

CONTRACT DECLARATIONS AND EXECUTION

Intergovernmental Contract: State Agency

RFP #	Contract #
N/A	MED-12-006

Title of Contract
Iowa Department of Public Health Cooperative Agreement

This Contract must be signed by all parties before the Contractor provides any Deliverables. The Agency is not obligated to make payment for any Deliverables provided by or on behalf of the Contractor before the Contract is signed by all parties. This Contract is entered into by the following parties:

Agency of the State (hereafter "Agency")	
Name/Principal Address of Agency: Iowa Department of Human Services 1305 E. Walnut Des Moines, IA 50319	Agency Billing Contact Name / Address: Sally Nadolsky Iowa Medicaid Enterprise 100 Army Post Road Des Moines, IA 50315 Phone: (515) 256-4649
Agency Contract Manager (hereafter "Contract Manager") /Address ("Notice Address"): Sally Nadolsky Iowa Medicaid Enterprise 100 Army Post Road Des Moines, IA 50315	Agency Contract Owner (hereafter "Contract Owner") / Address: Jennifer H. Vermeer 100 Army Post Road Des Moines, IA 50315
E-Mail: snadols@dhs.state.ia.us	E-Mail: jvermee@dhs.state.ia.us
Phone: (515) 256-4649	
Fax #: (515) 256-4626	

Contractor: (hereafter "Contractor")	
Legal Name: Iowa Department of Public Health	Contractor's Principal Address: 321 E. 12th Street Des Moines, IA 50319
Contractor's Contract Manager Name/Address ("Notice Address"): Julie McMahan 321 E. 12th Street Des Moines, IA 50319	Contractor's Billing Contact Name/Address: Janet Beaman 321 E. 12th Street Des Moines, IA 50319
Phone: (515) 281-3104	Phone: (515) 281-3052
Fax #: (515) 242-6384	
E-Mail: julie.mcmahan@idph.iowa.gov	

Contract Information	
Start Date: 07/01/11	End Date of Contract: 06/30/17
Possible Extension(s): N/A	
Contractor a Business Associate? No	Contract Warranty Period (hereafter "Warranty Period"): The term of this Contract.
Contract Include Sharing SSA Data? No	Contract Payments include Federal Funds? No
Contractor subject to Iowa Code Chapter 8F? N/A	Contract Contingent on Approval of Another Agency: No
Contractor a Qualified Service Organization? No	

Contract Execution

This Contract consists of the above information, the attached General Terms for Services Contracts, Special Terms, and all Special Contract Attachments. In consideration of the mutual covenants in this Contract and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into this Contract and have caused their duly authorized representatives to execute this Contract.

Contractor, Iowa Department of Public Health	Agency, Iowa Department of Human Services
Signature of Authorized Representative:	Signature of Authorized Representative:
Printed Name: Julie McMahan	Printed Name: Charles M. Palmer
Title: Director, Division of Health Promotion and Chronic Disease Prevention	Title: Director
Date:	Date:

SECTION 1: SPECIAL TERMS

1.1 Special Terms Definitions.

N/A.

1.2 Contract Purpose.

The parties have entered into this Contract for the purpose of developing and sustaining a collaborative relationship to promote the availability of comprehensive, cost effective, and quality health services care for its mutual beneficiaries. The development of a strong working relationship at the state level will help to prevent duplication of services and will assist local human services offices and health agencies to develop cooperative relationships.

This agreement will establish an agreed upon set of objectives and provide a description of services provided by state and local agencies serving eligible beneficiaries of Iowa's Title V, Title X, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Title XIX, and Title XXI programs.

1.3 Scope of Work.

1.3.1 Deliverables, Performance Measure, and Monitoring Activities.

Deliverables

The Title V, Title X, WIC, Title XIX, and Title XXI programs have jointly committed major fiscal and personnel resources to improve the quality of health services provided statewide. There is significant conformity of program objectives, due to the similarity of eligibility criteria and emphasis on collaboration to develop a system that ensures comprehensive health services are available to program beneficiaries.

It is agreed by the parties that potential benefits from cooperation between Title V, Title X, WIC, Title XIX, and Title XXI programs include promoting continuity of care, sharing scarce expertise, reducing duplication of effort, reducing fragmentation of service delivery, efficiently allocating resources, and achieving greater accountability. Inherent in these benefits to the parties and the system are enhanced and expanded health services to mutual beneficiaries and the improvement of the health of the citizens of Iowa.

The parties further agree that the following responsibilities shall persist:

1. The Agency is responsible for the conduct of the Title XIX Program as mandated by the appropriate federal regulations and state statutes and as described in the Title XIX state plan and related documents. (42 CFR 431.615; 42 CFR 441.61)
2. The Contractor is responsible for the conduct of the Maternal and Child Health programs as mandated by appropriate federal regulations and state statutes and as described in the appropriate section of the Title V state plan. (42 U.S.C. 701 – 710; Sec. 501 – 510 of Title V of the Social Security Act)
3. The Contractor is responsible for the conduct of the Family Planning program in 45 of Iowa's 99 counties as mandated by federal regulations and state statutes and as described in the appropriate section of the Title X state plan. (Public Law 91-572 Title X of the Public Health Service Act)
4. The Contractor is responsible for the conduct of the WIC program as mandated by appropriate federal regulations and state statutes and as described in the appropriate section of the WIC state plan. (7 CFR Part 246)
5. The Agency, under the direction of the *hawk-i* Board, is responsible for the conduct of the Title XXI program as mandated by the appropriate federal regulations and state statutes and as described in the Title XXI plan and related documents.

It is further agreed by the parties that each shares responsibility in the attainment of the following mutual objectives:

1. To increase the utilization of Title XIX, Title X, WIC, Title V, and Title XXI programs by mutual efforts of both state agencies.

The Agency shall:

- Inform Agency applicants who are women of child-bearing age and families of children ages 0-21 of the Title V Programs in their community.
- Inform Agency applicants who are pregnant women and breastfeeding or postpartum women with children below the age of five of the availability of WIC services.
- Furnish financial support for transportation to health services for Title XIX clients served by Screening Centers and Maternal Health Centers according to the Iowa Administrative Code 441-78.18 and 441-78.25.
- Furnish financial support for interpretation services for Title XIX clients served by Screening Centers and Maternal Health Centers.
- Collaborate with the Contractor in administration and development of all Agency administered programs related to the delivery of Family Planning services, including but not limited to Adolescent Pregnancy Prevention, IFPN - Medicaid Waiver, and reimbursement methodologies for Title X agencies. Collaboration shall include but is not limited to concerns related to eligibility and purchase of service agreements.
- Administer the Title XXI program in accordance with federal and state law and regulations.

The Contractor shall:

- Participate in presumptive eligibility and refer all clients potentially in need of social services to local Agency offices and other appropriate community-based services for assistance.
- Provide potentially eligible clients with applications and brochures for Title XIX enrollment, as appropriate.
- Furnish local Agency offices with brochures and other information explaining eligibility for local Title V and WIC services upon request.
- Furnish written information that the Medicaid Program can send to recipients concerning the availability of family and child health services.

2. To maximize resources and expertise of the Agency and the Contractor to increase the quality and continuity of care for eligible clients.

The Agency shall:

- Furnish the Contractor with Title XIX current provider manuals.
- Issue Title XIX vendor numbers to maternal health centers, child health centers, and lead investigation agencies that meet family and child health standards in accordance with the Iowa Administrative Code. A vendor number will be issued to the Contractor to access the ELVS system.
- Provide annual Medicaid provider training and technical assistance as needed and upon request to the Contractor's Bureau of Family Health staff regarding federal laws and regulations governing Medicaid coverage and eligibility.
- Coordinate and collaborate with Contractor staff responsible for administering services to women and children. This includes but is not limited to planning, financing, implementing, and evaluating Medicaid services utilized by this population.

The Contractor shall:

- Access current Title XIX provider manuals.
 - Develop standards and implement a credentialing process for Title V maternal health centers, child health centers, and lead investigation agencies to assure consistency and quality care throughout Iowa.
 - Provide training and technical assistance to Agency staff on federal laws and regulations governing the Contractor's programs.
 - Coordinate and collaborate with Agency staff responsible for health services for women and children. This includes but is not limited to planning, financing, implementing, and evaluating Medicaid services utilized by this population.
3. To promote cooperation and collaboration at the state level.
 - Policy decisions necessary for the implementation of this agreement shall be developed through a collaborative relationship between the parties to this agreement. The appropriate division directors must approve policy decisions in writing.
 - The Agency and the Contractor shall provide reciprocal notification to the partner agency regarding any and all Administrative Rule changes expected to affect state and/or local agency operations and/or populations to be served.
 4. To provide early identification of children under age 21 in need of medical or remedial services. The parties to this agreement assure that their staff or contract agencies will inform and refer Medicaid eligible persons under 21 for screening, diagnosis, and treatment services.
 5. To make reciprocal referrals. Each party to this agreement will specify the referral mechanisms utilized to refer to each of the parties respective programs.

Performance Measure:

Both parties shall convene at least once per quarter to facilitate communication, including discussion of relevant issues and program changes.

Monitoring Activities:

Ongoing communication between state level staff responsible for planning, financing, implementing and evaluating health care services will occur so that a coordinated system can be assured. At a minimum, communication between state agencies will be reviewed annually.

1.3.2 The Contractor shall provide the following through its Division of Health Promotion and Chronic Disease Prevention:

Family Health

Child Health Services – located throughout the state to provide access to comprehensive health assessments for children ages 0 through 21. Care coordination services link clients to community providers of medical and dental services, provide health information, and assist with referrals. Child Health Centers strive to assure medical and dental homes for comprehensive well child exams, diagnosis, and treatment. Gap filling direct care services may include immunizations, developmental surveillance and screening, vision and hearing screening, dental assessment, social assessment, laboratory testing, and health education. Child Health Centers facilitate access to health care services by arranging for interpretation and transportation services.

Other services include service coordination under Early ACCESS for children with high lead levels, outreach for enrollment in *hawk-i* and Medicaid, and promotion of health and safety in child care settings.

Maternal Health Services - located throughout the state to provide prenatal and postpartum care to Medicaid eligible and other low income Iowa women. Services include presumptive eligibility, risk assessment, care coordination, health and nutrition education, psychosocial counseling, and postpartum home visiting. Maternal health centers facilitate access to health care services by arranging for interpretation and transportation services. They also facilitate client arrangements for delivery.

Maternal, Infant, and Early Childhood (MIEC) Home Visiting Program – designed to strengthen and improve evidence-based home visiting programs and activities carried out at the community level. This home visiting program will improve coordination of services for at-risk communities and identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities.

Iowa Barriers to Prenatal Care Project - designed to identify problems women experience in accessing prenatal or delivery care. This survey project is a cooperative venture of all Iowa maternity hospitals, the Statewide Perinatal Care Program, the University of Northern Iowa, and the Iowa Department of Public Health.

Family Planning

Family Planning Services - for women and men who are concerned about unplanned pregnancies, the number and spacing of their children, birth control methods, and reproductive health. Family planning clinics offer birth control exams and supplies, health education and information, STD testing and treatment, and community education. Clients are able to apply for and receive confirmation of enrollment into the Iowa Family Planning Network (Iowa's Medicaid 1115 Waiver) onsite in all Title X agencies.

Oral and Health Delivery Systems

Oral Health – provides consultation and technical assistance to maternal and child health programs to assure oral health services for low-income children and pregnant women. Dental public health programs are implemented to help at-risk children receive early and regular care, including the I-Smile™ dental home initiative, the school-based dental sealant program, and the school dental screening requirement.

Congenital and Inherited Disorders

Regional Genetic Consultation Services - comprehensive genetic health care services including case finding, diagnostic evaluations and confirmatory testing, medical management, education and supportive counseling, case management, and follow-up. The service is a joint program of the Iowa Department of Public Health and the University of Iowa Hospitals and Clinics.

Nutrition and Health Promotion

WIC Services – located throughout the state to serve pregnant, postpartum, and breastfeeding women, infants and children up to 5 years of age who are less than 185% of federal poverty guidelines and who are determined to be at nutritional risk. They receive supplemental foods, nutrition education, breastfeeding promotion and support, and referrals for ongoing health care and other community-based services.

Local Public Health Services

Public Health Nursing and Home Care Aides - statewide technical assistance and consultation is provided to local health departments and private, non-profit community based agencies that receive funding for gap-filling services such as care to families with disease and disability problems, health promotion services, immunizations, home care aide services, and a variety of support services at the local level.

1.3.3 Agency Responsibilities: The Agency is responsible to provide payment for the following services under Title XIX consistent with existing law:

Physician - includes medical and surgical services performed in the office, clinic, hospital, home, or other location, including diagnostic tests, X-rays, and procedures that are part of medical diagnosis and treatment.

Dentist - includes cleaning the teeth, fillings, extraction, dental surgery, and dental disease control.

Prescription drugs - covers insulin, birth control drugs and supplies, and drugs that by law can only be sold by a pharmacy on a physician's prescription. Also covered are medical and sickroom supplies.

Chiropractors - covers services of a chiropractor received in the office, clinic, home or other location. Covers manual manipulation of the spine for treatment of a subluxation only.

Rural Health Clinics - covered services includes physician services, nurse practitioner and physician's assistant services, visiting nurse services and other ambulatory services.

Federally Qualified Health Centers - covered services include physician services, nurse practitioner and physician's assistant services, dental, visiting nurse services, and other ambulatory services.

Optometrists/Opticians - covered services include the eye examination to determine the need for glasses, purchase of glasses, necessary repairs to glasses and visual aids for subnormal vision and other medically necessary special optical appliances.

Ambulance - covered services conditionally.

Medical Transportation - covered service to receive necessary medical care. Coverage is pursuant to a brokerage with a toll free line. Local transportation for necessary medical care is a covered service for Screening Centers and Maternal Health Centers.

Ambulatory Surgical Centers - covered services are those furnished in connection with a medically necessary surgical procedure.

Podiatrists - covered services primarily include surgery of the foot and certain prosthetic appliances for the foot.

Orthopedic Shoes - covered service if prescribed in writing by a doctor of medicine, osteopathy, or podiatry.

Occupational Therapy and Speech Therapy - covered services if provided by a therapist employed by a hospital, home health agency, nursing home, or physician and prescribed by a physician. Occupational therapy services by an independent practitioner are also covered.

Physical Therapy - covers physical therapy services provided by a therapist employed by a hospital, home health or rehabilitation agency, nursing home or physician when prescribed by a physician. Physical therapy services by an independent practitioner are also covered.

Hearing Aids - covered services include examination to establish the need for a hearing aid, hearing aids, and necessary batteries, supplies and repairs.

Home Health Agencies - covered services include part-time skilled nursing care, physical therapy, speech therapy, occupational therapy, part-time services of home health aides, medical social services and medical supplies and equipment provided by the home health agency. Private duty nursing and personal care services are covered for EPSDT eligibles.

Medical Equipment - covered services include items of equipment that are primarily medical in nature.

Family Planning Clinics - covered services include counseling, medical examination, laboratory tests, drugs and supplies.

Maternal Health Centers - covered services include prenatal and postpartum medical care and enhanced services including health education, nutritional counseling, care coordination, social work services, and a postpartum home visit.

Psychologists - covered services include services of a qualified psychologist in private practice or services by an employee of a hospital, community mental health center, or physician.

Behavioral Health – services of a licensed masters social worker, licensed independent social worker, or a licensed marital and family therapist, licensed mental health counselors, and certified alcohol and drug counselors .

Community Mental Health Centers - services include services of a psychiatrist, psychologist, social worker, or psychiatric nurse.

Independent Laboratories - covered services include diagnostic tests provided by independent laboratories certified for the tests.

Early and Periodic Screening, Diagnosis and Treatment - covered services include a comprehensive health, vision, hearing, and dental screening for individuals under age 21 and all medically necessary treatment identified by the practitioner.

Birth Centers - covered services include prenatal postpartum medical care and delivery.

Nurse Midwives - covered services include prenatal and postpartum medical care, delivery, and gynecological services.

Family and Pediatric Nurse Practitioner - services include routine physical examinations, and other services within their scope of practice.

Area Education Agencies - covered services include psychologist, physical therapy, occupational therapy, speech-language therapy, nursing, social work, vision, and audiology services.

Infant and Toddler Program - covered services include audiology, developmental, health and nursing, medical transportation, nutrition counseling, occupational therapy, physical therapy, psychologist, speech-language therapy, social work, service coordination, and vision services.

Local Education Agencies - covered services include audiology, behavior, consultation, medical transportation and escort, nursing, nutrition counseling, occupational therapy, personal health, physical therapy, psychologist, social work and counseling, speech-language therapy, vision, and primary and preventive care services.

Behavioral Health Intervention Services –Skill building services that assist a member to manage their mental health symptoms and behaviors.

Habilitation Services – covers services for assistance that the member has a need for on a continuing basis. Services include home based habilitation, day habilitation, prevocational habilitation, supported employment, and case management.

Lead Investigation Services - inspections to determine sources of lead exposure for an elevated blood lead (EBL) child, preventive education, health education, and report.

Hospitals - covers both inpatient and outpatient care.

Nursing Facilities - covered services include 24 hours supervision of licensed nursing personnel if certified by a physician for this level of care.

Home and Community Based Services - covered services include personal emergency response, home and vehicle modification, chore, respite, home health aide, personal care, nursing, supported community living, case management, adult day care, interim medical monitoring and treatment, and consumer-directed attendant care services.

1.3.4 Eligible Populations

The programs conducted by the parties to this agreement have overlapping populations and distinct target groups for specific services within eligible populations. The following descriptions define populations that may be impacted by this agreement.

The Contractor's Division of Health Promotion and Chronic Disease Prevention: The eligible population for services for women, children, and families under the terms of this agreement includes women of childbearing age and children through age twenty-one (21). Particular emphasis is placed on providing services to low-income families.

The Agency's Title XIX Program: With few exceptions, Medicaid is available to the following individuals:

- a) Current recipients of FIP benefits
- b) Current recipients of SSI benefits
- c) Current recipients of State Supplement benefits
- d) Foster care recipients

The Agency's Title XXI Program: Healthy and Well Kids in Iowa (*hawk-i*) is available to uninsured children in families whose income is under 300% of poverty.

1.3.5 Monitoring, Review, and Problem Reporting.

1.3.5.1 Agency Monitoring Clause. The Contract Manager or designee will:

- Determine compliance with general contract terms, conditions, and requirements; and
- Assess compliance with deliverables, performance measures, or other associated requirements in accordance with the monitoring activities set forth in the Deliverables, Performance Measures, and Monitoring Activities Sections.

1.3.5.2 Agency Review Clause. The Contract Manager or designee will use the results of monitoring activities and other relevant data to assess the Contractor's overall performance and compliance with the Contract. At minimum, the Agency will conduct an annual review; however, reviews may occur more frequently at the Agency's discretion. As part of the review(s), the Agency may require the Contractor to provide additional data, may perform on-site reviews, and may consider information from other sources.

The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Agency's contract monitoring activities.

1.3.5.3 Problem Reporting. As stipulated by the Agency, the Contractor and/or Agency shall provide a report listing any problem or concern encountered. Records of such reports and other related communications issued in writing during the course of Contract performance shall be maintained by the parties. At the next scheduled meeting after a problem has been identified in writing, the party responsible for resolving the problem shall provide a report setting forth activities taken or to be taken to resolve the problem together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. The Contract Owner has final authority to approve problem-resolution activities.

The Agency's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy. The Agency's inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Contract.

1.3.5.4 Addressing Deficiencies. To the extent that Deficiencies are identified in the Contractor's performance and notwithstanding other remedies available under this Contract, the Agency may require the Contractor to develop and comply with a plan acceptable to the Agency to resolve the Deficiencies.

1.3.6 Contract Payment Clause.

1.3.6.1 Pricing. In accordance with the payment terms outlined in this section and Contractor's completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated as follows:

There are no reimbursement provisions in this contract.

1.3.6.2 Reserved.

SECTION 2. GENERAL TERMS FOR SERVICES CONTRACTS

2.1 Definitions. Definitions in this section correspond with capitalized terms in the Contract.

“Acceptance” means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

“Acceptance Criteria” means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

“Acceptance Tests” or “Acceptance Testing” mean the tests, reviews, and other activities that are performed by or on behalf of the Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

“Bid Proposal” or “Proposal” means the Contractor’s proposal submitted in response to the Solicitation, if this Contract arises out of a competitive process.

“Business Days” means any day other than a Saturday, Sunday, or State holiday as specified by Iowa Code §1C.2.

“Contract” means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified in the Contract Declarations and Execution Section and includes the signed Contract Declarations and Execution Section, the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments.

“Declarations and Execution Section” means the document that contains basic information about the Contract and incorporates by reference the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments.

“Deficiency” means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable,

including, without limitation, any failure of a Deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

“Deliverables” means all of the services, goods, products, work, work product, data, items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of Contractor) in connection with this Contract. This includes data that is collected on behalf of the Agency.

“Documentation” means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

“Force Majeure” means an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. Force Majeure does not include: financial difficulties, strikes, labor unrest, or supply chain disruptions.

“Invoice” means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form accepted by the Agency, such as a General Accounting Expenditure (GAX) form.

“Solicitation” means the formal or informal procurement (and any Addenda thereto) identified in the Contracts Declarations and Execution Section that was issued to solicit the Bid Proposal leading to this Contract.

“Special Contract Attachments” means any attachment to this Contract indicated in the Contract Declarations and Execution Section.

“Special Terms” means the Section of the Contract entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work and contract payment terms. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

“Specifications” means all specifications, requirements, technical standards, performance standards, representations, and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the Solicitation, and the Bid Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards, or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

“State” means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

2.2 Duration of Contract. The term of the Contract shall begin and end on the dates specified in the Contract Declarations and Execution Section, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, exercise any applicable extension by giving the Contractor a written extension at least sixty (60) days prior to the expiration of the initial term or renewal term.

2.3 Scope of Work. The Contractor shall provide Deliverables that comply with and conform to the Specifications.

2.4 Compensation.

2.4.1 Withholding Payments. In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to the Contractor, in whole or in part, without penalty to the Agency or work stoppage by the Contractor, in the event the Agency determines that: (1) the Contractor has failed to perform any of its duties or obligations as set forth in this Contract; or (2) any

Deliverable has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency. No interest shall accrue or be paid to the Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

2.4.2 Erroneous Payments and Credits. The Contractor shall promptly repay or refund the full amount of any overpayment or erroneous payment within thirty (30) Business Days after either discovery by the Contractor or notification by the Agency of the overpayment or erroneous payment.

2.4.3 Offset Against Sums Owed by the Contractor. In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.

2.5 Termination.

2.5.1 Termination for Cause by the Agency. The Agency may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency’s notice of breach or any subsequent notice or correspondence delivered by the Agency to the Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

2.5.1.1 The Contractor furnished any statement, representation, warranty or certification in connection with this Contract, the Solicitation or the Bid Proposal that is false, deceptive, or materially incorrect or incomplete;

2.5.1.2 The Contractor or any of the Contractor’s officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

2.5.1.3 Reserved;

2.5.1.4 Reserved;

2.5.1.5 Reserved;

2.5.1.6 The Contractor has failed to comply with any applicable international, federal, state or local laws, rules, ordinances, regulations, or orders when performing within the scope of this Contract;

2.5.1.7 The Agency determines or believes the Contractor has engaged in conduct that: (1) has or may expose the Agency or the State to material liability; or (2) has caused or may cause a person's life, health, or safety to be jeopardized;

2.5.1.8 The Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress, or any other intellectual property right or proprietary right, or the Contractor misappropriates or allegedly misappropriates a trade secret;

2.5.1.9 The Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

2.5.1.10 Reserved.

2.5.2 Termination Upon Notice. Following a thirty (30) day written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to the Contractor. Termination can be for any reason or no reason at all.

2.5.3 Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

2.5.3.1 The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

2.5.3.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

2.5.3.3 If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

2.5.3.4 If the Agency's duties, programs or responsibilities are modified or materially altered; or

2.5.3.5 If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract.

The Agency shall provide the Contractor with written notice of termination pursuant to this section.

2.5.4 Other remedies. The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

2.5.5 Limitation of the State's Payment Obligations. In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 2.5.1, *Termination for Cause by the Agency*) the Agency shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 2.5.3, *Termination Due to Lack of Funds or Change in Law*, the Agency's obligation to pay the Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of Invoices and proper proof of the Contractor's claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of the Contractor's breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

2.5.5.1 The payment of unemployment compensation to the Contractor's employees;

2.5.5.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

2.5.5.3 Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract;

2.5.5.4 Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments, or commitments made in connection with this Contract; or

2.5.5.5 Any taxes the Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

2.5.6 Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the Agency, the Contractor shall:

2.5.6.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Contract and such other matters as the Agency may require.

2.5.6.2 Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to the Contractor.

2.5.6.3 Cooperate in good faith with the Agency and its employees, agents, and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.

2.5.6.4 Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by the Contractor.

2.5.6.5 Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time.

2.5.7 Termination for Cause by the Contractor. The Contractor may only terminate this Contract for the breach by the Agency of any material term of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of the Contractor's written notice of breach.

2.6 Confidential Information.

2.6.1 Confidential Information and Data. Any and all of the following information or data is confidential ("Confidential Information"):

2.6.1.1 Personally identifiable information about recipients or applicants of Agency services and recipients of Contract services;

2.6.1.2 Agency security protocols or procedures;

2.6.1.3 Agency system architecture;

2.6.1.4 Information that could compromise the security of the Agency network or systems;

2.6.1.5 Information about the Agency's current or future competitive procurements, including the evaluation process, until formal announcement of results; and

2.6.1.6 Information deemed confidential pursuant to Iowa Code § 22.7.

2.6.2 Access to Confidential Information. The Contractor's employees, agents, and subcontractors may have access to Confidential Information to the extent necessary to carry out responsibilities under the Contract. Access shall be in accordance with the Agency's policies and procedures.

2.6.3 No Dissemination or Disclosure of Confidential Information. No Confidential Information collected, maintained, or used in the course of performance of the Contract shall be disseminated by the Contractor except as expressly authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. The Contractor shall immediately report to the Agency any unauthorized disclosure of Confidential Information. The Contractor may be held civilly or criminally liable for improper disclosure of Confidential Information.

2.6.4 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing Confidential Information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the Confidential Information.

2.6.5 Survives Termination. The Contractor's obligations under this section shall survive termination or expiration of this Contract.

2.7 Reserved.

2.8 Reserved.

2.9 Change Order Procedure. The Agency may at any time request a modification to the Scope of Work using a change order. The following procedures for a change order shall be followed:

2.9.1 Written Request. The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.

2.9.2 The Contractor's Response. The Contractor shall submit to the Agency a firm cost proposal for the requested change order within five (5) Business Days of receiving the change order request.

2.9.3 Acceptance of the Contractor Estimate. If the Agency accepts the cost proposal presented by the Contractor, the Contractor shall provide the modified Deliverable subject to the cost proposal included in the Contractor response. The Contractor's provision of the modified Deliverables shall be governed by the terms and conditions of this Contract.

2.9.4 Adjustment to Compensation. The parties acknowledge that a change order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract.

2.10 Intellectual Property. N/A

2.10.1 Ownership and Assignment of Other Deliverables. N/A

2.10.2 Waiver. N/A

2.10.3 Further Assurances. N/A

2.10.4 Publications. N/A

2.10.5 Rights in Data. N/A

2.11 Warranties. N/A

2.11.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law. N/A

2.11.2 Contractor represents and warrants that: N/A

2.11.2.1 N/A

2.11.2.2 N/A

2.11.2.3 N/A

2.11.3 The Contractor represents and warrants that: N/A

2.11.3.1 N/A

2.11.3.2 N/A

2.11.4 The Contractor represents and warrants that the Deliverables shall: N/A

2.11.4.1 N/A

2.11.4.2 N/A

2.11.5 N/A

2.11.6 N/A

2.11.7 Obligations Owed to Third Parties. N/A

2.12 Acceptance of Deliverables. N/A

2.12.1. Acceptance of Written Deliverables. N/A

2.12.2. Reserved. N/A

2.12.3 Notice of Acceptance and Future Deficiencies. N/A

2.13 Contract Administration.

2.13.1 Independent Contractor. The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

2.13.2 Incorporation of Documents. To the extent this Contract arises out of a Solicitation, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the Solicitation and the Bid Proposal. The Solicitation and the Bid Proposal are incorporated into the Contract by reference. If the Contractor proposed exceptions or modifications to the Sample Contract attached to the Solicitation or to the Solicitation itself, these proposed exceptions or modifications shall not be incorporated into this Contract unless expressly set forth herein. If there is a conflict between the Contract, the Solicitation, and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the Solicitation; (3) the Bid Proposal.

2.13.3 Intent of References to Bid Documents. To the extent this Contract arises out of a Solicitation, the references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the Solicitation and the Bid Proposal. The failure of the parties to make reference to the terms of the Solicitation or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the Solicitation and the Contractor's Bid Proposal. Terms offered in the Bid Proposal, which exceed the requirements of the Solicitation, shall not be construed as creating an inconsistency or conflict with the Solicitation or the Contract. The contractual obligations of the Agency are expressly stated in this document. The Bid

Proposal does not create any express or implied obligations of the Agency.

2.13.4 Compliance with the Law. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when providing Deliverables pursuant to this Contract, including without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services. For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors or suppliers. The Contractor may be required to provide a copy of its affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients. Failure to comply with this provision may cause this contract to be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for future state contracts or be subject to other sanctions as provided by law or rule. The Contractor, its employees, agents, and subcontractors shall also comply with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. The Contractor may be required to submit its affirmative action plan to the Iowa Department of Management to comply with the requirements of 541 Iowa Administrative Code chapter 4. If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, the Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars, and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

2.13.5 Procurement. The Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

2.13.6 Non-Exclusive Rights. This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the term of this Contract.

2.13.7 Amendments. This Contract may be amended by mutual written consent of the parties. Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this Contract.

2.13.8 No Third Party Beneficiaries. There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

2.13.9 Use of Third Parties. The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations, and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

2.13.10 Choice of Law and Forum. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law.

2.13.11 Assignment and Delegation. The Contractor may not assign, transfer, or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

2.13.12 Integration. This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

2.13.13 No Drafter. No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

2.13.14 Headings or Captions. The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

2.13.15 Not a Joint Venture. Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

2.13.16 Joint and Several Liability. If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, for any default of activities and obligations, and for any fiscal liabilities.

2.13.17 Supersedes Former Contracts or Agreements. This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

2.13.18 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

2.13.19 Notice. Any notices required by the Contract shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party's Contract Manager as set forth in the Contract Declarations and Execution Section. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party. Each such notice shall be deemed to have been provided:

- At the time it is actually received in the case of hand delivery;
- Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
- Within five (5) days after it is deposited in the U.S. Mail.

2.13.20 Cumulative Rights. The various rights, powers, options, elections, and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

2.13.21 Severability. If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

2.13.22 Time is of the Essence. Time is of the essence with respect to the Contractor's performance of the terms of this Contract. The Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency's requirements and requests in all respects.

2.13.23 Authorization. The Contractor represents and warrants that:

2.13.23.1 It has the right, power, and authority to enter into and perform its obligations under this Contract.

2.13.23.2 It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Contract, and this Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.

2.13.24 Successors in Interest. All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

2.13.25 Records Retention and Access.

2.13.25.1 Financial Records. The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Contract and for a period of at least seven (7) years following the date of final payment or

completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the Contractor relating to orders, Invoices or payments, or any other Documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the Agency reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with OMB Circular A-87, A-110, or other similar provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

2.13.25.1.1 Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third-party in-kind (property or service) contributions, these funds must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

2.13.25.1.2 The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

2.13.25.1.3 The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any

adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

2.13.25.1.4 The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.

2.13.25.2 The Contractor shall retain all non-medical and medical client records for a period of seven (7) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9).

2.13.25.3 Destruction of Confidential Information.

At the conclusion of this Contract, the Agency may require the Contractor to return Confidential Information. If not required to return such information, and in accordance with any retention requirements in this Records Retention and Access Section or any applicable provision of law or regulation, the Contractor will destroy all Confidential Information in such a manner as to render the information incapable of being reconstructed or recovered. If return or destruction is not feasible, the Contractor will provide the Agency with the reason(s) in writing that make the return or destruction of such Confidential Information infeasible.

If the Agency provides written permission for the Contractor to retain the Confidential Information, the Contractor will extend the protections of this Contract to the Confidential Information and limit any further uses or disclosures.

2.13.26 Audits. Local governments and non-profit subrecipient entities that expend \$500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local Governments, and Non-Profit Organizations." A copy of the final audit report shall be submitted to the Agency if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to the Agency that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the

summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships. The Contractor shall provide the Agency with a copy of any written audit findings or reports, whether in draft or final form, within two (2) Business Days following receipt by the Contractor. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

2.13.27 Reimbursement of Audit Costs. If the Auditor of the State of Iowa notifies the Agency of an issue or finding involving the Contractor's noncompliance with laws, rules, regulations, and/or contractual agreements governing the funds distributed under this Contract, the Contractor shall bear the cost of the Auditor's review and any subsequent assistance provided by the Auditor to determine compliance. The Contractor shall reimburse the Agency for any costs the Agency pays to the Auditor for such review or audit.

2.13.28 Staff Qualifications and Background Checks. The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified, or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified, or accredited under state law or the Iowa Administrative Code.

The Agency reserves the right to conduct and/or request the disclosure of criminal history and other background investigation of the Contractor, its officers, directors, shareholders, and the Contractor's staff, agents, or subcontractors retained by the Contractor for the performance of Contract services.

2.13.29 Solicitation. The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

2.13.30 Obligations Beyond Contract Term. This Contract shall remain in full force and effect to the end of the specified term or until terminated pursuant to this Contract. All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination

will survive the termination or expiration of this Contract.

2.13.31 Counterparts. The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

2.13.32 Delays or Potential Delays of Performance. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this Contract, including but not limited to potential labor disputes, the Contractor shall immediately give notice thereof in writing to the Agency with all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Agency or the State of any rights or remedies to which either is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Furthermore, the Contractor will not be excused from failure to perform that is due to a Force Majeure unless and until the Contractor provides notice pursuant to this provision.

2.13.33 Delays or Impossibility of Performance Based on a Force Majeure. Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. The party seeking to exercise this provision shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

2.13.34 Reserved.

2.13.35 Repayment Obligation. In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the

Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

2.13.36 Reporting Requirements. If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

2.13.37 Immunity from Liability. Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from the Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

2.13.38 Public Records. The laws of the State require procurement records to be made public unless otherwise provided by law.

2.13.39 Reserved.

2.13.40 Taxes. The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on the Contractor's employees' wages. The State is exempt from State and local sales and use taxes on the Deliverables.

2.13.41 No Minimums Guaranteed. The Contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

2.14 Contract Certifications. The Contractor will fully comply with obligations herein. If any conditions within these certifications change, the Contractor will provide written notice to the Agency within twenty-four (24) hours from the date of discovery.

2.14.1 Certification of Compliance with Pro-Children Act of 1994. The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted 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 Deliverables are funded by federal programs either directly or through State or

local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where Women, Infants, and Children (WIC) coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1000 per day.

2.14.2 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

By signing this Contract, the Contractor is providing the certification set out below:

2.14.2.1 The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2.14.2.2 The Contractor shall provide immediate written notice to the Agency if at any time the Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

2.14.2.3 The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contact the Agency for assistance in obtaining a copy of those regulations.

2.14.2.4 The Contractor agrees by signing this Contract 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Agency or agency with which this transaction originated.

2.14.2.5 The Contractor further agrees by signing this Contract that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

2.14.2.6 A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, 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. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

2.14.2.7 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 a prudent person in the ordinary course of business dealings.

2.14.2.8 Except for transactions authorized under Section 2.14.2.4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2.14.2.9 The Contractor certifies, by signing this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

;Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

2.14.3 Certification Regarding Lobbying. The Contractor certifies, to the best of his or her knowledge and belief, that:

2.14.3.1 No federal appropriated funds have been paid or will be paid on behalf of the sub-grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan, or cooperative agreement.

2.14.3.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, or an employee of a Member of Congress in connection with this Contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

2.14.3.3 The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C.A. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2.14.4 Certification Regarding Drug Free Workplace

2.14.4.1 Requirements for Contractors. Who are Not Individuals. If the Contractor is not an individual, the Contractor agrees to provide a drug-free workplace by:

2.14.4.1.1 Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

2.14.4.1.2 Establishing a drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;
- The Contractor's policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violations;

2.14.4.1.3 Making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by Subsection 2.14.4.1.1;

2.14.4.1.4 Notifying the employee in the statement required by Subsection 2.14.4.1.1 that as a condition of employment on such contract, the employee will:

- Abide by the terms of the statement; and
- Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

2.14.4.1.5 Notifying the contracting agency within ten (10) days after receiving notice under the second unnumbered bullet of Subsection 2.14.4.1.4 from an employee or otherwise receiving actual notice of such conviction;

2.14.4.1.6 Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 703; and

2.14.4.1.7 Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

2.14.4.2 Requirement for Individuals. If the Contractor is an individual, by signing the Contract, the Contractor agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

2.14.4.3 Notification Requirement. The Contractor shall, within thirty (30) days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 701(a)(1)(D)(ii) or 41 U.S.C. § 702(a)(1)(D)(ii):

- 2.14.4.3.1** Take appropriate personnel action against such employee up to and including termination; or
- 2.14.4.3.2** Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

2.14.5 Conflict of Interest. The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code chapter 68B shall apply to this Contract. If a conflict of interest is proven to the Agency, the Agency may terminate this Contract, and the Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the Agency.

2.14.6 Reciprocal Responsibilities. The following sections of this agreement shall be responsibilities that apply to both parties:

- 2.5.2 Termination Upon Notice;
- 2.5.3 Termination Due to Lack of Funds or Change in Law;
- 2.6 Confidential Information;
- 2.13.4 Compliance with the Law;
- 2.13.25 Records Retention and Access;
- 2.13.28 Staff Qualifications and Background Checks

2.14.7 Reserved.

First Amendment to the Iowa Department of Public Health Cooperative Agreement Contract

This Amendment to Contract Number MED-12-006 is effective as of January 1, 2015, between the Iowa Department of Human Services (Agency) and Iowa Department of Public Health (Contractor).

Section 1: Amendment to Contract Language

The Contract is amended as follows:

- **Revision 1.** The Agency Contract Owner/Address is revised to read: Julie Lovelady, 100 Army Post Road, Des Moines, IA 50315. Email is jlovela@dhs.state.ia.us.
- **Revision 2.** The Contractor's Contract Manager Name/Address is revised to read: Brenda Dobson, 321 E. 12th Street, Des Moines, IA 50319. Phone is (515) 281-7769 and email is brenda.dobson@idph.iowa.gov.
- **Revision 3.** The Contractor's Billing Contact Name/Address is revised to read: Marcus Johnson-Miller, 321 E. 12th Street, Des Moines, IA 50319. Phone is (515) 281-4911 and Cell Phone is (515) 473-4540.
- **Revision 4.** Section 1.3.4 Eligible Populations is revised following the paragraph listing the Agency's Title XXI program. A new listing is added as follows:

Iowa's Health and Wellness Plan: The Agency's Expansion Population adds the Affordable Care Act's expansion population referred to as the Iowa Health and Wellness Plan population. The Iowa Health and Wellness Plan is available to Iowa residents ages 19-64 years whose income is 0 to 133 percent of poverty.

Section 2: Ratification & Authorization

Except as expressly amended and supplemented herein, the Contract shall remain in full force and effect, and the parties hereby ratify and confirm the terms and conditions thereof. Each party to this Amendment represents and warrants to the other that it has the right, power, and authority to enter into and perform its obligations under this Amendment, and it has taken all requisite actions (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Amendment, and that this Amendment constitutes a legal, valid, and binding obligation.

Section 3: Execution

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Amendment and have caused their duly authorized representatives to execute this Amendment.

Contractor, Iowa Department of Public Health		Agency, Iowa Department of Human Services	
Signature of Authorized Representative:	Date:	Signature of Authorized Representative:	Date:
<i>Brenda Dobson</i>	11.7.14	<i>C M Palmer</i>	12-24-14
Printed Name: Brenda Dobson, MS, RDN, LD		Printed Name: Charles M. Palmer	
Title: Interim Director, Division of Health Promotion and Chronic Disease Prevention		Title: Director	