sub-Awardee Information													
Sub-Awardee DUNS+4						System for Award Management Registration Expiration Date (if applicable)							
Sub-Awardee Name (as registered in DUNS)													
Sub-Awardee Address (as registered in DUNS)						Sub-Award Principal Place of Performance (where work performed)							
Number and Street						Number and Street							
City						City							
State						State							
ZIP+4						ZIP+4							
Executive Compensation† (to be completed by sub-awardee)													
In preceding fiscal year, did federal funds from all sources make up more than 80% of agency budget? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.										<input type="checkbox"/> Yes		<input type="checkbox"/> No	
In preceding fiscal year, did your agency receive more than \$25 million in federal funds? If no, stop. Do not report executive compensation. Proceed to Sub-Awardee Certification.										Yes		No	
Is information about the compensation of the senior executives in the subrecipient's organization (including parent organization, all branches, and all affiliates worldwide) publicly available? If no, report executive compensation for five highest paid officials below.										<input type="checkbox"/> Yes		<input type="checkbox"/> No	
1. Official Name						Compensation Amount							
2. Official Name						Compensation Amount							
3. Official Name						Compensation Amount							
4. Official Name						Compensation Amount							
5. Official Name						Compensation Amount							

† See Federal Register Volume 75, No. 177, Appendix A, Paragraph E5 for guidance on reporting executive compensation.

Sub-Awardee Certification											
I certify, to the best of my knowledge and belief, that the information provided is complete and accurate, and that I am authorized to sign contracts and other legally binding documents on behalf of the entity. I understand that my typed name below shall have the same force and effect as my written signature.											
Signature						Title of Signatory				Date	

Section 3: Sub-Award Information (for state agency administrative purposes only)											
--	--	--	--	--	--	--	--	--	--	--	--

<b>Sub-Award Number</b>		<b>Sub-Award Date</b>		<b>FFATA Report Month</b>	
<b>Amendment 1 Obligation Amount</b>		<b>Amendment 1 Date</b>		<b>FFATA Report Month</b>	
<b>Amendment 2 Obligation Amount</b>		<b>Amendment 2 Date</b>		<b>FFATA Report Month</b>	

## ADDENDUM XIX

### BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Business Associate Agreement Addendum, RHODE ISLAND COLLEGE - SHERLOCK CENTER ON DISABILITIES, (hereinafter referred to as “Business Associate”), may use, access or disclose Protected Health Information to perform functions, activities or services for or on behalf of the **State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and Hospitals** (hereinafter referred to as the “Covered Entity”), as specified herein and the attached Agreement between the Business Associate and the Covered Entity (hereinafter referred to as “the Agreement”), which this addendum supplements and is made part of, provided such use, access, or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 USC 1320d et seq., and its implementing regulations including, but not limited to, 45 CFR, parts 160, 162 and 164, hereinafter referred to as the Privacy and Security Rules and patient confidentiality regulations, and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (HITECH Act) and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of business associates, Rhode Island Mental Health Law, R.I. General Laws Chapter 40.1-5-26, and Confidentiality of Health Care Communications and Information Act, R.I. General Laws Chapter 5-37.3-1 et seq. Business Associate recognizes and agrees it is obligated by law to meet the applicable provisions of the HITECH Act.

#### 1. Definitions

##### Generally:

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 160.103, 164.103, and 164.304, 164.501 and 164.502.

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA, the Privacy and Security Rules and the HITECH Act: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

##### Specific:

- A. “Addendum” means this Business Associate Agreement Addendum.
- B. “Agreement” means the contractual Agreement by and between the State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and Hospitals and Business Associate, awarded pursuant to State of Rhode Island’s Purchasing Law (Chapter 37-2 of the Rhode Island General Laws) and Rhode Island Department of Administration, Division of Purchases, Purchasing Rules, Regulations, and General Conditions of Purchasing.
- C. “Business Associate” generally has the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean RHODE ISLAND COLLEGE - SHERLOCK CENTER ON DISABILITIES.
- D. “Client/Patient” means Covered Entity funded person who is a recipient and/or the client or patient of the Business Associate.
- E. “Covered Entity” generally has the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the State of Rhode Island, Department of Behavioral Healthcare, Developmental Disabilities and

## Hospitals

- F. "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed or consulted by authorized health care clinicians and staff.
- G. "Electronic Protected Health Information" or "Electronic PHI" means PHI that is transmitted by or maintained in electronic media as defined in the HIPAA Security Regulations.
- H. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- I. "HIPAA Privacy Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the privacy of Protected Health Information including, the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- J. "HITECH Act" means the privacy, security and security Breach notification provisions applicable to Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act, which is Title XII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and any regulations promulgated thereunder and as amended from time to time.
- K. "Secured PHI" means PHI that was rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of technologies or methodologies specified under or pursuant to Section 13402 (h)(2) of the HITECH Act under ARRA.
- L. "Security Incident" means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information.
- M. "Security Rule" means the Standards for the security of Electronic Protected Health Information found at 45 CFR Parts 160 and 162, and Part 164, Subparts A and C. The application of Security provisions Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations shall apply to Business Associate of Covered Entity in the same manner that such sections apply to the Covered Entity.
- N. "Suspected breach" is a suspected acquisition, access, use or disclosure of protected health information ("PHI") in violation of HIPAA privacy rules, as referenced above, that compromises the security or privacy of PHI.
- O. "Unsecured PHI" means PHI that is not secured, as defined in this section, through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.

## **2. Obligations and Activities of Business Associate**

- A. Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by Law, provided such use or disclosure would also be permissible by law by Covered Entity.
- B. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. Business Associate agrees to implement Administrative Safeguards, Physical Safeguards and Technical Safeguards (“Safeguards”) that reasonably and appropriately protect the confidentiality, integrity and availability of PHI as required by the “Security Rule.”
- C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- D. Business Associate agrees to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware, within five (5) days of the incident.
- E. Business Associate agrees to ensure that any agent, including a subcontractor or vendor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information through a contractual arrangement that complies with 45 C.F.R. § 164.314.
- F. Business Associate agrees to provide paper or electronic access, at the request of Covered Entity and in the time and manner designated by Covered Entity, 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. If the Individual requests an electronic copy of the information, Business Associate must provide Covered Entity with the information requested in the electronic form and format requested by the Individual and/or Covered Entity if it is readily producible in such form and format; or, if not, in a readable electronic form and format as requested by Covered Entity.
- G. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity. If Business Associate receives a request for amendment to PHI directly from an Individual, Business Associate shall notify Covered Entity upon receipt of such request.
- H. Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from, created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for the purposes of the Secretary determining compliance with the Privacy Rule and Security 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 or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures for PHI in accordance with 45 §C.F.R. 164.528.
- K. If Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured Protected Health Information (as defined in

45 C.F.R. § 164.402) for Covered Entity, it shall, following the discovery of a breach of such information, notify Covered Entity of such breach within a period of five (5) days after discovery of the breach. Such notice shall include: a) the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired or disclosed during such breach; b) a brief description of what happened, including the date of the breach and discovery of the breach; c) a description of the type of Unsecured PHI that was involved in the breach; d) a description of the investigation into the breach, mitigation of harm to the individuals and protection against further breaches; e) the results of any and all investigation performed by Business Associate related to the breach; and f) contact information of the most knowledgeable individual for Covered Entity to contact relating to the breach and its investigation into the breach.

- L. To the extent the Business Associate is carrying out an obligation of the Covered Entity's under the Privacy Rule, the Business Associate must comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligation.
- M. Business Associate agrees that it will not receive remuneration directly or indirectly in exchange for PHI without authorization unless an exception under 45 C.F.R. § 164.502(a)(5)(ii)(B)(2) applies.
- N. Business Associate agrees that it will not receive remuneration for certain communications that fall within the exceptions to the definition of Marketing under 45 C.F.R. § 164.501, unless permitted by 45 C.F.R. § 164.508(a)(3)(A)-(B).
- O. If applicable, Business Associate agrees that it will not use or disclose genetic information for underwriting purposes, as that term is defined in 45 C.F.R. § 164.502.
- P. Business Associate hereby agrees to comply with state laws and rules and regulations applicable to PHI and personal information of individuals' information it receives from Covered Entity during the term of the Agreement.
  - i. Business Associate agrees to: (a) implement and maintain appropriate physical, technical and administrative security measures for the protection of personal information as required by any state law and rules and regulations; including, but not limited to: (i) encrypting all transmitted records and files containing personal information that will travel across public networks, and encryption of all data containing personal information to be transmitted wirelessly; (ii) prohibiting the transfer of personal information to any portable device unless such transfer has been approved in advance; and (iii) encrypting any personal information to be transferred to a portable device; and (b) implement and maintain a Written Information Security Program as required by any state law as applicable.
  - ii. The safeguards set forth in this Agreement shall apply equally to PHI, confidential and "personal information." Personal information means an individual's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided, however, that "personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.



### **3. Permitted Uses and Disclosures by Business Associate**

- A. Except as otherwise limited to this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Arrangement, 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 Covered Entity required by 45 C.F.R. §164.514(d).
- B. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- C. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- D. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. §164.504 (e)(2)(i)(B).
- E. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j)(1).

### **4. Obligations of Covered Entity**

- A. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, 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 an 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.

### **5. 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 Covered Entity, provided that, to the extent permitted by the Service Arrangement, Business Associate may use or disclose PHI for Business Associate's Data Aggregation activities or proper management and administrative activities.

### **6. Term and Termination**

- A. The term of this Agreement shall begin as of the effective date of the Service Arrangement 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 of this Section.

- B. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
- i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Service Arrangement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.
  - ii. Immediately terminate this Agreement and the Service arrangement if Business Associate has breached a material term of this Agreement and cure is not possible.
- C. Except as provided in paragraph (d) of this Section, upon any termination or expiration of this Agreement, 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. Business Associate shall ensure that its subcontractors or vendors return or destroy any of Covered Entity's PHI received from Business Associate.
- D. 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 Covered Entity's written agreement that return, or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## 7. Miscellaneous

- a) A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- b) The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the Privacy and Security Rules and HITECH.
- c) The respective rights and obligations of Business Associate under Section 6 (c) and (d) of this Agreement shall survive the termination of this Agreement.
- d) Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA and HITECH.
- e) Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- f) Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, Business Associate and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.
- g) Modification of the terms of this Agreement shall not be effective or binding upon the parties unless and until such modification is committed to writing and executed by the parties hereto.
- h) This Agreement shall be binding upon the parties hereto, and their respective legal representatives, trustees, receivers, successors and permitted assigns.
- i) Should any provision of this Agreement be found unenforceable, it shall be deemed severable and the balance of the Agreement shall continue in full force and effect as if the unenforceable provision had never been made a part hereof.
- j) This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Rhode Island, including all matters of construction, validity and performance.
- k) All notices and communications required or permitted to be given hereunder shall be sent by certified or regular mail, addressed to the other party as its respective address as shown on the

signature page, or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

- l) This Agreement, including such portions as are incorporated by reference herein, constitutes the entire agreement by, between and among the parties, and such parties acknowledge by their signature hereto that they do not rely upon any representations or undertakings by any person or party, past or future, not expressly set forth in writing herein.
- m) Business Associate shall maintain or cause to be maintained sufficient insurance coverage as shall be necessary to insure Business Associate and its employees, agents, representatives or subcontractors against any and all claims or claims for damages arising under this Business Associate Agreement and such insurance coverage shall apply to all services provided by Business Associate or its agents or subcontractors pursuant to this Business Associate Agreement. Business Associate shall indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs and other expenses (including but not limited to, reasonable attorneys' fees and costs, administrative penalties and fines, costs expended to notify individuals and/or to prevent or remedy possible identity theft, financial harm, reputational harm, or any other claims of harm related to a breach) incurred as a result of, or arising directly or indirectly out of or in connection with any acts or omissions of Business Associate, its employees, agents, representatives or subcontractors, under this Business Associate Agreement, including, but not limited to, negligent or intentional acts or omissions. This provision shall survive termination of this Agreement.

**8. Acknowledgment**

The undersigned affirms that he/she is a duly authorized representative of the Business Associate for which he/she is signing and has the authority to execute this Addendum on behalf of the Business Associate.

Acknowledged and agreed to by:

State of Rhode Island, Department of Behavioral  
Healthcare, Developmental Disabilities & Hospitals:

Rhode Island College  
Sherlock Center on Disabilities:

Director  
Title of Authorized Agent

Provost & Vice President for Academic Affairs  
Title of Authorized Agent

Rebecca Boss  
Printed Name of Authorized Agent

Sue Pearlmutter  
Printed Name of Authorized Agent

[Signature]  
Signature of Authorized Agent

Sue Pearlmutter  
Signature of Authorized Agent

10/2/19  
Date

9/11/2019  
Date